



NEW MEXICO
ALTERNATIVE DISPUTE
PREVENTION & RESOLUTION
ADVISORY COUNCIL

FY2021 ANNUAL REPORT



OUR MISSION

The state ADR Bureau assists state-insured entities with early conflict resolution to support better workplace practices and prevent expensive and complicated administrative processes and litigation. The Bureau is part of the General Services Department, Risk Management Division pursuant to the 2007 New Mexico Governmental Dispute Prevention and Resolution Act.

In our work, the ADR Bureau is committed to:

"Encouraging communication through mutual respect."

**"Peace cannot be kept by force;
it can only be achieved by understanding."**

~ Albert Einstein

MICHELLE LUJAN GRISHAM
GOVERNOR

JOHN GARCIA
CABINET SECRETARY

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General Services Department

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Honorable Governor Lujan Grisham, Legislators and Secretary Designate Garcia:

The state's Alternative Dispute Resolution (ADR) program coordinates voluntary and confidential mediation services for state entities, identifies ADR resources, and supports the development of improved administrative practices. ADR means a process *other than litigation* used to prevent or resolve disputes, as defined by our establishing statute, the Governmental Dispute Prevention and Resolution Act of 2007 [NMSA § 12-8A-1 et seq.]. Our service providers are trained volunteer mediators from state government and the ADR community. We provide our services at no cost.

During this second pandemic year, the Bureau again provided all mediation and training services online. Conservative industry and government estimates of this year's work indicate a cost-avoidance value of over a million dollars and many resulting workplace benefits, including improved communication, better relationships and expanded training availability and participation.

On behalf of the ADR program, we submit this FY2021 report on the use, cost and success of ADR within state entities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mary Jo Lujan".

Mary Jo Lujan
ADR Bureau Chief

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ADR HIGHLIGHTS FY2021

In Fiscal Year 2021, the ADR Bureau successfully provided all outreach, training and mediation services online in response to the continuing pandemic. These highlights summarize our FY2021 experience, followed by detailed data on specific components of our work.



OUR MOST SIGNIFICANT IMPACTS

- Delivered accessible and effective mediation services
 - Raised awareness about ADR and program services among state employees
 - Hosted greater number of state employees and stakeholders in training events than ever before
 - Successfully convened Statewide ADR Symposium for 250+ attendees
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OUR MOST EFFECTIVE STRATEGIES

- Conduct outreach through presentations, newsletters, quarterly flyers, special announcements and a recorded overview
 - Facilitate participation through online platforms
 - Create a comprehensive Mediator Handbook
 - Provide intensive one-on-one practice with new online mediators
 - Develop numerous training events with a variety of topics and present at no-cost for state employees and mediators
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OUR BIGGEST CHALLENGES

- Verification of participants' access to necessary technology
 - Preparation and training of participants on technology
 - Necessity for small-group training on online mediation process to give each mediator the opportunity for hands-on practice
 - Shortened mediation sessions to protect participants from Zoom fatigue
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TRENDS

- Increased inquiries and consultations on conflict resolution options
 - Increased program accessibility through online platform
 - Eliminated travel time to training or mediation locations throughout state
 - More training and outreach events as webinars to reach a greater number of participants
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ADR BY THE NUMBERS

<p>71 of 155 participating entities reported ADR activity:</p> <ul style="list-style-type: none"> - 26 from Executive branch - 2 from Legislative branch - 22 from Judicial branch - 3 Colleges/Universities/Schools - 18 Other 	<p>ADR-related activities self-reported by participating entities: 1241</p>		
<p>33 ADR Bureau-sponsored training events (a 57% increase over FY2020)</p>	<p>2 Organizational Partners</p> <ul style="list-style-type: none"> • NM Supreme Ct. ADR Commission • NM State Bar ADR Committee 	<p>7 Outreach Presentations on "The Benefits of Mediation"</p>	
<p>302 training attendees (a 55% increase over FY2020)</p>	<p>12th Annual NM ADR Symposium (Online)</p>		<p>1 recorded program overview, available online & on-demand</p>
	<p>10 workshop sessions</p>	<p>256 Attendees (284 in 2020)</p>	<p>49 EEOC charges received</p> <p>Law under which filed (top 3):</p> <ul style="list-style-type: none"> ▪ Title VII, 44% ▪ Americans w/ Disabilities Act, 23% ▪ Age Discr. in Empl. Act, 22%
	<p>53 agencies / organizations</p>	<p>Attendees from 30 NM cities (& 7 out of state locations)</p>	<p>Alleged Discrimination Type (top 3):</p> <ul style="list-style-type: none"> ▪ Retaliation, 26% ▪ Sex, 16% ▪ Age, 14%, Disability, 14%
	<p>Active volunteer mediators</p> <ul style="list-style-type: none"> ♦ 150+ with traditional 40-hr training ♦ 13 newly trained in online process (plus 16 initially trained in FY2020, a total of 29) 		<p>Alleged Type of Issue (top 3):</p> <ul style="list-style-type: none"> ▪ Terms and conditions, 26% ▪ Discharge, 22% ▪ Discipline, 15%, Harassment, 15% <p>Mediation was offered by EEOC in 28 charges (57%), down from 77% in FY2020.¹ The state agreed to mediate in 10 (36%) of these charges.</p>
<p>Total mediations held</p> <ul style="list-style-type: none"> — 20 by ADR Bureau — 55 self-reported by state entities — 3 by EEOC <p>34 resolved by agreement</p>	<p>3 charges mediated</p>	<p>3 charges resolved/closed</p>	
<p>Employer's average "loss avoidance value" of mediated resolutions:</p> <ul style="list-style-type: none"> → Average employment lawsuit \$200,000 (\$160,000 attorney fees, \$40,000 settlement) ² → Average employment claim settled out of court cost \$75,000 ³ → Average EEOC settlement, not including legal fees, over \$30,000 ⁴ 			

¹ EEOC pilot program offered mediation on every eligible charge from July 6, 2019 to January 27, 2021; otherwise, mediation option is available upon parties' request.

² <https://www.amwins.com/resources-insights/article/employment-practices-liability-whatstrending>

³ <https://amtrustfinancial.com/blog/insurance-products/top-trends-employment-practices-liability-claims>

⁴ EEOC Fiscal Year 2021 Agency Financial Report (<https://www.eeoc.gov/sites/default/files/2021-11/2021-AFR.pdf>)



**OFFICE OF ALTERNATIVE DISPUTE
PREVENTION AND RESOLUTION**

"Encouraging communication through mutual respect."

Visit our website at: <https://adr.gsd.state.nm.us>

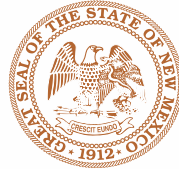
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State of New Mexico
General Services Department

"THE HEART AND SOUL OF STATE GOVERNMENT"

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RISK MANAGEMENT DIVISION**

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