

PROGRESS REPORT

Massachusetts Office of Dispute Resolution

An agency within the Executive Office for Administration and Finance
Commonwealth of Massachusetts

Reporting Period:
Fiscal Years 2002, 2003, 2004 & 2005

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LETTER FROM THE EXECUTIVE DIRECTOR

DEAR COLLEAGUES,

The past four years have seen tremendous changes at the MA Office of Dispute Resolution (MODR). MODR's role in state government has evolved from being purely a dispute resolver to also being an in-house consultant and resource for public entities and citizens in preventing conflicts and in collaboratively engaging stakeholders from diverse interests on important public issues.

MODR's evolution has mirrored the progress made within state agencies and the courts toward integrating dispute resolution and collaborative approaches into their missions. MODR is proud to have contributed to the growth of dispute resolution and collaborative problem-solving practices in state government and to the building of capacity for the effective prevention and resolution of disputes and the building of agreement on public policy issues. It is important to recognize the tremendous efforts of many dedicated individuals both within and outside of government in advancing this cause.

As we move further into the 21st century, collaborative problem solving and dispute resolution have become recognized tools for governing and have been adopted by innovative and transformative leaders in the public sector. This trend is producing benefits to the Commonwealth and its citizens and hopefully will continue for many years into the future.

I am pleased to announce that as of July 1, 2005, MODR will transition from being an agency within the Executive Office for Administration and Finance to a free standing institute of the University of Massachusetts Boston. MODR's mission will remain the same. This new institutional base will enable MODR to partner with the outstanding environmental, public policy and dispute resolution programs at the University and will expand the research and educational resources for students and faculty and outreach services to local communities.

Sincerely,

Susan M. Jeghelian



ABOUT THE AGENCY

Mission

MODR is a state agency dedicated to promoting and facilitating alternative dispute resolution (ADR) within public entities. We help people and organizations approach, prevent, and resolve conflict in creative and constructive ways. We believe that government functions best as collaboration between citizens, decision makers and implementers.

MODR provides tools and resources that support effective and responsive government including consulting, facilitation, mediation and training. We help public entities, including state agencies, develop integrated conflict management systems, in order to improve their ability to deal with conflict.

Vision

Collaborative problem-solving, consensus building, inter-agency cooperation and effective conflict resolution will become integral tools and practices of government leaders and agencies in developing and enforcing public policy, pursuing their core missions and working with communities for the benefit of the Commonwealth and its citizens.

Guiding Principles

- Support responsive and effective government.
- Share information, experience and expertise to improve the practice and development of ADR in state government.
- Model high standards of practice and preserve the integrity of ADR processes.
- Design flexible processes to bring about solutions that are creative, fair, efficient, and durable.
- Value and respect diversity.
- Emphasize a voluntary process that includes good faith participation.
- Increase public participation in decision-making processes.
- Educate individuals and institutions to understand that conflict is natural, that resolution is possible, and that there are better ways to handle conflict.
- Draw on ADR expertise from the public and private sectors.



History

MODR is a state agency within the Executive Office for Administration and Finance. MODR's mandate is to promote and facilitate the use of dispute resolution by public officials within the executive, legislative and judicial branches as well as municipalities, public authorities and political subdivisions of the Commonwealth. The agency is authorized to facilitate the resolution of disputes through the provision of impartial mediation and other dispute resolution services; establish standards for the selection, assignment, and conduct of mediators and other neutrals; design, develop, and operate dispute resolution programs; and conduct educational and training programs and provide other services designed to reduce the occurrence, magnitude, or cost of disputes. Services are provided through professional staff and an affiliated panel of private-sector mediators, facilitators, trainers, and systems designers.

MODR began in 1985 as a pilot project with funding in part from the National Institute for Dispute Resolution (NIDR) and the Boston Foundation, and was one of the first four state dispute resolution offices established in the country. After continued growth, the agency was established by law in 1990 (M.G.L. Ch. 7, Section 51). For over 16 years, MODR has provided high quality services that have assisted public agencies and communities to use creative and innovative approaches in resolving public disputes and building agreement on contentious public policy issues. MODR has designed and operated successful mediation programs for courts and state agencies and has trained hundreds of public officials in conflict resolution skills.

In recent years MODR has used its unique placement within state government to serve as an in-house technical advisor assisting public agencies and courts to build their own capacity to use dispute resolution and consensus building in furtherance of their public missions. In 2000, MODR was charged with implementing Executive Order #416, the governor's initiative to integrate dispute resolution into state government, which directs executive branch agencies to utilize ADR to resolve disputes wherever appropriate. Since then MODR has assisted over 100 agencies in developing ADR plans and programs. As a result, many agencies have now adopted policies and practices integrating dispute resolution into the way they do business.

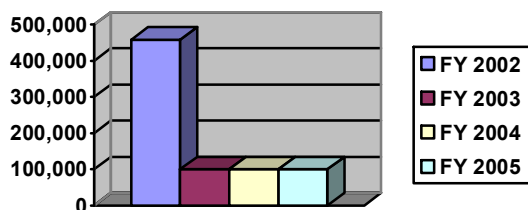
In 2003, the Romney Administration determined that the Executive Office of Administration and Finance (ANF) was not the optimal home for MODR and explored alternative placements for MODR within state government. In early 2004, MODR approached the University of Massachusetts Boston about the possibility of transferring operations there. The Legislature authorized MODR in the FY05 Budget to transfer its functions and personnel to UMass Boston by interagency agreement. MODR moved its physical operations to the University in August 2004. In outside sections to the FY06 Budget, MODR's enabling statute was repealed and a new enabling statute enacted (M.G.L. Ch. 75, Section 46) to effectuate a permanent transfer of MODR to the University as of July 1, 2005.



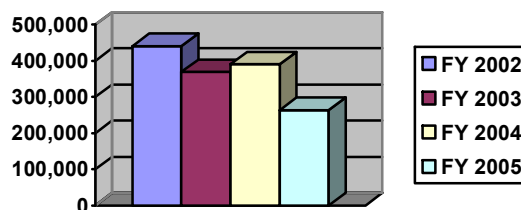
Budget

Funding for MODR comes from an annual legislative appropriation, fees-for-services and grants. Fees are charged to cover the gap between MODR's appropriation and operating expenses. Traditionally, MODR's appropriation has been used primarily to cover staff salaries. MODR's budget consists of an operating account, a retained revenue account, an intergovernmental services fund account, and grant accounts. In FY02, MODR's main appropriation was \$457,850. The appropriation was cut by 80% in FY03 due to the state's budget crisis, and was level funded at approximately \$100,000 in FY04 and FY05. This funding cut resulted in staff layoffs in FY02, FY03 and FY04, which significantly reduced the number of MODR staff (11.5 FTEs in FY02 to 2 FTEs in FY05). During the past four years, MODR has continued to secure grants and to bring in fee for service revenue. In FY02 MODR received a 70% matching grant from the U.S. Department of Agriculture to operate a mediation program to resolve agriculture-related disputes. This grant was also received in FY03, FY04 and FY05. In addition, during this reporting period MODR received grant funds through the Information Technology Division for development of a program evaluation database and an agency ADR database.

MODR Appropriation 2002-2005



MODR Revenue/Grants 2002-2005



Staff

MODR staff are experienced professionals who serve as mediators, facilitators, trainers, and dispute systems designers as well as program/case coordinators and project managers. The breadth of expertise and experience embodied in MODR's professional staff assures that recipients of dispute resolution services receive the highest quality service. All of MODR staff have undergone extensive training and/or earned advanced degrees in conflict resolution. MODR's Executive Director and Deputy Director are both lawyers who have dedicated their professional careers to public sector ADR.

Neutrals & Consultants

MODR has an affiliated panel of over 80 qualified private-sector neutrals and consultants who work on a contract-basis with the agency. MODR has established standards for the selection, assignment and conduct of mediators, facilitators, trainers, systems design consultants and other dispute resolution providers, and administers a Request for Responses (RFR) process to qualify dispute resolution professionals as contractors for Commonwealth agencies. In the establishment of its panel of neutrals, MODR pioneered the development and implementation of a comprehensive, performance-based evaluation process using rigorous qualification standards for mediators. In qualifying and training its mediators to provide other types of dispute resolution services (such as arbitration, case evaluation and facilitation), MODR has drawn on the extensive experience of its panel members in their own private practices.

SERVICES

MODR provides a wide-range of dispute resolution¹ services and processes for public agencies and citizens of the Commonwealth. These services include: Mediation, Arbitration, Facilitation, Consensus Building, Public Involvement, Regulatory Negotiation, Conflict Assessment, Dispute Resolution Systems Design & Consultation, Conflict Resolution Skills Training and Workplace Climate Assessment. The following sections of this report describe these services in detail and highlight notable MODR projects in these areas during this reporting period.

DISPUTE SYSTEMS DESIGN & POLICY CONSULTATION

The goal of MODR's dispute systems design and policy consultation services is to help government entities better manage conflict both internally and externally with stakeholders. MODR consults on how to launch ADR programs; deal with organizational resistance and constraints; ensure that the design fits the larger organizational culture and regulatory scheme; motivate people to use the system; and evaluate the system to determine if it works. The design process involves consulting the legislation, regulations and rules under which the dispute resolution system will operate; assessing organizational systems and goals; interviewing employees and stakeholders; facilitating collaborative and participatory design processes; preparing policies, procedures and forms; recruiting and training neutrals; and orienting agency or court staff on how to effectively use the dispute resolution program or system.

SYSTEMS DESIGN & POLICY CONSULTATION PROJECTS 2002-2005

EXECUTIVE ORDER: INTEGRATING DISPUTE RESOLUTION INTO STATE GOVERNMENT - Enacted in November 1999, this Order directs executive branch agencies to use alternative dispute resolution for all appropriate matters and to establish a system for reviewing conflicts for ADR potential. To implement this order, each agency was directed to designate an ADR Coordinator and to file annual ADR Plans and Reports. MODR has served as the lead implementation agency for this Order, and as such MODR has:

- Facilitated appointment of 113 ADR Coordinators; orientated them to roles and responsibilities.
- Held "brown bag lunches" for ADR Coordinators on "*Building Support for ADR in your Agency*" and "*Using Mediation to Resolve Workplace Disputes*"
- Created and delivered a guidebook, "*Integrating Dispute Resolution into State Government*"
- Distributed an electronic newsletter for ADR Coordinators
- Developed an "*Agency ADR Assessment & Planning Tool*" to help ADR Coordinators gather accurate data and prepare their ADR Reports & Plans
- Developed an electronic reporting format that enables agencies to submit their ADR Reports & Plans online and collect the information in a MODR-supervised database

¹ **Dispute Resolution** is a broad term that encompasses processes in which a neutral third-parties to help disputants resolve conflicts. DR processes often emphasize creativity and cooperation in place of adjudicative or adversarial means of problem-solving. They include consensual decision-making techniques (such as mediation) and many other processes such as arbitration, mini-trials, mediation-arbitration, private judging, ombudsman, neutral expert fact-finding, and summary jury trials.

SYSTEMS DESIGN & POLICY CONSULTATION PROJECTS 2002-2005 (CONT.)

- Analyzed and reported on data collected from agencies:

Data Highlights: Of the 77 agencies that submitted ADR Plans & Reports for fiscal year 2002,

- * 68% reported that they used ADR in the past year and 39% had offered ADR training to staff
- * 68% reported that they had a system for reviewing conflicts/disputes for ADR potential and an additional 18% reported that they were planning to implement one
- * 73% reported that ADR saved staff time compared to litigation
- * 64% reported that ADR produced outcomes that better satisfied the participants than litigation
- * 67 % reported that ADR produced outcomes that better met the agency's policy goals
- * 74% identified personnel matters as their biggest source of conflict and of these 26% planned to make this area their highest priority for ADR use in the coming year
- * 79% reported lack of funding as the biggest barrier to increasing ADR use and their ability to implement ADR programs and practices

As a result of MODR's efforts, and those of the many agencies participating in this initiative, significant progress has been made toward the goal of integrating ADR into the culture and practice of state agencies.

COMMONWEALTH DISPUTE RESOLUTION AWARDS - MODR and the Executive Office for Administration and Finance created and presented the Commonwealth Dispute Resolution Awards in 2002 and 2003. Established under Executive Order #416, the Awards recognize state employees who play significant roles in the promotion and appropriate use of ADR in state government and who play significant roles in resolving disputes affecting the Commonwealth. There are two awards:

The John Dunlop Dispute Resolution Award for Innovative Systems Design named in honor of John Dunlop, Lamont University Professor Emeritus at Harvard University and Chairman of the Joint Labor-Management Committee for Municipal Police and Fire.

Recipients:

- *Massachusetts Commission Against Discrimination ADR Team* for creating two dispute resolution programs (Pro-Se Mediation and Conciliation) that creatively utilize staff and demonstrate innovation by introducing ADR as soon as the complaint is filed.
- *Werner Lohe, Chairman of the Housing Appeals Committee*, Department of Housing and Community Development, for his outstanding work promoting the systematic use of mediation for affordable housing disputes and the Housing Appeals Mediation Program since the late 1980s.

The Jane Wells Award for Innovative Casework (initially then MA Office of Dispute Resolution Award) named in honor of Jane H. Wells, founding Deputy Director of MODR, whose long career in public service was dedicated to helping government and citizens resolve disputes and find effective ways of working together.

Recipients:

- *Department of Environmental Protection (DEP) New Bedford Harbor Team* for using mediation to resolve a complex, multi-party dispute involving the clean-up of PCB contamination in New Bedford Harbor, which made a significant impact on the DEP's ability to reach its goals at the site and enhanced the on-going relationships among the participating stakeholders.



COMMONWEALTH DISPUTE RESOLUTION AWARDS (CONT.)

- *Division of Capital Asset Management (DCAM) State House Renovation Team* for successful utilization of ADR and “partnering” on the State House Renovation Project, which fostered effective communication and management, allowing the team to solve issues before they became problems and brought the project in ahead of schedule and well within the established budget.

SYSTEMS DESIGN AND POLICY CONSULTATION FOR THE COURTS

SUPREME JUDICIAL COURT (SJC) – The Standing Committee on Dispute Resolution was created to establish consistent, system-wide standards to govern dispute resolution services provided by the Trial Court. Through its membership on the SJC Standing Committee since its inception in 1993, MODR has helped the court to develop and implement the Uniform Rules on Dispute Resolution. These rules provide a structure for establishing ADR programs in the courts. In fiscal years 2002-2005, MODR assisted the Committee in finalizing and implementing recommendations for qualification standards for neutrals providing court-connected services.

ADMINISTRATIVE OFFICE OF THE TRIAL COURT (AOTC) – During fiscal years 2004 and 2005, MODR provided systems design and training services to the AOTC and its seven Trial Court Departments. These services also benefited court-connected dispute resolution programs serving the court. In 2004, MODR designed an 8-hour conciliator training curriculum to qualify conciliators under the Uniform Rules on Dispute Resolution and Trial Court Guidelines and created a Trainer’s Manual for this training. MODR also taught a Train-the-Trainers workshop on conciliation for court-approved programs. In FY05, MODR conducted a stakeholder assessment to gather input for the AOTC and Standing Committee on Dispute Resolution on issues regarding the implementation of court-connected dispute resolution and with this information designed and delivered an Court ADR Conference for court and program staff.

OTHER SYSTEMS DESIGN & POLICY CONSULTATION PROJECTS 2002-2005

- **GOVERNOR’S CHIEF LEGAL COUNSEL** – CONSULTATION ON PLAN TO CONSOLIDATE SEVERAL EXECUTIVE BRANCH AGENCIES INTO A PROPOSED OFFICE OF ADMINISTRATIVE HEARINGS USING ADR AS A MANDATORY FIRST STEP IN THE HEARING PROCESS
- **EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE – COMMONWEALTH CONSTRUCTION COMMITTEE** – CONSULTATION ON APPLICATIONS OF DISPUTE RESOLUTION IN CONSTRUCTION CONTRACTS AND PROJECT MANAGEMENT
- **EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS (EOEA) / DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (DEP) WORKPLACE ADR PROGRAM**
- **OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION (OCBR) - WIRELESS SUBCOMMITTEE** – CONSULTATION ON ADR PROGRAM FOR CELL TOWER SITING DISPUTES
- **G.L. C. 40A – LAND USE REFORM LEGISLATION: NEGOTIATED SPECIAL PERMIT PROCESS** – CONSULTATION ON DISPUTE AVOIDANCE AND RESOLUTION PROVISIONS FOR DRAFT LEGISLATION



SYSTEMS DESIGN & POLICY CONSULTATION PROJECTS 2002-2005 (CONT.)

- **MIDDLESEX SHERIFF'S OFFICE WORKPLACE ADR PROGRAM** – DESIGN OF ADR PROGRAM CALLED FOR IN COLLECTIVE BARGAINING AGREEMENT WITH UNION (IBCO) AND TRAINING TO ASSIST WITH PROGRAM IMPLEMENTATION.
- **BOSTON MUNICIPAL COURT** – CONSULTATION ON DESIGN AND IMPLEMENTATION OF MEDIATION AND CASE CONFERENCE PROGRAMS
- **JUVENILE COURT AND PROBATE & FAMILY COURT** – CONSULTATION ON PERMANENCY MEDIATION PROGRAMS
- **DEPARTMENT OF MENTAL RETARDATION** – CONSULTATION ON DATA TRACKING SYSTEM
- **DEPARTMENT OF EDUCATION** – CONSULTATION ON DATA TRACKING SYSTEM
- **DEPARTMENT OF FIRE SERVICES** – CONSULTATION
- **MASSACHUSETTS REHABILITATION COMMISSION** – CONSULTATION

TRAINING AND OUTREACH

MODR provides dispute resolution training to state and municipal employees and officials. The variety of trainings include: negotiation skills, mediation, facilitation and meeting management, conciliation, and diversity and cultural competency, communication with the public, conflict analysis and settlement strategies, and introduction to dispute resolution. Training sessions range from half-day to a complete 30-hour mediation training program. MODR custom designs each training program, identifying the specific needs of an organization using focus groups, surveys and interviews with prospective trainees and their managers. This allows MODR to tailor the training curriculum, role-plays, and exercises to their specific work environment.

TRAINING PROJECTS 2002-2005

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE (ANF) - The Managing for Results Initiative (MRI) launched by the Executive Office for Administration and Finance (ANF) was designed to identify each agency's mission and goals and to improve the operation of government by soliciting and implementing employee ideas. In fiscal year 2002, MODR worked with ANF and Fiscal Affairs Division to develop a training curriculum and presented ten 1-day facilitation skills trainings throughout the Commonwealth for over 80 executive branch agency staff who had been designated as MRI facilitators. The goal of these trainings was to enhance the skills of these state employees so that they could become effective facilitators for their agencies in meeting MRI requirements. MODR received overwhelmingly positive evaluations for this training, which was a significant achievement since these trainings were mandatory for the participants.



TRAINING PROJECTS 2002-2005 (CONT.)

EXECUTIVE OFFICE FOR HEALTH AND HUMAN SERVICES (EOHHS) - In fiscal year 2005, MODR worked with a EOHHS Design Group and the Children's Trust Fund to develop a training plan for members of Regional Planning and Review Teams (PRT) comprised of senior staff from EOHHS agencies -- DSS, DMH, DMR, DPH, DYS, DTA, Mass Health -- and family representatives to facilitate interagency collaboration and problem-solving on complex and problematic child welfare cases. The plan involves facilitation, collaborative problem-solving and conflict resolution skills trainings for PRT members in order to build capacity for the success of these interagency teams.

DEPARTMENT OF CAPITAL ASSET MANAGEMENT (DCAM) - DCAM asked MODR to custom design and deliver a series of trainings to DCAM legal counsel and managers in three out of its five divisions. MODR provided four 2-day Negotiation Skills Trainings, one 2-day training called Facilitation Skills for Partnering, and one 2-day Conflict Resolution Training. A DCAM team was subsequently awarded a Commonwealth Dispute Resolution Award for applying partnering effectively on the State House Renovation project.

MASS HIGHWAY DEPARTMENT (MHD) - MODR custom designed and presented a two-day Partnering/Facilitation Skills Training for MHD partnering coordinators from all regions. This training provided participants with skills to facilitate collaborative processes and enhance communication and problem-solving on large public construction projects.

OTHER TRAINING PROJECTS 2002 -2005

- **ORIENTATION & TRAINING OF EXECUTIVE BRANCH AGENCY ADR COORDINATORS**
- **30-HOUR MEDIATION SKILLS TRAININGS FOR STATE AND MUNICIPAL EMPLOYEES**
- **CULTURAL COMPETENCY SKILLS TRAINING FOR CONFLICT INTERVENTION TEAM MEDIATORS WORKING IN SCHOOLS SPONSORED BY ATTORNEY GENERAL'S OFFICE AND MA ASSOCIATION OF MEDIATION PROGRAMS AND PRACTITIONERS**
- **DEPARTMENT OF MENTAL RETARDATION COLLABORATIVE NEGOTIATION SKILLS TRAININGS FOR DMR CASE WORKERS AND VENDORS**
- **DEPARTMENT OF INDUSTRIAL ACCIDENTS CONCILIATOR SKILLS TRAINING**
- **AGRICULTURAL MEDIATOR ORIENTATION**
- **AGRICULTURAL MEDIATOR INTENSIVE TRAINING**
- **MIDDLESEX SHERIFF'S OFFICE DISPUTE RESOLUTION COMMITTEE TRAININGS**
- **TRAIN-THE-TRAINER WORKSHOP ON CONCILIATOR TRAINING FOR ADMINISTRATIVE OFFICE OF TRIAL COURT AND COURT-CONNECTED PROGRAMS**
- **SUPERIOR COURT CONCILIATOR TRAINING FOR PILOT PROGRAMS IN WORCESTER AND MIDDLESEX COUNTIES**



TRAINING PROJECTS 2002 -2005 (CONT.)

- **CONCILIATION WORKSHOP FOR BOSTON MUNICIPAL COURT CASE CONFERENCERS SPONSORED BY THE BOSTON BAR ASSOCIATION**

OUTREACH

MODR actively engages in outreach activities to raise awareness among public entities and citizens about dispute resolution resources and MODR's services. Outreach activities include briefings for agency staff, workshops and presentations at conferences and professional gatherings, distribution of outreach materials and mailings, sponsoring outreach events such as the Commonwealth Dispute Resolution Awards at the State House, and participating in public dispute resolution initiatives, task forces and educational programs.

OUTREACH ACTIVITIES 2002 -2005

- **EXECUTIVE LEGAL COUNSEL PROFESSIONAL DEVELOPMENT GROUP – STEERING COMMITTEE**
- **ADR & COLLABORATIVE PROCESSES PROFESSIONAL DEVELOPMENT GROUP – CO-CHAIR**
- **EXECUTIVE LEGAL COUNSEL CONFERENCES - WORKSHOPS ON USING ADR**
- **U.S. INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION CONFERENCE - WORKSHOP ON FACILITATING PUBLIC INVOLVEMENT PROCESSES**
- **EXECUTIVE OFFICES OF PUBLIC SAFETY AND ENVIRONMENTAL AFFAIRS (EOPS, EOE) AND DEPARTMENT OF ENVIRONMENTAL PROTECTION-BUREAU OF WASTE PREVENTION AND DEPARTMENT OF TRANSITIONAL ASSISTANCE- ADR BRIEFINGS TO LEGAL COUNSEL AND OTHER STAFF**
- **NATIONAL ORGANIC FARMERS ASSOCIATION CONFERENCE - ADR WORKSHOP**
- **USDA SPONSORED COMMUNITY CONVERSATIONS FOR FARMERS**
- **ASSOCIATION FOR CONFLICT RESOLUTION CONFERENCE – WORKSHOP ON ADR EXECUTIVE ORDERS**
- **BOSTON COLLEGE LAW SCHOOL, SUFFOLK LAW SCHOOL, SUFFOLK UNIVERSITY, BRANDEIS UNIVERSITY - PRESENTATIONS ON ADR TO STUDENTS**
- **MA MUNICIPAL ASSOCIATION, OPERATIONAL SERVICES DIVISION'S STAR, NEW ENGLAND SUSTAINABLE AGRICULTURAL RESOURCE AND EDUCATION, NORTHEAST ORGANIC FARMERS ASSOCIATION CONFERENCES AND EASTERN STATES EXPOSITION - BOOTHS**
- **ASSOCIATION FOR CONFLICT RESOLUTION, NEW ENGLAND CHAPTER – MEMBERSHIP ON BOARD OF DIRECTORS AND CO-CHAIR OF PUBLIC AWARENESS COMMITTEE**



FACILITATION, CONSENSUS BUILDING & PUBLIC INVOLVEMENT PROCESSES

Facilitation is a collaborative process that is designed to assist groups in working together. A facilitator is an impartial person who structures and manages a meeting, series of meetings, workshop or conference — sometimes with the goal of reaching agreement, but other times strictly to facilitate the exchange of information between groups. A facilitator, typically, helps identify meeting participants, establish ground rules, design and follow an agenda, set up the room and make other arrangements. All of these steps relate to creating a process and structure that will enhance the ability of the participants to communicate in a fair, efficient, and productive manner. A facilitated process that involves meetings in which government solicits input, comment, and sometimes agreement from members of the public is referred to as a public involvement process.

Consensus building is a term for a variety of collaborative processes that assist groups in reaching agreement. Consensus building helps parties to sort through existing options and develop and create new ones. Ideally, a consensus process is introduced before a controversy has escalated and the parties have become entrenched in their positions. Consensus building often enables the parties to both reach agreement and foster relationships. By using consensus building processes with participation from representatives of differing viewpoints, the results usually enjoy a wide range of support, and the likelihood for on-going divisive community battles or legal challenges is significantly reduced.

FACILITATION, CONSENSUS BUILDING AND PUBLIC INVOLVEMENT PROJECTS 2002-2005

EMERALD NECKLACE PARK SYSTEM RESTORATION – During fiscal years 2002-2005 MODR continued to facilitate meetings of the Emerald Necklace Citizens Advisory Committee (CAC) appointed by the Secretary of Environmental Affairs to provide feedback from the public on environmental impacts from the restoration of Olmsted’s Emerald Necklace Park System. The CAC was comprised of 29 representatives from diverse interests including environmental organizations, business interests, landscape architects, historic preservationists, and community groups along the Riverway, who met with project proponents from the Town of Brookline and City of Boston and state agencies such as DEP, DCR and the EOEA. MODR facilitated the CAC in reaching consensus on comments and recommendations to EOEA on the Draft, Final and Supplemental Final Environmental Impact Reports for this important public project.

SOUTH WEYMOUTH NAVAL AIR STATION ENVIRONMENTAL CLEAN-UP – Since 1997, MODR has been facilitating meetings of the Restoration Advisory Board (RAB) whose purpose is to promote community awareness and provide public involvement on the environmental clean up efforts at the base. The RAB is comprised of citizen representatives from the five surrounding towns -- Quincy, Hingham, Weymouth, Abington, Rockland – and representatives from the MA DEP, U.S. EPA, the U.S. Navy, and the U.S. Coast Guard.



FACILITATION, CONSENSUS BUILDING AND PUBLIC INVOLVEMENT PROJECTS 2002-2005 (CONT.)

NOMANS LAND ISLAND TECHNICAL REVIEW COMMITTEE (TRC) – Since 2001, MODR has been facilitating meetings of the Technical Review Committee (TRC) for Nomans Land Island in Chilmark, which was used for target practice in the 1950s by the U.S. Navy. The Navy is turning over the island to the MA Dept of Fisheries & Wildlife for use as a permanent wildlife habitat and the TRC is addressing environmental clean up issues. The TRC is comprised of the representatives from the MA DEP, MA Dept of Fisheries, Wildlife & Environmental Law Enforcement; MA Division of Marine Fisheries; MA Dept of Public Health, the U.S. EPA, the U.S. Navy, the U.S. Fish and Wildlife Service, the Town of Aquinnah, the Wampanoag Tribe of Gay Head/Aquinnah.

DEPARTMENT OF SOCIAL SERVICES (DSS) PROCUREMENT REFORM - In fiscal year 2004, DSS engaged MODR to convene and facilitate a consensus process to expand the dialogue and encourage creative thinking among DSS stakeholders on issues related to case and service management roles and responsibilities and the allocation of decision-making between DSS and its service providers. After conducting a stakeholder assessment, MODR designed and facilitated a nine-week consensus process that involved a group of 26 stakeholder representatives (including DSS staff, providers and families). The group agreed on a set of recommendations to the DSS Commissioner which are being used in a new DSS system of care procurement.

OTHER FACILITATION, CONSENSUS BUILDING, PUBLIC INVOLVEMENT PROJECTS 2002 -2005

- **GE HOUSATONIC RIVER CITIZENS COORDINATING COMMITTEE (CCC)** – FACILITATION OF REGULAR MEETINGS OF THE CCC AND ITS CONNECTICUT SUBCOMMITTEE TO MONITOR IMPLEMENTATION OF THE MEDIATED AGREEMENT FOR CLEAN UP OF PCBs IN THE RIVER
- **NEW BEDFORD HARBOR FORUM** - FACILITATION OF QUARTERLY MEETINGS TO MONITOR IMPLEMENTATION OF THE MEDIATED AGREEMENT FOR CLEAN UP OF PCBs IN THE HARBOR
- **GOVERNOR’S EXECUTIVE ACADEMY** – PROCESS DESIGN AND FACILITATION OF COLLABORATIVE PROBLEM-SOLVING SESSIONS WITH DEPARTMENT HEADS TO DEVELOP STRATEGIES FOR ADDRESSING BUDGET CUTS AND EMPLOYEE MORALE
- **TRIAL COURT, DIVISION OF CAPITAL ASSET MANAGEMENT, AND DEPARTMENT OF PUBLIC HEALTH - COURT HOUSE FACILITATION** – PROCESS DESIGN AND FACILITATION OF MEETINGS WITH COURT EMPLOYEES TO SHARE INFORMATION AND AIR QUALITY CONCERNS REGARDING RELOCATION OF COURT DEPARTMENTS TO SUFFOLK COUNTY COURT HOUSE
- **WR GRACE PUBLIC MEETING FACILITATION** – TO PRESENT CLOSE OUT REPORT ON ENVIRONMENTAL REMEDIAL INVESTIGATION OF ASBESTOS AND OTHER CONTAMINENTS TO NEIGHBORS, COMMUNITY GROUPS AND LOCAL PUBLIC OFFICIALS
- **DEPARTMENT OF EDUCATION CHARTER SCHOOL OFFICE** – FACILITATION OF STRATEGIC PLANNING PROCESS



FACILITATION, CONSENSUS BUILDING, PUBLIC INVOLVEMENT PROJECTS 2002 -2005 (CONT.)

- **DEPARTMENT OF ENVIRONMENTAL MANAGEMENT - HISTORICAL PARKS INITIATIVE – FACILITATION OF STAKEHOLDER WORK SESSIONS**
- **DEPARTMENT OF MENTAL RETARDATION DIVERSITY CONFERENCE FOR MANAGERS – FACILITATION OF BREAKOUT SESSIONS ON DIVERSITY PLANNING AND CAPACITY BUILDING**

MEDIATION AND DISPUTE RESOLUTION PROGRAMS

Mediation is a confidential (G.L. c.233, s.23C) and flexible process in which a skilled, impartial third-party assists negotiations between disputing parties by improving communication, identifying interests, and exploring possibilities for a mutually-acceptable resolution. The mediator does not act as a judge or decision-maker, but rather helps the disputants negotiate and generate their own options for settlement. Mediation gives parties control over the outcome of the dispute (unlike arbitration or litigation) and addresses relationship issues and the underlying interests of the parties. It is cost-effective (saving litigation and discovery costs) and is time-efficient (producing prompt, effective resolutions). Mediated settlements typically provide more durable and satisfactory resolutions than do decisions rendered through adjudication, since disputants have been found to more fully comply with an agreement they have crafted themselves. Mediation is most often a voluntary process, but in some jurisdictions may be mandated by court order or statute.

During fiscal years 2002-2005, MODR provided high quality, affordable mediation services for public disputes and designed and administered a number of successful mediation programs for the benefit of the Commonwealth. Through these programs, MODR offers conflict assessment to help parties determine whether a conflict resolution method other than litigation (such as mediation, facilitation, consensus building or reg-neg process) is appropriate for their dispute or project. If the parties agree to participate in conflict resolution, MODR works with them to select an appropriate neutral from MODR's panel or staff and to design and convene the process. Participant evaluations collected by MODR through its programs uniformly reflect high party satisfaction with MODR mediation services, staff and neutrals.

MEDIATION AND DISPUTE RESOLUTION PROGRAMS 2002-2005

DEPARTMENT OF ENVIRONMENTAL PROTECTION – ENVIRONMENTAL MEDIATION PROGRAMS – Since 1985, MODR has provided high quality affordable conflict resolution services for over 250 environmental disputes in Massachusetts including hazardous waste clean-up and cost allocation cases, wetlands development cases, facility siting controversies, and other land use disputes. In addition to mediating individual disputes, MODR has designed and operated Environmental Mediation Programs for the Department of Environmental Protection Office of General Counsel (OGC) and Bureau of Waste Site Clean-Up (BWSC). MODR's environmental programs and projects have involved the Executive Office of Environmental Affairs, the Department of Environmental Protection, the Department of Conservation and Recreation (formerly the Department of Environmental Management), and other state agencies, as well as the U.S. Environmental Protection Agency (EPA) and other federal agencies, municipalities, citizen groups, businesses and non-profit organizations. To meet the growing demand, MODR established a panel of

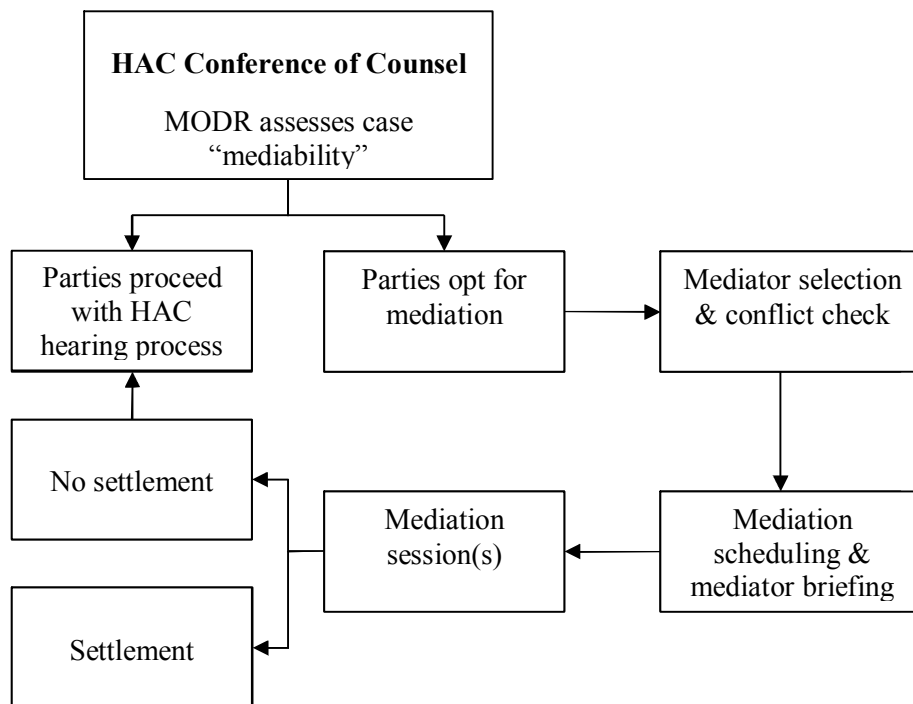


MEDIATION AND DISPUTE RESOLUTION PROGRAMS 2002-2005 (CONT.)

environmental neutrals which consists of highly skilled private sector mediators, facilitators, trainers and dispute systems designers, and includes some of the finest talent in the Commonwealth. Environmental conflict resolution services provided by MODR have enhanced intergovernmental collaboration and public/private partnerships on important environmental projects.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, HOUSING APPEALS COMMITTEE (HAC) MEDIATION PROGRAM – For more than 15 years MODR has administered a mediation program for affordable housing disputes arising under MGL Chapter 40B, s20-23, the state’s Comprehensive Permit Law. The program is uniquely designed as a multiparty forum for developers, municipal officials, and interested citizens to exchange information and create new options for the settlement of disputes. The program has a roster of skilled mediators who have backgrounds in the areas most critical to these cases, including: environmental law, land use and construction, municipal law and public policy issues. Mediation often results in creative solutions allowing developments to proceed with important modifications, resulting in more affordable housing for the Commonwealth and obviating the need for a hearing. The mediation process allows for the participation of other interested parties, such as abutters, who would not have standing to participate in HAC proceedings but provide invaluable support in the community necessary to de-escalate the conflict and prevent future problems or litigation.

HAC MEDIATION PROGRAM CASE MANAGEMENT



MEDIATION AND DISPUTE RESOLUTION PROGRAMS 2002-2005 (CONT.)

USDA SPONSORED MA AGRICULTURAL MEDIATION PROGRAM (AG MED) - During fiscal years 2002-2005, MODR developed and implemented the Commonwealth Agricultural Mediation (“AgMed”) Program primarily funded through a grant from the U.S. Department of Agriculture. This program provides low cost mediation services to farmers with agricultural loan and credit disputes referred through the USDA Farm Services Agency and rural housing loan disputes referred through the USDA Rural Development. Massachusetts is the first New England state to be certified by the USDA to provide these services. For the past four years MODR has received a 70% matching grant from the USDA for this program and MODR expects to continue this grant in the future. MODR is working with the MA Dept. of Agricultural Resources and growers organizations to increase awareness of the Program among the Commonwealth’s farm community and to increase referrals of all types of agriculture-related matters. In FY2006, MODR will be conducting conflict resolution and collaborative problem-solving skills trainings for newly established municipal Agricultural Commissions to build capacity for sustainable agriculture in local communities. MODR has become a member of the Coalition for Agricultural Mediation Programs (CAMP) and regularly attends annual CAMP Conferences to share information with other state AgMed Programs.

MUNICIPALITY MEDIATION/ADR PROGRAM – During fiscal years 2002-2005, MODR continued its outreach and services to cities and towns in the Commonwealth through its Municipalities Program. The Program was launched to meet the unmet ADR needs of municipalities and to develop an additional revenue source for MODR. For this program, MODR created four different brochures targeted to cities and towns highlighting multi-party mediations, facilitations, trainings and other ADR services that MODR has provided to municipalities over the years. MODR has sent several mailings to municipal officials offering the agency’s service and has conducted many phone interviews with municipal officials to collect information about specific needs of local communities. MODR typically sponsors a booth at the annual Massachusetts Municipal Association (MMA) Conference and has arranged for listings in the MMA Directory and website. In response to these outreach efforts, MODR has received a number of general inquires from municipal officials and attorneys throughout the Commonwealth and several of referrals of specific disputes. Mediations have thus far involved interpersonal and workplace conflicts, labor/management issues and disputes involving neighbors to municipal facilities and ballparks. Besides mediating individual disputes, MODR has also provided consultation services to municipalities on public disputes and public involvement processes and has had several town officials participate in MODR mediation trainings.

SUPERIOR COURT AND LAND COURT ADR PROGRAMS - In fiscal year 2002 MODR continued to provide high quality dispute resolution programs for the Superior and Land Courts. Over 90% of the participants in these programs reported high satisfaction with services. Due to programmatic changes instituted by the Superior Court resulting in numerous programs being approved for court referrals, MODR experienced a significant drop in its caseload in comparison to past years when MODR operated the only ADR programs in Suffolk, Norfolk and Plymouth counties. As of May 2002, MODR ceased to operate approved program in the Superior Court and Land Court and has instead focused its court services on systems design consultation and training.

- **DEPARTMENT OF TELECOMMUNICATIONS & ENERGY (DTE) - CONSUMER DISPUTE RESOLUTION PROGRAM**
- **MASSACHUSETTS REHABILITATION COMMISSION (MRC) - MEDIATION PROGRAM FOR DISPUTES REGARDING VOCATIONAL REHABILITATION SERVICES**



SPECIAL PROJECTS IN THE DISPUTE RESOLUTION FIELD 2002-2005

As one of the first of four state dispute resolution offices established in the United States, MODR has always made it a practice to participate in national initiatives to promote public sector dispute resolution and the field of conflict resolution in general. During fiscal years 2002-2005, MODR participated in a number of ground-breaking collaborations with thought-leaders and experienced practitioners affiliated with public dispute resolution programs at the state and federal level.

UNIVERSITY DISPUTE RESOLUTION PROGRAMS STUDY – Since 2004, MODR has been collaborating with the Policy Consensus Initiative (PCI) and public university-based dispute resolution programs to understand the value of these programs and the keys to success for public policy consensus-building services, conflict resolution research, and training through universities. This work came about in part as a result of MODR’s relocation within state government from the Executive Office for Administration and Finance to the University of Massachusetts Boston, a transition evidenced in other areas of the country for public dispute resolution offices. For this initiative, MODR helped develop a survey that was administered to 42 university-based programs, the results of which have been published by PCI in a report entitled: [Finding Better Ways to Solve Public Problems: The Emerging Role of Universities as Neutral Forums for Collaborative Policy Making](#).

PROGRAM EVALUATION PROJECT - In 2000, MODR began participation in a national pilot Program Evaluation Project. The goal was to develop a set of evaluation tools for public policy dispute resolution programs to provide data that will demonstrate their value as an investment of public dollars. Other project participants included the Policy Consensus Initiative (PCI), a non-profit organization that offers technical advice and support to state offices of dispute resolution and public policy and environmental dispute resolution programs, the Oregon Dispute Resolution Commission and the U.S. Institute for Environmental Conflict Resolution. For its work on this project, MODR engaged an evaluation consultant from the Consensus Building Institute to develop evaluation tools and a database consultant funded through Information Technology Division Investment Brief grants to develop a project management database to track data and generate reports. In FY03, MODR began piloting the evaluation tools and database for managing its mediations, facilitations, trainings and system design projects. Over the past four years, MODR has participated in evaluation conferences and symposiums in Oregon, Boston, Maryland, Albuquerque and Tucson to share learning with other programs. MODR has also consulted on the development of a national database to demonstrate the value of dispute resolution efforts in the public sector.

CONFIDENTIALITY PROJECT - The confidentiality of dispute resolution is of particular importance in the public sector. In discussions with executive agency legal counsel, MODR has learned that many agencies are uncomfortable with using confidential processes such as mediation in a public context and are unclear how confidentiality will apply in light of public records, freedom of information and open meeting laws. In 2002, MODR participated in a national symposium of dispute resolution experts in Washington, D.C. to discuss confidentiality issues related to public sector ADR practice. The goal was to develop recommendations to be shared with policy makers in government and the field of ADR to clarify confidentiality parameters for public agencies sponsoring and participating in ADR programs and processes. MODR has consulted with the Attorney General’s Office about a potential collaboration to develop guidelines for state agencies to follow when using ADR, including confidentiality parameters, and to explore potential adoption of the Uniform Mediation Act. MODR continues to monitor confidentiality work in the field.



INTERNAL PROJECTS 2002 -2005

STRATEGIC PLANNING/MANAGING FOR RESULTS INITIATIVE - In 2002, MODR engaged in a strategic planning process that redefined MODR's mission in state government to include systems interventions working with public agencies and government as a whole, in addition to providing direct services for particular disputes. In this regard, MODR incorporated the policy directives of Executive Order #416 (the Governor's initiative to integrate dispute resolution into state government) into the agency's role. During this planning process MODR developed goals toward effectively fulfilling its mission and incorporated its MRI recommendations for increasing agency efficiency into the action plans developed to implement the strategies for achieving these goals.

FAMILY FRIENDLY POLICIES – TELECOMMUTING AND ALTERNATIVE WORK WEEK/FLEX TIME - MODR successfully implemented two Family Friendly Policies for its staff. MODR was one of the first agencies to be approved by the Human Resources Division and NAGE for telecommuting. MODR also instituted an Alternative Work Options Policy, including flextime, four-day workweek, job-sharing and part-time employment. Through these policies MODR was able to increase productivity and retained excellent trained staff who, due to personal or family situations, may not have otherwise been able to continue their employment at MODR.

DIVERSITY TRAINING - In 2003, four MODR staff were trained to be diversity trainers by the Governor's Diversity Initiative Training Team. These staff members then delivered a diversity trainers workshop for their colleagues at MODR. MODR has used its increased level of expertise on diversity issues to help other agencies. In 2003, MODR was hired by the Attorney General's Office to provide a two-day cultural competency training for mediators who work on conflict intervention teams that respond to incidents of violence in schools. In 2003, MODR staff volunteered to assist with a statewide initiative called "Outnumber the Hate Project" the goal of which was to address the increasing violence toward the Muslim community in the aftermath of the September 11th tragedy. Also in 2003, a MODR staff member served on a facilitator team at the Department of Mental Retardation's diversity conference for managers. In 2005, MODR provided a cultural competency workshop for court-connected neutrals serving all departments of the Trial Court.

TRIBUTE TO GREGORY SOBEL



The Massachusetts Office of Dispute Resolution proudly dedicates this publication to the memory of Gregory Sobel, former employee and colleague. Greg was truly a leader in the field of public sector dispute resolution and he inspired so many of us. His kindness, sense of humor and genuine desire to make a difference in the world will be greatly missed.

ACKNOWLEDGEMENTS

For the Extraordinary Efforts of MODR Staff:

Susan Jeghelian, Executive Director
Loraine Della Porta, Deputy Director
Mette Kreutzmann, Project Assistant

With Grateful Appreciation of the efforts of those individuals who were instrumental in transitioning MODR to the University of Massachusetts Boston:

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Many Thanks to former staff and interns who worked at MODR during the period of this report:

Jeannie Adams, Israela Brill-Cass, Karen Corbett, Kirk Falls, Amanda Griesbach, Harry Manasewich, Nicole Mazer, Clifford McCarthy, Lee Ann Ross, Karen Sontag, Jane Wells, Kimberly Clements, Dax Craven, Ben Kurtzman, Jay Lovejoy, Andrew Pollard, Karen Venezia, Adrian Walleigh, and Merideth Wilson

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Jeannie Adams, Kathleen Allen, Thomas Arnold, R. Lisle Baker, Thomas Bean, Howard Bellman, Frank Benson, Mark Bobrowski, Richard Boulanger, Darshan Brach, Melissa Brodrick, Dennis Calcagno, Cape Cod Dispute Resolution Center, Diane Zaar Cochran, Moshe Cohen, Richard Connole, Elizabeth Cremens, Janie Culbert, Alice Daniel, Joanne Desiato, Robert Dickinson, Joan Dolan, John Donahue, Charles Doran, James Doyle, Jeffery Edlestein, John Farrell, Joseph Feaster, Deborah Fish, Nancy Flemming, Jeffrey Fraser, Sarah Kerr Garraty, David Gibbs, Andrea Goldman, John Goodrich, Kathleen Grant, Ericka Gray, Marcia Greenbaum, Mary Greendale, Beatrice Greene, James Grumbach, Dem Gushov, George Hall, Peter Harrington, Ellen Hemley, Sally Higgenbotham, David Hoffman, Lawrence Holden, Brad Honoroff, Merita Hopkins, William Humm, Mark Irvings, Jamie Katz, Christopher Kauders, J. Michael Keating Jr., James Keil, Barbara Kellman, Arthur P. Kreiger, Robert Larkin, Jr., L. Edward Lashman, Hans Loeser, William Logue, Dina Beach Lynch, Thomas Mackie, Meighan Matthews, David Matz, Marla Maykel, Douglas McGarrah, Josephine McNeil, Mediation Works Inc., David Mendelsohn, Jane Moosebrucker, Marsha Morris, Jean Musiker, Scott Nathan, Edith Netter, Diane Neumann, Theodore O'Brien, Marjorie O'Reilly, Richard Perkins, Susan Podziba, Jerome Preston, Carolyn Quigley, Jonathan Raab, Carla Rabinowitz, Lauren Stiller Rikleen, Harris Rosen, Charles Sabatt, Ronald Salley, Frank Sander, James Savage, Irene Scharf, Edward Selig, Greg Sobel, Kenneth Spigle, Edna Travis, Stephen Turcotte, Mario Umama, Eric Van Loon, Arnold Wallerstein, Norman Weinberg, John Wofford, Paul Yee, and Arnold Zack



ATTACHMENT A

BY HIS EXCELLENCY

ARGEO PAUL CELLUCCI
GOVERNOR

EXECUTIVE ORDER NO. 416

INTEGRATING DISPUTE RESOLUTION INTO STATE GOVERNMENT

WHEREAS, this Administration is committed to ensuring that state agencies utilize more efficient, less expensive and more satisfying methods of resolving disputes; and

WHEREAS, traditional adjudicatory processes have become increasingly costly, time consuming, and contentious; and

WHEREAS, alternative dispute resolution (ADR) offers a means of resolving disputes more quickly, less expensively, and with more satisfying results; and

WHEREAS, ADR has been used with great success in both the public and private sectors of Massachusetts as well as throughout the country; and

WHEREAS, an increased use of ADR by state secretariats, departments and agencies will enhance the operation of state government and better serve the public; and

WHEREAS, the Massachusetts Office of Dispute Resolution can assist agencies of the Commonwealth to expand their use of ADR;

NOW, THEREFORE, I, Argeo Paul Cellucci, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me as Supreme Executive Magistrate, do hereby order that state agencies work diligently to fully utilize, wherever appropriate, alternative dispute resolution to resolve disputes and, to that end, I order the following:

- I. The Secretary of each Executive Office and the Director of each Department shall designate an Alternative Dispute Resolution (ADR) Coordinator who shall encourage and facilitate the use of ADR in his or her secretariat or department and shall report directly to that secretary or director.
- II. The head of each state agency shall designate an Alternative Dispute Resolution (ADR) Coordinator who shall encourage and facilitate the use of ADR in his or her agency and shall report directly to that agency head.
- III. The Secretariat, Department and Agency ADR Coordinators shall participate in an ADR Orientation and Training conducted by the Massachusetts Office of Dispute Resolution by October 1, 2000.
- IV. The Secretariat and Department ADR Coordinators be responsible for:
 - A. Becoming familiar with ADR, where and how it might be used in their offices and agencies, regularly exploring, encouraging and facilitating the use of ADR in their respective secretariats, departments and agencies.
 - B. Meeting quarterly with the Agency ADR Coordinators within their respective secretariat or department to explore potential uses for ADR in that agency.
 - C. Submitting to the Secretary of the Executive Office for Administration and Finance by December 1, 2000 an ADR plan for their secretariat or department and each of its related agencies outlining a systematic means of reviewing cases and non-litigation matters to determine their ADR potential. The Massachusetts Office of Dispute Resolution shall be available to meet with, consult and assist Secretariat and Department ADR Coordinators to develop their ADR Plans.
 - D. Submitting a Secretariat or Department ADR Annual Report, with the first one due August 1, 2001, to the Secretary of the Executive Office for Administration and Finance, updating the Secretary on the status of the ADR Program throughout the secretariat or department, including the cases and other matters for the past year that have participated in ADR, and ADR training (such as negotiation skills training) received by their employees during the past fiscal year. The Annual Report shall also include the goals of the secretariat or department for improving their ADR Program in the next fiscal year.

- V. The Massachusetts Office of Dispute Resolution and the Executive Office for Administration and Finance shall make an annual “Commonwealth Dispute Resolution Award” to honor a person in Massachusetts government who has played a significant role in the promotion, use, or identification of appropriate uses of dispute resolution in the Commonwealth or who played a significant role in the resolution of a dispute.

Given at the Executive Chamber in Boston
this 11th day of November in the year one
thousand nine hundred and ninety-nine.

Argeo Paul Cellucci
Governor

William Francis Galvin
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

ATTACHMENT B

PART I. ADMINISTRATION OF THE GOVERNMENT.

TITLE II. EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH.

CHAPTER 7. EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

SECTION 51. Office of dispute resolution; director; advisory council; powers and duties.

There shall be within the executive office for administration and finance an office of dispute resolution under the supervision and control of a director who shall be appointed by the commissioner of administration with the approval of the governor. Said director shall be a person with substantial training and professional experience in dispute resolution, shall maintain complete impartiality with respect to the matters coming before said office of dispute resolution, and shall devote full time to the duties of his office.

Said office of dispute resolution shall be available to assist agencies and officers of the executive, legislative, and judicial branches of the commonwealth, as well as any political subdivision or public instrumentality created by the commonwealth or any county, city or town, hereafter referred to as public agencies, to improve the resolution of disputes that arise within their respective jurisdictions. Said office is authorized to (a) facilitate the resolution of disputes through provision of impartial mediation and other dispute resolution services; (b) establish standards for the selection, assignment, and conduct of persons acting on behalf of said office in the resolution of disputes; (c) conduct educational programs and provide other services designed to reduce the occurrence, magnitude, or cost of disputes; (d) design, develop, or operate dispute resolution programs or to assist public agencies to improve or extend their existing dispute resolution programs; and (e) take such other action as will promote and facilitate dispute resolution by public agencies in the commonwealth.

The director may promulgate, pursuant to the provisions of chapter thirty A, such regulations as may be necessary to carry out the functions of the office as authorized by this section.

The director may establish reasonable fees to be charged to disputants or public agencies for the provision of the educational, consultation, dispute resolution, or other services authorized herein and may apply for and accept on behalf of the commonwealth any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or activities of the office. Such fees, grants, bequests, gifts, or contributions shall be received by the state treasurer and deposited in a separate account and shall be expended, subject to appropriation, at the direction of the director, with the approval of the commissioner of administration, for the cost of operation of the office, including personnel.

The office may make agreements with public agencies and officers and may contract with other persons, including private agencies, corporations, or associations, to carry out any of the functions and purposes of this section.

The office shall prepare annually a report on the status of public sector dispute resolution in the commonwealth and shall file said report with the clerks of the house of representatives and the senate.

ATTACHMENT C

PART I. ADMINISTRATION OF THE GOVERNMENT.

TITLE II. EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH.

CHAPTER 75. UNIVERSITY OF MASSACHUSETTS.

SECTION 46. Office of dispute resolution; director; advisory council; powers and duties.

There shall be at the University of Massachusetts at Boston an office of dispute resolution under the supervision and control of a director who shall be appointed by the provost with the approval of the chancellor and concurrence of the board of trustees. The director shall be a person with substantial training and professional experience in dispute resolution, shall maintain complete impartiality with respect to the matters coming before the office of dispute resolution, and shall devote full time to the duties of the office.

The office of dispute resolution shall be available to assist agencies and offices of the executive, legislative, and judicial branches of the commonwealth, as well as any political subdivision or public instrumentality created by the commonwealth or any county, city, or town, hereafter referred to as public agencies, to improve the resolution of disputes that arise within their respective jurisdictions. The office may: (a) facilitate the resolution of disputes through provision of impartial mediation and other dispute resolution services; (b) establish standards for the selection, assignment, and conduct of persons acting on behalf of the office in the resolution of disputes; (c) conduct educational programs and provide other services designed to reduce the occurrence, scope, complexity, or cost of disputes; (d) design, develop, or operate dispute resolution programs or to assist public agencies to improve or extend their existing dispute resolution programs; and (e) take other action to promote and facilitate dispute resolution by public agencies in the commonwealth.

The director may establish reasonable fees to be charged to parties, litigants, or public agencies for the provision of the educational, consultation, dispute resolution, or other services authorized herein and may apply for and accept on behalf of the commonwealth any federal, local, or private grants, bequests, gifts, or contributions to aid in the financing of any of the programs or activities of the office. Fees, grants, bequests, gifts, or contributions shall be received by the University of Massachusetts at Boston and deposited in a separate account and shall be expended, without further appropriation, at the direction of the director, with the approval of the provost, for the cost of operation of the office, including personnel.

The office may make agreements with public agencies and officers and may contract with other persons, including private agencies, corporations, or associations, to carry out any of the functions and purposes of this section.

The office shall annually prepare a report on the activities of the office, including all income and expenditures, and file the report with the house and senate committees on ways and means on or before December 31.

ATTACHMENT D

Vision for A Partnership Between University of Massachusetts, Boston and MA Office of Dispute Resolution

The Massachusetts Office of Dispute Resolution (MODR, currently located in the Executive Office for Administration and Finance) and the University of Massachusetts/Boston (UMB) are exploring the value to each of entering into a partnership. MODR would become an office of the University and be housed within the University's Department of Dispute Resolution. MODR would continue its statutory mission (G.L. c. 7, s. 51) to facilitate the use of alternative dispute resolution (ADR) and consensus building by government agencies in order to achieve effective and efficient resolution of public disputes and agreements on public policy issues important to the Commonwealth. The University would enhance its capacity to provide outreach service to the Commonwealth and enlarge its educational and research resources for students and faculty.

An institutional base at the University would offer MODR a credible and neutral forum for the convening of public dispute resolution processes and resources to educate and raise awareness among public officials and members of the public about creative ways of resolving disputes. Together this partnership would also enhance the ability of UMB and MODR to receive contracts, grants and private foundation funding through collaborations with the University's Programs on Dispute Resolution, McCormack Graduate School of Policy Studies, Environmental Sciences Programs, and its various Institutes.

MODR would continue to lead the implementation of Executive Order #416 (Integrating Dispute Resolution Into State Government), and pursue its current issue-based initiatives in the areas of housing, environment, human services, agriculture, and public safety. MODR would bring with it its current contracts - and others on the horizon - to provide service to public agencies, its history of fifteen years of successful service to the Commonwealth, its current staff, and its panel of over 80 highly skilled mediators, facilitators, trainers, and dispute systems consultants qualified through its RFR process. MODR would continue to operate primarily as a self-funding entity through fees for services and grants, and would continue to seek a small legislative appropriation to cover operating costs.

At the University MODR would provide research opportunities for faculty, and practical training and internship opportunities for students, on multi-party public policy disputes and the use of dispute resolution & collaborative processes in the public sector. This will be most readily accomplished through the integration of MODR with the UMB Graduate Programs in Dispute Resolution (Masters and Certificate); there are also many other University programs (e.g. in public policy and in the environment) for which a connection with MODR would be beneficial. The University's current outreach efforts will be able to add the resources of MODR to its inventory of services, and MODR will be able to draw on students and faculty for energy, ideas, and support. In general, MODR would further the University's long standing service mission to link its research and academic resources to the needs of the Commonwealth.

The services provided by MODR working with the University would: a) reduce the occurrence, magnitude and cost of public disputes and litigation; b) improve communications, cooperation, and consensus building within government agencies, and between agencies and their constituencies; c) provide additional resources to public officials in pursuing their core missions; d) support effective and responsive government; e) help build and sustain healthy communities for the Commonwealth; and (f) train a cadre of new dispute resolution practitioners in multi-party, public policy intervention.

PROGRESS REPORT

Massachusetts Office of Dispute Resolution

An agency within the Executive Office for Administration and Finance
Commonwealth of Massachusetts

Reporting Period:
Fiscal Years 2002, 2003, 2004 & 2005

Mitt Romney, *Governor*
Kerry Healey, *Lieutenant Governor*
Eric Kriss, *Secretary, Executive Office for Administration and Finance*

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FOR FURTHER INFORMATION CONTACT:

Susan M. Jeghelian, *Executive Director*
Massachusetts Office of Dispute Resolution
University of Massachusetts Boston
100 Morrissey Boulevard
McCormack Building, 1st Floor, Room 627
Boston, MA 02125

E-mail: susan.jeghelian@umb.edu
Phone: (617) 287-4047
Fax: (617) 287-4049
Web Page: www.umb.edu/modr