
News and Notes

U.S. Congress Kills Federal ADR Act

ADR is no longer "the law" in the U.S. government.

The Administrative Dispute Resolution Act of 1990 — a statute that encouraged all federal government agencies in the United States to use alternatives to litigation in resolving disputes — expired in October, 1995. The 1990 legislation required each federal agency to adopt an ADR policy, allowing the government and private parties to seek resolution of disputes through mediation, arbitration, and/or other ADR processes.

Because the U.S. Congress failed to extend the 1990 Act, the legislation "sunset" (expired) in 1995. Thus, participating federal agencies officially lose their authority to pursue ADR options in most cases.

One important exception, however, relates to government contracts, which remain largely unaffected by the "sunset" of the 1990 Act. The Federal Acquisition Streamlining Act of 1994 extends to

October, 1999 the authority of government agencies or government contractors to request the use of ADR to resolve disputes. In addition, the 1978 Contract Disputes Act formalizes the procedure for resolving disputes involving government contracts. Thus, contractors doing business with the federal government can still use ADR processes to resolve potential disputes.

The 1990 ADR Act, which gave federal agencies broad authority to use alternative dispute resolution methods in almost any type of dispute, was intended to "offer prompt, expert and inexpensive means of resolving disputes as an alternative to litigation in the federal courts."

The act required that each agency appoint a senior official as its dispute resolution specialist; develop a policy addressing the use of ADR in resolving its disputes; provide training for the dispute resolution specialists and other key employees; and review its standard contract and grant agreements to see whether

they could be amended to encourage the use of ADR.

Just about the same time that the Dispute Resolution Act of 1990 "sunset," the Administrative Conference of the United States (ACUS), a leading proponent of alternative dispute resolution, went out of business due to lack of congressional support for its budget.

ACUS was the federally-funded agency charged with studying the efficiency and fairness of government procedures and recommending reforms. Over the years, it strongly advocated the use of ADR processes in the government's business dealings.

Last year, ACUS issued a comprehensive report to the U.S. Congress on the effects of the 1990 Administrative Dispute Resolution Act. In its report, the now-defunct agency pointed to such benefits from alternative dispute resolution as the following: \$115 million in legal costs saved by the Resolution Trust Corp. between 1991 and 1994; \$3 million saved by the U.S. Mint; and, in the Department of Labor, expedited case resolution and a 17 percent reduction in litigation costs in one pilot project alone.

Charles Pou Jr., who directed the ACUS dispute resolution program for ten years, noted that Congress' refusal to fund the Conference's \$1.8 million budget has, in effect, "shut down the Conference's role in encouraging and aiding federal agencies' use of consensus-based decision making. Of these activities — including research, educational, clearinghouse, policy advice, and technical assistance — some may henceforth

be performed elsewhere, but most will lapse."

However, according to an article Pou wrote that was published in the October 1995 issue of "ADR Network" (a newsletter published by an interagency ADR working group and sponsored by the Administrative Conference):

"Though far from a good thing (at least in the eyes of this hardly disinterested observer), it [the demise of ACUS] does not signal a critical blow to federal ADR activity. While the Conference had provided significant leadership and assistance in this area over the last decade, the federal ADR 'genie' is now indisputably 'out of the bottle' — in some substantive sense because of the Conference's efforts. With new programs in place in dozens of agencies, activity is many times greater than in 1990, when the Administrative Dispute Resolution Act was enacted, and much more so in contrast to 1982, when the Conference first recommended that agencies seek to reach consensus on controversial decisions by using mediation and a then untested process called negotiated rulemaking.

"Today," wrote Pou, "even the litigators at the Department of Justice have begun to match long-standing endorsements of ADR at the upper echelons with an ambitious new effort that could yield meaningful results on the ground and possibly give Justice a constructive leadership role in both executive branch and court dispute resolution."

Pou cautioned, however, that ". . .with or without a federal agency like ACUS, many of the issues that

the Conference sought to address will continue to need attention if most [federal] agencies are to develop, and keep, quality programs. Who (if anyone) will bring this attention to bear and how will it be accomplished are matters worthy of greater thought than anyone, including the Congress, has given them so far."

Pou's remarks also appear in an article published in the November/December 1995 (Vol. II, Number 6) issue of *NIDR News*, a bimonthly newsletter published by the National Institute for Dispute Resolution, 1726 M Street NW, Suite 500, Washington, D.C. 20036-4769.

Larger U.S. Companies Endorse 'In-House' ADR

Most U.S.-based business firms with 100 or more employees routinely turn to alternative dispute resolution (ADR) processes when they are faced with employment discrimination disputes. That's the word from managers at close to 1500 firms who responded to a U.S. General Accounting Office (GAO) survey on this subject.

And, according to the GAO survey results, corporate America prefers to settle employment discrimination disputes "in house," through factfinding, negotiation, and internal mediation. Outside mediation and arbitration were among the least-favored options.

Almost 90 percent of the companies responding to the GAO survey had used at least one ADR method to deal with discrimination complaints. The most frequently used processes, according to the survey respon-

dents, were: factfinding (used by 80.6 percent of the companies); negotiation (used by 74.2 percent); internal mediation (38.2 percent); peer review (19.9 percent); arbitration (9.9 percent); and external mediation (8.6 percent); and such other processes as internal investigation, "open door" policy, and grievance procedures (19.5 percent).

In all, the GAO sent questionnaires to 2000 sample firms, 500 of which employ 100 to 499 employees; 500 of which employ 500 to 999 persons; and 1000 of which employ more than 1000 persons. A total of 1499 of the surveys were returned.

Results of the GAO survey, for which Bob Sampson served as lead evaluator, are reported in "Employment Discrimination: Most Private-Sector Employers Use Alternative Dispute Resolution." A copy of this 32-page GAO report (which was published in July 1995) is available by mail from:

The U.S. General Accounting
Office
P.O. Box 6015
Gaithersburg, Md. 20884-6015

Persons requesting a copy of this GAO report should note that they are requesting Document no. HWHS-95-150. There is no charge for a single copy; additional copies are \$2. each. Telephone orders may be placed by calling 202-512-6000, or FAXing 301-258-4066.

Law and Society Meeting in Scotland

"Globalization and the Quest for Justice" is the general theme for the 1996 joint meetings of the Law and

Society Association and the Research Committee on Sociology of Law. The program will take place in Glasgow, Scotland, July 10-13, 1996. This marks the fourth time the two organizations have sponsored a joint annual conference.

Conference planners hope this year's theme will encourage presentations by scholars who focus on the possibilities and uncertainties that globalization poses for nation-states and families. Among the questions likely to be considered at the various conference sessions are: What are the consequences of globalization for the demand for justice, and what will be the role of the formal institutions of state law and politics? What are the implications for scholarship and pedagogy? What are the prospects for collaborative, transnational research that is both significant and relevant?

Alfred C. Aman of the School of Law at Indiana University in Bloomington is serving as general chair of this year's program committee, which includes legal and social science scholars from throughout the United States as well as from Poland, New Zealand, Japan, Brazil, The Netherlands, and other nations.

For information regarding registration and a complete program, contact:

The Law and Society Association
Hampshire House, Box 33615
University of Massachusetts
Amherst, Mass. 01003

Family Mediators Name New Director

Ericka Gray, formerly a senior mediator and regional training coordinator with the Boston office of JAMS/

ENDISPUTE, has been appointed executive director of the Academy of Family Mediators.

In connection with Gray's appointment, the business office of the Academy has been shifted to the following new address:

4 Militia Drive
Lexington, Mass. 02173

The Academy of Family Mediators is the largest organization of dispute resolution professionals and scholars who focus primarily on divorce, child custody, and other contentious issues involving families. It sponsors an annual meeting/conference, which this year will take place July 22-27 in Breckenridge, Colo. The 1996 conference theme is "Shaping the Profession."

Peace Researchers to Meet 'Down Under'

For the first time in its 30-year history, the International Peace Research Association (IPRA) will be holding its general conference on the continent of Australia. "Creating Nonviolent Futures" is the overall theme for the IPRA's 16th general conference, which will take place July 7-12, 1996 at the University of Queensland in Brisbane, Australia.

An international group of peace leaders, scholars, and activists representing 70 different countries will be making presentations at the conference. Topics expected to be emphasized include the resolution of disputes involving indigenous peoples; the involvement of youth in peace politics; the nexus between patriarchy and violence; and the dynamics of nonviolence in the resolution of conflict.

As at past conferences, the program will be divided into a single plenary session each day and a series of commission or study group meetings. As of this writing, commission-study group sessions are planned on the following topics: defense and disarmament; communications; the conversion from a military to a peace-time economy; human rights and development; international conflict resolution; and peace education.

The IPRA was founded in 1965 to advance interdisciplinary research into the conditions of peace and the causes of war and other forms of violence.

For information about the conference, contact:

John Synott
IPRA Program Director
Locked Bag no. 2
Red Hill Post Office
Brisbane QLD 4059
Australia

Druckman Article Wins Klineberg Award

An article written by Daniel Druckman of the National Research Council and George Mason University has been selected as the 1995 winner of the Otto Klineberg Intercultural and International Relations Award.

The article, "Nationalism, Patriotism, and Group Loyalty: A Social Psychological Perspective," was published in the *Mershon International Studies Review* (38 [1994]: 43-68).

The Klineberg Award is sponsored by the Society for the Psychological Study of Social Issues (SPSSD), a division of the American Psychological Association. The award recognizes outstanding written work that

focuses on intercultural and international issues from a social psychological perspective. Druckman's article describes how group attachments become associated with nationalism and patriotism, serving as a breeding ground for conflicts rooted primarily in national and ethnic identities.

Cornell IR School Training Programs

Cornell University's School of Industrial Relations is offering several short training programs in 1996 that may be of interest to people in the negotiation field. The programs all take place at the Cornell Conference Center in New York City or at the School of Industrial Relations itself in Ithaca, N.Y.

Titles and dates of these short courses are as follows: "Negotiating Effectively," April 9-10 and September 9-10, both in New York City; "The Dynamics and Skills of Effective Negotiations," March 19-20 and September 11-12, both in Ithaca; "Interpersonal Dynamics of Conflict Resolution," May 29-31 and November 19-21, both in Ithaca; and "Facilitation Skills," April 2-3 and November 19-20, both in New York City.

For additional information on these and other training programs offered by the School of Industrial Relations, contact:

Cornell University, NYSSILR
MD/HR Programs
16 East 34th Street
New York, N.Y. 10016-4328

Project to Explore NGO Role in Peace

The Aspen Institute's Nonprofit Sector Research Fund (NSRF) is offering a new program that will support

research on peace and conflict resolution initiatives taken by non-governmental organizations (NGOs) in South Africa, Northern Ireland, and Israel/Palestine.

The Program on NGOs in Peace and Conflict Resolution will provide grants of up to \$100,000 to three research teams over a two-year period to assess the role, impact, and activities of NGOs working toward peace in each of these regions. Results will be presented at the 1998 International Society of Third-Sector Research conference on "The Role of Third-Sector Organizations in Conflict Resolution."

Projects will address the extent to which NGOs have influenced the settlement of disputes in South Africa, Northern Ireland, and Israel/Palestine. The aim of the studies is to help people understand the dynamics of the peace and conflict resolution processes at work in these regions prior to the historic signing of peace agreements.

Project directors are Professors Benjamin Gidron of Israel's Ben Gurion University and Stanley Katz of Princeton University.

The Aspen Institute's Nonprofit Sector Research Fund seeks to expand understanding of nonprofit sector activities, including philanthropy and its underlying values, by supporting basic and applied research undertaken by scholars and practitioners. It operates a national grant-making program, as well as two statewide programs in California and Michigan. Proposal evaluation is informed by a peer review process, with final funding decisions made by NSRF's governing council.

For further information, contact:
The Aspen Institute
P.O. Box 222
Carmichael Road
Queenstown, Md. 21658

AAA Opens Office in Baltimore, Md.

The American Arbitration Association has opened its 36th regional office in Baltimore, Maryland, according to William K. Slate II, president and chief executive officer of the AAA.

"As the demand for arbitration, mediation and other conflict resolution techniques continues to play an integral part in sound legal and business planning, the American Arbitration Association is pleased to expand its services to the Maryland business and legal communities," said Slate.

Steven G. Gallagher, senior vice president of the AAA's Washington, D.C. office, will direct the Baltimore office.

Employment Disputes Focus of CPR Program

The Center for Public Resources Institute for Dispute Resolution is launching a new program to help companies and employees avoid court battles in discrimination and other employment disputes.

The new dispute resolution program outlines a comprehensive plan for companies to establish an alternative dispute resolution (ADR) program for employment conflicts. It provides for voluntary mediation and either voluntary or mandatory arbitration, and emphasizes the open and candid explanation of these procedures to employees.

The CPR program was developed by a nationwide committee of 70 employment law attorneys, law professors, and ADR specialists, chaired by Jay W. Waks of the New York firm of Kaye, Scholer, Fierman, Hays & Handler. It reflects views of principal employment counsel from more than 50 of the nation's largest corporations — such as Aetna, American Express, General Electric, Masco, NYNEX, Philip Morris, Siemens and Travelers — and was reviewed by partners from 15 prominent law firms representing both management and employee perspectives.

"Lawsuits filed by employees have formed the fastest growing area of civil litigation in recent years," said James F. Henry, CPR president. "By some estimates, employment cases in federal courts have shot up by 2,000 percent in the past 20 years. We felt that ADR could play an important role in curbing this upward trend."

The new program includes a step-by-step plan to guide companies in designing their own program to resolve nonunion employee disputes. It explains each step involved in a mediation or arbitration process and contains model agreements, procedures, and memos to employees that can be tailored to fit differing corporate needs or accommodate variations in local law. It also discusses issues related to mandatory use of arbitration versus voluntary use.

CPR also announced the formation of a new Employment Disputes Panel, a nationwide roster of mediators and arbitrators with expertise in employment disputes. The employ-

ment disputes panelists are located in all major geographic regions.

Based at 366 Madison Avenue in New York City, the CPR Institute for Dispute Resolution is a nonprofit alliance of 500 global corporations and leading law firms established to develop alternatives to the high cost of litigation.

Upcoming Conferences, Workshops and Meetings

First midyear meeting, Academy of Family Mediators, Miami, Fl., February 8-10, 1996. Theme: "Rough Cases, Tough Issues." Contact: Academy of Family Mediators, 4 Militia Drive, Lexington, Mass. 02173.

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"Mediation in the Global Village: Lessons for Our Town," a program cosponsored by the Lawyers Alliance for World Security and Flaschner Judicial Institute, Boston, February 9, 1996. Contact: MCLE, Ten Winter Place, Boston, Mass. 02108.

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"The Program on Negotiation for Senior Executives," a day and one-half training program offered by the Program on Negotiation at Harvard Law School, in Cambridge, Mass., on the following dates: March 18-19, April 22-23, June 3-4, July 18-19, September 16-17, October 28-29, and December 9-10, 1996.

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"Social Justice and Civil Society," the 66th annual meeting of the Eastern Sociological Society, Park Plaza Hotel, Boston, Mass., March 28-31, 1996. Contact: Eastern Sociological

Society, Department of Sociology, Box U68, University of Connecticut, Storrs, Conn. 06269-2068.

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"Increasing HR Effectiveness: New Human Resources Leadership Strategies for Managing Organizational Issues and Disputes," a training program offered by the Program on Negotiation at Harvard Law School in Cambridge, Mass., April 18-19, September 19-20, and November 19-20, 1996. For a brochure or additional information, contact: The Center for Management Research, 55 William St., Wellesley, Mass. 02181.

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"Dealing with an Angry Public," a two-day training program offered by the MIT-Harvard Public Disputes Program, in Cambridge, Mass., May 2-3 and November 14-15, 1996. For a brochure or additional information, contact: The Center for Management Research, 55 William St., Wellesley, Mass. 02181.

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"Crossing the Threshold: The Virtual Reality of Dispute Resolution," the 1996 Arizona Conference on Dispute Resolution, Phoenix, May 2-4, 1996. Contact: ADRA 1996, 1275 Washington, Phoenix, Ariz. 85007.

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"Creating and Managing International Business Relationships," a training program offered by the Project on Compliance and Dispute Settlement, a component research project of the Program on Negotia-

tion at Harvard Law School; in Cambridge, Mass., May 9-10 and November 20-21, 1996. For a brochure or additional information, contact: The Center for Management Research, 55 William St., Wellesley, Mass. 02181.

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The first North American Ombudsman Conference, sponsored by a consortium of seven ombuds organizations, May 15-18, 1996, Marriott Pavilion, St. Louis, Mo. Contact: Linda Wilcox, the Ombudsman Association, c/o Harvard Medical School, 164 Longwood Ave., Room 304, Boston, Mass. 02115. Her email address is: lwilcox@warren.med.harvard.edu.

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Annual conference, The Network for Dispute Resolution, Edmonton, Alberta, Canada, May 21-25, 1996. Contact: The Network, Conrad Grebel College, Waterloo, Ontario N1H 3Y8, Canada.

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"Dealing with Difficult People and Difficult Situations," a training program offered by the Program on Negotiation at Harvard Law School; in Cambridge, Mass., June 4-5 and December 10-11, 1996. For a brochure or additional information, contact: The Center for Management Research, 55 William St., Wellesley, Mass. 02181.

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"Families and Law: Changing Values, Rights, and Obligations," the 12th annual higher education confer-

ence sponsored by the American Bar Association Commission on College and University Legal Studies; in Denver, Colo., April 19-21, 1996. Contact: John Ryan, ABA, 541 N. Fairbanks Court, Chicago, Ill. 60611-3314.

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"Teaching Negotiation in the Corporation," a program aimed at persons who handle training programs in organizations. Offered by the Program on Negotiation at Harvard Law School, in Cambridge, Mass., April 21-23 and September 15-17, 1996. For a brochure or additional information, contact: The Center for Management Research, 55 William St., Wellesley, Mass. 02181.

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Association of Family and Conciliation Courts (AFCC), annual meeting, Hyatt Regency Hotel, San Antonio, Texas, May 8-11, 1996. Contact: AFCC, 329 W. Wilson St., Madison, Wis. 53703.

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Canadian Law and Society Association, annual meeting, Brock University, June 1-3, 1996. Contact: Jonathan Swainger, History Programme, University of Northern British Columbia, Fort St. John Campus, Box 1000, Fort St. John, B.C. V1J-6K1.

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International Association of Conflict Management, annual meeting, Ithaca, N.Y., June 2-6, 1996. Contact: Raymond Friedman, program chair, Owen Graduate School of Manage-

ment, Vanderbilt University, Nashville, Tenn. 37203.

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"Children, Courts, and Dispute Resolution, a symposium sponsored by the American Bar Association Section on Dispute Resolution and the Center on Children and the Laws; in Washington, D.C., June 7-9, 1996. Contact: Section on Dispute Resolution, ABA, 1800 M Street N.W., Washington, D.C. 20036.

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"Creating Nonviolent Futures," the 16th general conference of the International Peace Research Association, University of Queensland, Brisbane, Australia, July 7-12, 1995. Contact: John Synott, IPRA Program Director, Locked Bag no. 2, Red Hill Post Office, Brisbane QLD 4059, Australia. Email: j.synott@qut.edu.au.

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Annual meeting, Law and Society Association (held in conjunction with the Research Committee on Sociology of Law), in Glasgow, Scotland, July 10-13, 1996. Contact: Law and Society Association, Hampshire House, University of Massachusetts, Amherst, Mass. 01003.

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Annual meeting, National Association for Mediation in Education (NAME), Baltimore, Md., July 16-21. Theme: "Partnerships in Action: Building Caring Schools and Communities." Contact: NAME, 205 Hampshire House, Box 33635, Uni-

versity of Massachusetts, Amherst, Mass. 01003.

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Annual meeting, Academy of Family Mediators, Breckenridge, Colo., July 22-27, 1996. Theme: "Shaping the Profession." Contact: Academy of Family Mediators, 4 Militia Drive, Lexington, Mass. 02173.

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Annual meeting, American Bar Association, Orlando, Fla., August 1-5, 1996. Contact: American Bar Association, 750 Lake Shore Drive, Chicago, Ill. 60611.

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"Education for a Culture of Peace," an international institute on peace education for educators, International Christian University, Tokyo, Japan, August 23-30. Contact: Betty A. Reardon, director, Peace Education Program, Box 171, Teachers College, Columbia University, 525 West 120th Street, New York, N.Y. 10027.

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Annual meeting, Society of Professionals in Dispute Resolution (SPIDR), Anaheim, Calif., October 22-27, 1996. Contact: SPIDR National Office, 815 15th Street N.W., Washington, D.C. 20005.