USE OF ADR BY STATE ATTORNEYS GENERAL

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State Law (ORS 36 and ORS 183.502), the Attorney General, ADR Model Rules, and DOJ policy support seek to:

- Increase public involvement in policy making and drafting of rules
- Increase public and agency satisfaction with the process and results of dispute resolution
- Increase agency efficiency
- Decrease the cost of resolving disputes - and
- Balance need for government transparency with ability of agencies to participate in informal and candid mediation proceedings
DOJ Administered Programs:

- Foreclosure Avoidance Program - SB 558 (2013)
  - Very successful program where trained Third Party meets with homeowner and lender with goal of avoiding foreclosure

- Environmental Claims Mediation

DOJ utilizes ADR to resolve litigation - both major and minor
DOJ training, legal advice, and technical support are provided for state agency ADR activities including:

- Use of mediation as the informal disposition of contested cases
- Design of collaborative public involvement process to address complex multi-party public policy disputes
- Design of a wide variety of agency ADR Programs (e.g. - programs to resolve medical, right-of-way, coordinated medical care, and post-adoption communications disputes and a program to facilitate dialogs between inmates and their victims)
Delaware use of ADR

- Office of the Common Interest Community Ombudsperson within DOJ/OAG provides ADR
- The Ombudsperson Act gives the Ombudsperson the power and duty to provide meetings, mediation or other forms of ADR as may from time to time be requested
- Following a review of a complaint that has been through an association’s “internal dispute resolution” process, the Ombudsperson may offer ADR in an appropriate case
- The Office of the Ombudsperson cannot force parties into ADR. All ADR through the Office of the Ombudsperson is voluntary
- The Office of the Ombudsperson can either facilitate or conduct ADR. The Ombudsperson can facilitate ADR by accepting the complaint and forwarding it to the opposing party, and help the parties agree on neutral ADR practitioner if either party objects to the Ombudsperson

Source: http://attorneygeneral.delaware.gov/fraud/cpu/ombudsperson/alternative-dispute-resolution/
Conciliation

- Experienced, neutral person or “conciliator” meets with the parties to a dispute to informally discuss and negotiate a complaint - The Office of the Ombudsperson can either coordinate or provide Conciliation upon request – also offers “Meet and Confer” without guidance of a neutral

Mediation

- Mediator aids the parties in reaching agreement on how to resolve a dispute
- Mediator cannot impose a decision or any penalty
- Mediator’s role: Clarify misunderstandings and ambiguities; provide a new perspective on disputes; and to explore options for agreement
- Process is Informal & Voluntary

Source: http://attorneygeneral.delaware.gov/fraud/cpu/ombudsperson/alternative-dispute-resolution/
Forms of ADR – Delaware DOJ
Office of the Common Interest Community Ombudsperson

Arbitration

- Voluntary, confidential process in which a neutral “arbitrator” hears both sides of a controversy and decides all aspect of the case based on the facts and the law just like a judge without a jury.

Neutral Assessment

- Experienced “neutral assessor” gives a non-binding, reasoned, oral or written evaluation of a controversy, on its merits, to the parties. The neutral assessor may use mediation and/or arbitration techniques to aid the parties in reaching a settlement.

Source: http://attorneygeneral.delaware.gov/fraud/cpu/ombudsperson/alternative-dispute-resolution/
Advisory and ADR Division of OAG

- Offered use of ADR to state agencies and local units of government in resolution of disputes
- Required Advisory DAGs to complete 40 hour Public Policy Mediation course at Indiana University School of Law – Indianapolis
- Indiana offers attorney certification in civil mediation - the I.U. Law public policy mediation course satisfies the course requirement for certification
Indiana use of ADR

Indiana State Fair stage collapse - 2011