

Article for Alternative Dispute Resolution Section Newsletter
November, 2004 edition, Oregon State Bar

**What Happened to Community and Public Policy Dispute Resolution Programs
Previously Administered by the Oregon Dispute Resolution Commission?**

Submitted by:

Jenny Carmichael, Administrator, Oregon Office for Community Dispute Resolution, University
of Oregon School of Law

Elaine Hallmark, Director, Oregon Consensus Program, Mark O. Hatfield School of
Government, Portland State University

In August 2003 the Oregon Legislature decided to abolish the Oregon Dispute Resolution Commission (ODRC) due to the dire revenue picture for the state. However, it continued the collection of fees into the Oregon Dispute Resolution Account, which the Commission had administered. Twenty-three community centers and a statewide public policy dispute resolution program were successfully operating under the ODRC at the time, for which the Legislature looked for new homes. It settled on the University of Oregon School of Law to administer the funds for the community programs, and the Hatfield School of Government at Portland State University to operate the public policy dispute resolution program.

The Dispute Resolution Account and the ODRC had been established in 1989 to promote out of court dispute resolution programs in Oregon, including the development of community dispute resolution centers all around the state. In 2003, rather than receiving a percentage of the Dispute Resolution Account as in the past, that would grow as the Account grew, the programs were allocated a set dollar amount. The Community Programs received an amount to match prior biennium receipts; the U of O Law School received \$125,000 to administer the community program funds, resulting in the discontinuance of a wide range of ODRC support activities for community centers. The Hatfield School was allocated an equal amount for administration of the public policy program, but was not allocated any program funds. Its program is now called the Oregon Consensus Program.

The difficult financial circumstances facing the state and Oregon's Judicial Department in 2003 led the Legislature to tap the Oregon Dispute Resolution Account as a stop gap measure to support the budget of the Judicial Department for the '03-'05 biennium. Because the Dispute Resolution Account can only be used for dispute resolution services, the Judicial Department was required to use all of the \$800,000 allocated from the Account to support court connected dispute resolution services.

Maintaining the community programs and funding the Courts from the Dispute Resolution Account left the Oregon Consensus Program, with only \$125,000 in administrative funds for two years to continue public policy dispute resolution efforts throughout the state to the best extent possible. The program had previously been allocated 20% of the Dispute Resolution Account in addition to the Commission's

administrative amounts. As a result, the program no longer has resources previously available to fund mediations or other collaborative processes for resolving disputes surrounding public issues. Staff positions of the Commission, and partner agencies who were dedicated to identifying, assessing and convening public policy cases for collaborative resolution were terminated; and the Commission's fifteen year history of saving the state substantial money by mediating instead of litigating many public issues has been slowed significantly.

A compromise provision of the 2003 legislation provided that the Law School and Hatfield School functions would sunset January 1, 2006. In addition, because of the use of a portion of the Dispute Resolution Account to fund the Courts, a pro-active effort is required to continue funding the community and public policy programs. Recently, the Oregon Association for Community Dispute Resolution Centers, the Oregon Mediation Association, the University of Oregon Law School's new Office for Community Dispute Resolution, and the Hatfield School's Oregon Consensus Program have worked with the Joint House and Senate Judiciary Committee to prepare a 2005 Committee bill that would repeal the sunsets and restore use of the Oregon Dispute Resolution Account to its original purpose -- non-court dispute resolution. The Joint Committee voted unanimously on October 15, 2004 to introduce the bill that has been drafted. The organizations are also strongly supporting the restoration of the Court's budget from the general fund as it has always been funded in the past. The ADR Section and the Bar Association's Board of Governor's have voted to support both the dispute resolution legislation and the Court's budget in the upcoming session.

The new approach to administration of non-court dispute resolution through the University of Oregon School of Law and the Hatfield School of Government is proving to be successful. Amy Cleary, Chair of the Oregon Association of Community Dispute Resolution Centers, recently told the ADR Section: "We have been very pleased with the support offered to the community centers by the Law School, and the Hatfield School has been reaching out to the community programs to collaborate on local public policy issues. Just recently community center staff attended a public policy training conducted by Elaine Hallmark, Director of the Oregon Consensus Program of the Hatfield School. The focus of the training was to describe how community centers could identify controversies over public issues in their communities and work with the Oregon Consensus Program to bring parties to the table for mediation when appropriate. The training was very well received and we are now in the process of developing several local cases for mediation."

The Community Programs continue to resolve large numbers of individual disputes in their communities, including victim offender, neighbor to neighbor and a range of local disputes. The Oregon Consensus Program is providing limited technical assistance, conflict assessment and convening services as well as some mediation and facilitation services for which it is able to get funding. It continues to address a range of land use, transportation and economic development cases, is mediating policy issues surrounding aggregate mining and use of farmland, and recently facilitated the Governor's Global Warming Advisory Group in developing a policy and strategy for the State.

Because initial signs from the Governor's office and the Legislature indicate another tough financial biennium, work to restore the Dispute Resolution Account to non-court dispute resolution and fund the Courts out of general or other funds will be difficult. It is important that the Oregon Judicial Department be sufficiently funded. Non-court dispute resolution alternatives through the community programs and the Oregon Consensus Program must also remain available to Oregonians. Elimination of the legislative sunset is vital. The Dispute Resolution Account was created in 1989 to support innovative out of court dispute resolution programs, including the creation of community programs around the state, and was amended in 1996 to specifically support public policy mediation. Many of the community programs and the Oregon Consensus Program depend today on the Dispute Resolution Account for their very existence. It is important that this Account be rededicated to these functions that are so important to the fabric of Oregon. We will continue to update readers in the months ahead.