



# Supreme Court of Oklahoma

Administrative Office of the Courts  
Oklahoma Judicial Center  
2100 North Lincoln Boulevard, Suite 3  
Oklahoma City, Oklahoma 73105

## Alternative Dispute Resolution System FY 2017 Annual Report

presented to

Dispute Resolution Advisory Board  
August 17, 2018

**2017 ANNUAL REPORT**  
prepared by Phil Johnson, ADR System Director

## **Background and Purpose**

The Alternative Dispute Resolution System in Oklahoma is currently made up of thirteen (13) community-based mediation centers (Early Settlement) and twelve (12) programs developed by state agencies. This system which was authorized (1983) and funded (1985) by the state legislature through the Oklahoma Dispute Resolution Act, 12 O.S., § 1801 - 1813 et seq., is administered and supervised by the Administrative Director of the Courts (ADC) through his designee, the ADR System Director; with the ongoing guidance of the Dispute Resolution Advisory Board.

The Alternative Dispute Resolution System is designed to be centrally coordinated through the Administrative Office of the Courts. A program must apply to the Administrative Director of the Courts through an initial application process and if approved, a contract is entered into between the Administrative Office of the Courts and the program sponsor. The contract is renewed annually with the local sponsors of the community-based centers and the executive officers of the state agencies. Mediator candidates for the programs are required to complete specialized training provided by the Alternative Dispute Resolution System and complete an experience-based practicum provided under the authority of the Administrative Director of the Courts in order to achieve certification. Mediator candidates are not charged fees for the training, as long as they agree to conduct voluntary mediations as outlined in the contract. The Administrative Director of the Courts must certify both the trainers and the curriculum for the training.

The purpose of the system, as stated in the Act is "to provide to all citizens of this state convenient access to dispute resolution proceedings which are fair, effective, inexpensive, and expeditious." The Act anticipates that "such proceedings can also help alleviate the backlog of cases which burden the judicial system in this state."

## **Dispute Resolution Advisory Board**

The Administrative Director of the Courts, or her designee, is charged with the responsibility of administering and supervising the Alternative Dispute Resolution System. To assist with the supervision a fifteen-member Dispute Resolution Advisory Board is appointed by the Supreme Court of Oklahoma. The current members of the board are:

- **Ted Roberts**, Chairman, of Norman who represents the academic community;
- **Terry Winn**, Vice-chairman, of Edmond who serves as a member at large;
- **David A. Cincotta** of Oklahoma City who serves as the designee of the Director of the Oklahoma Department of Corrections;
- **Vacant** who represent law-enforcement;
- **Honorable Lori M. Walkley** of Norman who represents the judiciary;
- **Stan L. Foster** of Oklahoma City who represents the legal profession;
- **Bonnie L. Clift** of Norman who represents social services;
- **Jane F. Wheeler** of Oklahoma City who represents consumer organizations;
- **Frank Turner** of Oklahoma City who serves as a member at large;
- **Vacant** who represents district attorneys;
- **Raymond L. Vaughn, Jr.** of Edmond who represents local government;
- **Mike Cotrill** of Tulsa who represents business organizations;
- **Shirley Ann Cox** of Oklahoma City who represents state government;
- **Bobbie Burbridge Lane** of Oklahoma City who serves as a member at large;
- **Jane McConnell** of Norman who represents retired citizen organizations;
- **Jari Askins**, Administrative Director of the Courts who serves as an *ex officio* member.

Board members receive no compensation for their services, contributing their work as volunteers.

## Early Settlement Centers

There are thirteen (13) Early Settlement centers located throughout Oklahoma so that each of the state's seventy-seven (77) counties has a designated program to serve its residents. Each Early Settlement program is coordinated by a program director, with the assistance of a part-time office manager. The staff members mediate as needed; but much of the mediation work done by carefully selected, trained, experienced, state-certified mediators who donate their time as volunteers. These dedicated Oklahomans possess a strong belief in the capability of the disputing parties to resolve their own conflicts and ascribe to the *Code of Professional Conduct for Mediators* that appears as Appendix A of the Rules and Procedures for the Dispute Resolution Act.

- **Early Settlement – Norman** (certified July 1, 1988) serves the residents of Norman and is supported and sponsored by the City of Norman.
- **Early Settlement - Tulsa** (certified December 1, 1987) receives funding from the City of Tulsa, Tulsa County, and the Administrative Office of the Courts. The Tulsa Board of County Commissioners sponsors the program.
- **Early Settlement – North** (certified July 1, 1986) is located in the Payne County Courthouse and serves a six-county area in North Central Oklahoma. The Board of Payne County Commissioners are the program sponsor.

The **Early Settlement Northwest** center is sponsored by Northwestern Oklahoma State University and serves the citizens of fourteen counties which include the panhandle through the office in Enid on the campus of NWOSU. Early Settlement Northwest was certified July 1, 1987.

**Early Settlement Southwest** is sponsored by the City of Mangum and has an office in the Greer County Courthouse. Early Settlement Southwest was certified August 1, 1987, and in 1994, this program serves twelve counties.

**Early Settlement Northeast** provides mediation services to the citizens of six counties through its office on the Bartlesville Campus of Rogers State University, the local sponsor. The original Early Settlement Northeast program was certified November 1, 1987.

**Early Settlement East** provides mediation services to the citizens of seven counties and was part of the original Northeast program that was certified November 1, 1987. This program is sponsored by Northeastern State University in Tahlequah. During fiscal year 2013 the program was divided into two programs to respond to the increasing demand for service.

The **Early Settlement Southeast, Early Settlement South Central, and Early Settlement East Central** are sponsored by East Central University in Ada with the Early Settlement – Southeast (certified July 1, 1988) office located in the Pittsburg County Courthouse in McAlester, the Early Settlement – East Central (certified September 1, 1992) office is located in Fentem Hall on the university campus, and the Early Settlement – South Central (certified January 1, 1990) program office located in the Carter County Courthouse in Ardmore.

**Early Settlement Central** is responsive to the residents of Oklahoma, Cleveland, and Canadian Counties. The program is sponsored by and has its main office in the Administrative Office of the Courts in Oklahoma City with satellite offices in the Canadian County, Cleveland County and Oklahoma County courthouses. Early Settlement Central was certified December 1, 1990.

Early Settlement Central and Early Settlement Southwest work together to facilitate the services of the Community Dispute Resolution project which began mediating disputes in 1998 that if unresolved might escalate to the level of one or more of the parties requesting a state audit or petitioning for a grand jury. Requests for these specialized mediation services may come from the state auditor, county commissioners, municipalities, school boards, district attorneys and other public officials.

### **Case Numbers**

During fiscal year 2016 the Early Settlement centers handled 5,505 referrals and held 3,948 mediations with over 17,000 participants. The number of mediations resulting in agreement or partial agreement was 65%. In addition, 285 cases were resolved with program contact or by conciliation.

Family mediators are required to complete forty-hours of training specific to divorce issues and must mediate or co-mediate for twelve clock hours while supervised and work with three to five different families before they are recommended for state certification. These mediators contract to provide eighty hours of volunteer service per year for two years in order to be eligible to participate in this advanced training. In FY 2016, 2,121 cases were referred with 1,497 mediations held of which 977 (65%) resulting in partial or complete resolutions

Services offered by the Early Settlement Centers include mediation and conciliation, and Early Settlement Tulsa provides settlement conferences conducted by adjunct settlement judge volunteers for cases referred by the judges of the Tulsa County District Court. There were 271 state court lawsuits referred for settlement conferences with a total of 248 settlement conferences held.

Specially trained and qualified mediators conduct mediations of disputes over services to children with disabilities--disputes which if unresolved could result in federal due process hearings. During FY 2016, Early Settlement received 0 requests for IDEA (Individuals with Disabilities Education Act) mediation.

In addition to the direct mediation services provided, the Early Settlement Centers provided no-charge training and curriculum materials to Oklahoma schools so they can implement effective school-based, peer mediation through the Peaceful Resolutions for Oklahoma Students (PROS) project. The Law Related Education program of the Oklahoma Bar Association assisted with the program by providing the printing of manuals, advertising the program through OBA/LRE newsletters and setting up a webpage through which administrators, counselors, teachers, parents and students registered for trainings held in Tulsa and Oklahoma City with teams from participating schools.

### **Collaborations**

During FY 2000 the Oklahoma State Department of Education (SDE) entered into contracts with ten of the Early Settlement Centers (Norman refers cases to the Central program.) to provide mediation of disputes over services to children with disabilities. These contracts were renewed for FY 2001 and FY 2002. Fiscal Year 2003 through FY 2015 this program continued as an informal understanding. The program is referred to as IDEA mediation because the issues considered appropriate are those delineated in the reauthorization of the Individuals with Disabilities Education Act.

The understanding which provides for the SDE to pay the statutory fees on behalf of parents and schools participating in IDEA mediation and to reimburse the mileage (at state rate) of volunteers who are asked to drive outside their county of residence was established in response to a regulation in the Act that requires each state's department of education to bear the cost of mediation when children are receiving services pursuant to the IDEA. Early Settlement began providing this form of specialized mediation in 1994, three years before the federal mandate was issued.

A similar understanding is in place between ten of the Early Settlement Centers and the Oklahoma Department of Rehabilitation Services. The Workforce Investment Act of 1998 (29 USC 722, § 102 (c)) established requirements that rehabilitation offices must offer mediation to service recipients.

## **Funding**

Ten of the Early Settlement Centers receive partial funding from grants provided by the Administrative Office of the Courts (AOC). The source of the AOC funding is the money designated for this purpose through state appropriations. The Dispute Resolution Revolving Fund generates income from two sources: two (\$2) dollars is added to every civil filing fee which generated approximately \$415,000; and five dollars is assessed to each party to mediation when they seek the service directly without filing a court action. The FY 2016 ADR system budget was \$974,000, which was supplemented by the Supreme Court. In addition to the funding provided by the AOC, each local sponsor is responsible for providing staff supervision, office space, bookkeeping and other indirect services as in-kind contributions.

## **State Agency Programs**

In addition to the Early Settlement community-based programs, thirteen state agencies have programs in the ADR System.

The Department of Corrections developed the Workplace Conflict Management Group to mediate disputes that might arise between employees.

The Office of Juvenile Affairs, Department of Juvenile Justice sponsors the Oklahoma Victim Restitution-Juvenile Offender Responsibility Program. This mediation program was originally certified in August of 1986 and is the first state agency program certified under the Act. This program refers cases to the Early Settlement Centers.

Certified in March of 1987, the ADR Program of the Merit Protection Commission provides a variety of ADR services to state government employers and employees. These services include negotiation, facilitation, mediation and binding arbitration.

The Post-Conviction Mediation Program of the Oklahoma Department of Corrections (DOC) began to reinstate the victim/offender mediation program during FY 2010. Currently three mediators are certified.

The Department of Human Services Employee Mediation Program has been providing mediation of disputes between DHS employees since July of 1989.

Certified February 1, 1998, the mediation program sponsored by the Office of Disability Concerns refers cases to the Early Settlement Mediation programs.

The Oklahoma Corporation Commission developed the Gas Gathering Alternative Dispute Resolution Program to provide a forum for resolution of disputes between producers and gatherers of natural gas during contract negotiations.

Mediators were trained and policies and procedures were written and the review and approval process were completed during FY 2000. The program was certified December 1, 1998.

Ending Arguments Gently, Legally, and Economically (E.A.G.L.E.) was the name chosen by the Oklahoma Insurance Commissioner for the mediation program established to assist insurers and their customers with matters deemed “unresolvable” referred from the complaint division of the Oklahoma Insurance Department. This program was certified April 1, 1999 and is the first of its kind in the U.S.

The Oklahoma Department of Health is the sponsoring agency for the Voluntary Mediation Program which was certified December 1, 2000. The program is designed to provide the department's employees and clients a process in which work-related and client-employee disputes may be resolved informally.

The Oklahoma Commission on Children and Youth worked with the Administrative Office of the Courts to develop and implement the Foster Care Mediation Program mandated in 2006 as part of the Kelsey Smith-Briggs Child Protection Reform Act (10 O.S. § 601.6 B.3.). This program was certified October 1, 2006 to mediate complaints concerning the rights of foster parents that relate to certain actions, inactions, or decisions of child-placing agencies that may adversely affect the safety and well-being of children in the custody of the state. No inquiries or referrals were reported for FY 2016.

The Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) established a new program which was certified on December 20, 2010. There are currently three Certified Mediators. Brochures and a fact sheet have been developed and approved for distribution. The ODMHSAS Dispute Mediation program has been presented to all Directors at the Central Office and to all ten State Agencies and at New Employee Orientation.

The Oklahoma Health Care Authority secured approval of its application and was certified on February 20, 2014. During FY 2016 this program began developing a cadre of mediators: two previously certified mediators were joined by five OHCA employees who completed mediation training and one of them achieved certification. Additional OHCA employees have expressed interest in receiving mediation training through the Early Settlement program.

## **Training**

In FY 2016, there were 121 community volunteers trained in the 20-hour basic civil mediation and 29 participants trained as family mediators. Numerous Peaceful Resolution for Oklahoma Students (PROS) trainings for core teams (a principal, counselor, and two teachers) and several student and staff trainings were held throughout the state.

## **Goals**

To increase the number of mediations held statewide.

To actively recruit community volunteers to serve as mediators.

To increase the number of regional programs to better serve the population.

## **Acknowledgments**

The important work of the ADR System could not be accomplished without the support of the Supreme Court, the Director of the Courts, the dedicated service of the members of the Dispute Resolution Advisory Board, and the generous commitment by the **VOLUNTEER MEDIATORS**.