

# UTAH EXECUTIVE ORDER

## *Integrating Alternative Dispute Resolution (ADR) Into State Government*

Issued: May 7, 2003

**WHEREAS**, this administration is committed to ensuring that state agencies utilize the most efficient and effective means of resolving disputes in fulfilling the mission of the state government;

**WHEREAS**, to be effective in addressing the wide array of issues that face the state, agencies need to employ a variety of strategies and problem-solving tools;

**WHEREAS**, alternative dispute resolution (ADR) methods offer an opportunity to resolve disputes in a collaborative manner;

**WHEREAS**, ADR has proven successful in resolving and preventing public and private conflicts;

**WHEREAS**, the appropriate use of ADR methods by state agencies and the state's partners will improve public services by providing for broad input on, and creative resolutions to, complex public policy disputes; and

**WHEREAS**, the Government Dispute Resolution Act, Title 63, Chapter 46c of the Utah Code, authorizes public agencies in Utah to utilize ADR procedures and to appoint ADR coordinators to assist them for that purpose:

**NOW, THEREFORE**, I, Michael O. Leavitt, Governor of the State of Utah, by virtue of the authority vested in my by the laws and constitution of the state, hereby order the following:

1. The chief executive of each department and the director of each executive branch agency that functions independently of a department shall:

a. in the case of agencies of more than 50 FTE's, designate an agency ADR Coordinator, who shall:

i) participate as a member of the State ADR Council to review the agency's processes for managing conflicts and controversies;

ii) participate in training or certification as determined by the ADR Council; and

iii) coordinate efforts within the agency to design, evaluate and implement ADR systems;

b. for agencies of 50 or fewer FTE's, arrange for a representative to participate on the ADR Council on the agency's behalf; and

c. in any case, deploy and support ADR systems within the agency by providing staff, budget, and opportunity consistent with law, agency circumstances, and available resources.

2. An ADR Council is established consisting of representatives of all department level executive branch agencies and other participating agencies. The Office of the Governor shall designate the council chair. The chair shall establish the council's agenda and meeting schedule. As appropriate, the council shall:

- a. evaluate dispute resolution systems in state government;
- b. determine how ADR systems, such as facilitated discussions, mediation and collaboration, can be deployed to improve the efficient resolution of disputes;
- c. make recommendations for deploying ADR systems in state agencies; and
- d. identify and address barriers to the use of ADR systems in state agencies; and
- e. establish qualifications and selection criteria for appointing a state ADR executive director, in accordance with terms of the William and Flora Hewlitt Foundation grant received for that purpose;
- f. prepare and submit to the Governor a statewide ADR needs assessment and plan that:
  - i) identifies current conflict management methods in effect throughout the state;
  - ii) identifies areas or types of disputes within various agencies that lend themselves to resolution through ADR systems;
  - iii) assesses training and staffing needs to put ADR systems into operation in state agencies;
  - iv) outlines training or certification standards for ADR neutrals; and
  - v) outlines strategies and time frames for putting ADR systems into operation.

3. The state ADR executive director shall report to the Governor's Chief of Staff and shall work closely with the ADR Council, with the ADR Advisory Board, and with state agencies to:

- a. integrate dispute resolution systems into state government by providing consultation, technical assistance, and guidance to agency ADR coordinators as they develop ADR plans and programs;
- b. work with agencies, the Office of the Governor, the Attorney General, and the ADR community in Utah to identify opportunities and to implement ADR systems in state government;
- c. develop model policies and procedures to govern ADR systems in state agencies, and coordinate or assist with the delivery of ADR programs as needed, including identifying ADR resources and ensuring access to neutrals and training opportunities;
- d. develop certification standards, training curricula and standards, and training systems;
- e. track relevant data for evaluating ADR systems and make recommendations to improve integration of ADR systems in state government;
- f. prepare reports for the Governor of ADR activities as needed or requested, including:
  - i) agency utilization of ADR;
  - ii) evaluation of the effectiveness of ADR processes in the various agencies;

- iii) ADR training delivered to agency employees;
- iv) the implementation of any new ADR programs and projects;
- v) the status of activities proposed or planned by the ADR Council; and
- vi) the goals for improving the ADR systems over the next fiscal year; and

g. prepare such reports as may be required for any grant-making organization.

4. The ADR Council, with approval of the Office of the Governor, may establish an advisory board of ADR practitioners to provide advice and guidance concerning establishment, maintenance, and improvement of ADR systems in the state agencies.

5. The state ADR executive director and ADR Council shall, on an annual basis or as appropriate, nominate to the Governor the recipient of the Utah Dispute Resolution Award to recognize outstanding service of an individual or agency in promoting the use of ADR in state government.

6. The purpose of this order is to facilitate and enhance the use of ADR in state government with a view to improving services to the public and avoiding unnecessary and costly litigation. The implementation of this order shall be carried out in a manner consistent with law and conducive to the mission of each agency involved. The state ADR executive director and ADR Council shall advise agency leaders how to improve agency operations and processes through appropriate ADR. If an agency dispute process or operation does not by its nature or by law lend itself to ADR, the state ADR executive director and the ADR Council shall serve as a resource in suggesting other appropriate improvements. Nothing in this order is intended to require the hiring of additional staff, the creation of new offices of government, or the adoption of administrative rules by an agency. The hiring of new personnel, including a state ADR executive director, is contingent on the availability of funding. The Governor's Chief of Staff is authorized to make final decisions with respect to all personnel and resources in carrying out this order.

7. This order is repealed December 31, 2004.

**IN WITNESS WHEREOF**, I have here unto set my hand and cause to be affixed the Great Seal of the State of Utah. Done at the State Capitol in Salt Lake City, Utah, this 7th day of May, 2003.

**MICHAEL O. LEAVITT**  
Governor

Attest:

**OLENE WALKER**  
Lieutenant Governor