

ALABAMA EXECUTIVE ORDER NUMBER 07

Expands the state's Workplace Mediation Pilot Program

WHEREAS, alternative dispute resolution (ADR) offers a number of voluntary procedures which, when properly employed, commonly result in more timely, less costly dispute resolution than traditional litigation; and

WHEREAS, in Alabama, effective alternatives for resolving conflict are desirable, and mediation, as such an alternative, is a voluntary process in which a neutral third party, the mediator, assists disputing parties in reaching a mutually acceptable agreement regarding their dispute by conducting sessions intended to identify pertinent issues, clarify any misunderstandings, and seriously explore the possibility of settlement among the parties. The mediator does not render any decision or impose a solution on any party, but facilitates discussions among the parties to assist them in resolving, by consensus, their dispute; and

WHEREAS, the Alabama Legislature has favored mediation, having passed the Alabama Mediation Act, which became effective on May 17, 1996, and is now codified at Section 6-6-20, Code of Alabama, 1975; and

WHEREAS, mediation offers many advantages to state agencies in securing timely and cost effective resolution of disputes governed by the Alabama Administrative Procedures Act, while at all times preserving the sovereign immunity of the State of Alabama; and

WHEREAS, the Attorney General of Alabama has endorsed and now requires a mediation provision for inclusion in contracts executed by state governmental entities in instances in which Chapter 5, Section 4B(6) of the Alabama Fiscal Policy and Procedures Manual is normally applied concerning contracts and Board of Adjustment cases; and

WHEREAS, Executive Order No. 42, dated March 18, 1998, encouraged state agencies, "to study, develop and implement appropriate procedures within their agencies to allow, upon agreement and after all sovereign, discretionary, and qualified immunity issues are resolved, the use of mediation to resolve disputes among parties, whether involving other state agencies, their agents, servants, employees, or other third parties,"; and

WHEREAS, other non-binding ADR concepts and procedures, such as negotiated rulemaking (reg-neg), collaborative problem solving, agency Ombuds, and consensus building, have also proven effective in making state administrative processes more cost effective and efficient while improving fairness in agency actions; and

WHEREAS, Executive Order No. 50, dated September 16, 1998, appointed a state agency Alternative Dispute Resolution Task Force to facilitate implementation of Executive Order # 42, and to develop, during the subsequent four years, programs for information, education, training, coordination, and implementation of ADR concepts and procedures to the fullest extent in agency administrative process; and

WHEREAS, the Alternative Dispute Resolution Task Force completed its work, including establishing the Fellows Program for educating government executives about the use of ADR, in the fall of 2002, submitted its final report and recommendations, and established as its successor, the Alabama State Agency ADR Support Group, to continue the implementation of ADR education, concepts, and programs; and

WHEREAS, the Alabama Workplace Mediation Pilot, as developed by the Alternative Dispute Resolution Task Force, has been tested in nine agencies.

NOW THEREFORE, I, Bob Riley, Governor of the State of Alabama, by virtue of the authority vested in me by the Constitution and laws of Alabama, and for other good and valid reasons, which relate thereto, and in support of the recommendations of the Alternative Dispute Resolution Task Force, and the continued work of the Alabama ADR Support Group, do hereby announce the expansion of the Workplace Mediation Pilot Program.

BE IT FURTHER ORDERED that each state agency, board or commission's executive office is charged with implementing and utilizing, where appropriate, the Workforce Mediation Program to resolve workplace disputes in the earliest possible stages and to consider mediation prior to or after, the institution of any lawsuit against the agency.

BE IT FURTHER ORDERED that each state agency, board or commission should consider mediation and other collaborative ADR processes in other administrative areas including, but not limited to, licensing and permitting, policy-making, rulemaking, regulation and enforcement, and intergovernmental relations and coordination.

BE IT FURTHER ORDERED that each state agency, board or commission is directed to designate a permanent ADR coordinator to interface with the Alabama State Agency ADR Support Group.

BE IT FURTHER ORDERED that this Executive Order shall become effective immediately upon its execution and shall remain in effect until amended or modified by the Governor.

DONE AND ORDERED this 20th day of March, 2003.

Bob Riley
Governor

Attested:

Nancy L. Worley
Secretary of State