

AN ACT
RELATING TO GOVERNMENT; ENACTING THE GOVERNMENTAL DISPUTE
RESOLUTION ACT; AUTHORIZING AGENCIES TO RESOLVE DISPUTES
THROUGH ALTERNATIVE DISPUTE RESOLUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Governmental Dispute Resolution Act".

Section 2. DEFINITIONS.--As used in the Governmental
Dispute Resolution Act:

A. "agency" means the state, political
subdivisions of the state and any of their branches,
agencies, departments, boards, instrumentalities or
institutions;

B. "alternative dispute resolution" means a
process other than litigation used to resolve disputes,
including mediation, facilitation, regulatory negotiation,
fact-finding, conciliation, early neutral evaluation and
policy dialogues; and

C. "neutral" means a person who provides
services as a mediator, fact-finder or conciliator or who
otherwise aids parties to resolve disputes.

Section 3. ALTERNATIVE DISPUTE RESOLUTION--
AUTHORIZATION--PROCEDURES--AGENCY COORDINATORS.--

A. An agency may use an alternative dispute
resolution procedure to resolve any dispute, issue or
controversy involving any of the agency's operations,
programs or functions, including formal and informal

adjudications, rulemakings, enforcement actions, permitting, certifications, licensing, policy development and contract administration. Alternative dispute resolution procedures are voluntary and may be used at the discretion of the agency or at the request of an interested party to a dispute.

B. An agency that chooses to use an alternative dispute resolution process shall develop an agreement with interested parties that:

(1) provides for the appointment of neutrals, consultants or experts agreed upon by all parties and serving at the will of all parties. A neutral, consultant or expert shall have no official, financial or personal conflict of interest with any issue or party in controversy unless the conflict of interest is fully disclosed in writing to all of the parties and all parties agree that the person may continue to serve;

(2) specifies any limitation periods applicable to the commencement or conclusion of formal administrative or judicial proceedings and, if applicable, specifies any time periods that the parties have agreed to waive;

(3) establishes rules for the alternative dispute resolution procedures; and

(4) sets forth how costs and expenses shall be equitably apportioned among the parties.

C. An agreement, developed pursuant to Subsection B of this section, may be included in an

enforcement order, stipulation, contract, permit or other document entered into or issued by the agency.

D. The administrative head of an agency may designate an employee as the alternative dispute resolution coordinator for that agency. The coordinator shall:

(1) make recommendations to the agency's executive staff on issues and disputes that are suitable for alternative dispute resolution;

(2) analyze the agency's enabling statutes and rules to determine whether they contain impediments to the use of alternative dispute resolution procedures and suggest any modifications;

(3) monitor the agency's use of alternative dispute resolution procedures;

(4) arrange for training of agency staff in alternative dispute resolution procedures; and

(5) provide information about the agency's alternative dispute resolution procedures to the agency's staff and to the public.

Section 4. AGENCY BUDGETS--CONTRACTS FOR SERVICES.--

A. An agency may take fiscal actions necessary to achieve the objectives of the Governmental Dispute Resolution Act and pay for costs incurred in taking those actions, including reasonable fees for training, policy review, system design, evaluation and the use of impartial third parties. Unless specifically prohibited by law, an agency may request category transfers pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978 for the purpose of paying

