

Funding for this report was generously provided by the JAMS Foundation, the Michigan State Bar Foundation, and the Dispute Resolution Education Resources Inc.



Mediation and Other Alternative Dispute Resolution Techniques in Michigan State Agencies

BACKGROUND

Over the past 25–30 years, alternative dispute resolution (ADR) at the community, administrative, and court levels has become increasingly popular with both consumers and practitioners. Originally conceived as a way to reduce burdensome caseloads and backlogs within the court system, the process has evolved far beyond the traditional mediation and arbitration that has historically defined it. ADR now includes a variety of techniques and facilitated outcomes such as collaborative decision making, partnering, aligning, and restorative practice—in other words, ADR can now be broadly defined as any process used to bring people together to solve problems.

Dispute Resolution Education Resources Inc. (DRER), a non-profit organization in Lansing, approached Public Sector Consultants to begin a series of discussions about how the State of Michigan approaches problem solving. Experience with the Community Dispute Resolution Program (CDRP) funded through the State Court Administrative Office, as well as programs in the Department of Education and Agriculture, prompted DRER to ask the question, “Just how widely is mediation used in state agencies?” Specifically, DRER wanted to know:

- ◆ **How prevalent is the use of mediation in state agencies?**
- ◆ **How does the use of mediation differ from the formal hearings process?**
- ◆ **Is there a cost-benefit to mediation over formalized hearings?**
- ◆ **What are the best practices in other states/areas of business for implementing mediation on a broader scale?**

These questions are particularly timely because of the emphasis the Snyder administration places on “reinventing” government and improving outcomes—particularly those that streamline the state’s regulatory compliance process.

METHODOLOGY

Literature Review

We began our research by conducting a literature review of nationwide research on mediation practices in government at both the state and federal levels. We reviewed several states that had piloted or implemented mediation practices in their administrative case management systems by reading materials such as brochures, program summaries, and project evaluations. We also

looked at several federal reports that documented mediation examples in practice in the U.S. Departments of Justice and Defense.

Interviews

After completing our literature review, we embarked on stakeholder interviews with the DRER board and several “key informants” in Michigan state government. Our goal was to gain a sense of how dispute resolution is practiced in state agencies, ascertain to what extent mediation is being used, and understand what opportunities or barriers have presented themselves to administrators and mediators when incorporating dispute resolution processes into the complaint process.

Inside state agencies, our interviews ranged from conversations with department directors or bureau and section heads to discussions with policy analysts, program officers, case specialists, and database administrators. We also spoke to several individuals outside of state government who work with dispute resolution within a program of a state agency or as a private contractor/grantee to a state agency. These included conversations with several consultants, CDRP staff, private mediators, and the DRER board.

Modeling and Cost Benefit Analysis

Having uncovered several examples of how mediation works in state government, we began to document how cases flow from the point of intake at an agency to their final adjudication. For this process, we selected the

Michigan Department of Education’s Special Education State Complaint Process, the Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services Complaint Process, and the Michigan Department of Human Services Eligibility Determination Complaints Process. These agencies and their processes were selected based on the following factors:

- ◆ There is a well-documented complaint process within the agency
- ◆ The agency had existing data to support case resolution/adjudication
- ◆ The agency used a form of dispute resolution prior to advancing cases to an administrative hearing
- ◆ The agency could explain the differentiating factors between cases that closed during the case resolution process and those that resulted in a hearing

Once the agencies were identified, we conducted several interviews with key agency personnel on the dispute resolution process. In the course of these discussions, our goal was to determine:

- ◆ Whether the use of mediation (in particular third-party mediation) resulted in a cost savings to the agency
- ◆ Where mediation appeared to be most successful
- ◆ How the lessons from existing agencies could be replicated in areas that might not currently use a dispute resolution technique

OUR RESEARCH

Literature Review

With budgets tight, adverse awards costly, and the potential for proximate, peripheral, and long-term costs of disputes to be high, many states have adopted a culture of collaboration and institutionalized ADR methods within

their governmental structure. Our literature review examined a number of state programs to look at both structural implementation and cost savings.

EXHIBIT 1. State Mediation Literature Review

State	Study	Year	Description	Conclusion
Cost Savings Studies				
National Overview	Alternative Dispute Resolution Compendium: Demonstrating Cost Effective and Efficient Resolution of Conflicts	2011	The study reviews various ADR methods in the resolution of public sector disputes.	The study concludes that dispute resolution processes such as mediation, facilitation, and consensus building bring people together to resolve conflicts and reduce costs when used in lieu of litigation. Highlights include: <ul style="list-style-type: none"> • \$18 million in costs savings for the U.S. Department of Justice in litigation/discovery expenses • \$20,000 per case savings on Equal Opportunity Cases filed with the Department of Defense • \$56.7 million in liability savings over a four-year period in the Department of Defense
Arizona	<i>Partnering Programs Save ADOT Millions</i> , PCI Newsletter	2002	The Policy Consensus Initiative (PCI) looked at the implementation of partnering—or collaborative teamwork measures—between the Arizona Department of Transportation and the state’s 750 construction contractors.	The report cites tangible cost savings amounting to \$35 million over the course of ten years and 1,100 projects, significantly reduced construction time (projects finishing 8–10 percent ahead of schedule), and a reduction in the number of cases that head to trial.
Florida	State Agency Administrative Dispute Resolution Pilot Project Report, Florida Conflict Resolution Consortium	2000	The project’s premise was to “demonstrate through pilot case examples and through training how mediation and facilitation may be integrated into the management and budgeting of administrative litigation.”	The study cites more than \$3 million in potential savings realized through the successful mediation of 31 of 36 administrative disputes selected from five state agencies and one environmental control district during 1998–99. Savings over anticipated litigation costs reported by participants ranged from \$2,250 to \$700,000.
Massachusetts	Report on the Use of Alternative Dispute Resolution (ADR) in Massachusetts’ Executive Branch Agencies: Data & Analysis of the FY02 ADR Reports & Plans	2002	The report represents the state’s first attempt to collect data about the use of ADR across Massachusetts state government.	According to the report, 57 percent of agencies that filed ADR Reports & Plans as required by executive order reported that ADR saved money over litigation or hearings. Eighty-one percent reported savings in staff time.

Mediation and Other Alternative Dispute Resolution Techniques in Michigan State Agencies

State	Study	Year	Description	Conclusion
North Carolina	Report to the North Carolina General Assembly by the Office of Administrative Hearings and Department of Health and Human Services	2010	Statutory changes to North Carolina's Medicaid recipient laws in 2009 helped to streamline the due process and hearings reinstatement process in the state's Department of Health and Human Services. In implementing the legislative changes, NC made significant investments in document management systems and training to encourage alternative dispute resolution. This presentation to the state assembly looks at outcomes in the first 18 months of the new system.	The North Carolina Department of Health and Human Services reports \$25 million in savings in the first 18 months of implementation.
Oregon	Oregon Department of Justice Review of pilot Collaborative Dispute Resolution (CDR) process in resolving civil cases involving the State of Oregon	2001	This study reviews the 1997 implementation of Oregon's Collaborative Dispute Resolution program, which was enacted to encourage mediation and other alternative dispute resolution methods in the disposition of civil cases involving the state of Oregon.	The study concludes that in the 500 civil cases reviewed, mediation was the least expensive of the seven dispute resolution options examined.
Texas	Study of Issues and Costs to Districts Related to Special Education Complaints	2000	A large number of special education complaints in Texas focus on parental disagreements with student placement. This study looked at alternatives to case-by-case litigation.	The study concluded that resolution at the district level is almost always more cost effective than proceeding to hearing.
Efficiency Studies				
National Overview	Governing Tools for the 21st Century, a Report on How State Leaders Are Using Collaborative Problem Solving and Dispute Resolution by the Policy Consensus Initiative	2002	This Policy Consensus Initiative brochure outlines the various ways in which alternative dispute resolution has been implemented in government processes.	The group concludes that collaborative dispute resolution (or alternatives to court litigation) is not meant to replace traditional governmental processes, but to supplement existing practices in order to improve efficiency, save money, and promote shared outcomes.
Michigan	The Effectiveness of Case Evaluation and Mediation in Michigan Courts	2011	This study evaluates the comparative effectiveness of non-domestic civil case resolution in Michigan's circuit courts.	Evidence suggests that mediation is generally more effective and preferred over case evaluation and that Michigan courts should be encouraged to make mediation more available, while still allowing for both forms of ADR.
Oregon	Oregon Department of Justice Review of State Agency Dispute Resolution Programs and Collaborative Problem Solving Activities	2009	This study describes the depth and breadth of alternative dispute resolution and collaborative policy making in Oregon state government.	Although not evaluative in nature, this study is a comprehensive look at the manner in which Oregon has adopted alternative dispute resolution and collaborative decision making in state government agencies and public policy making since 2000. The state is a leader in implementing collaborative decision-making in policy development and rulemaking and uses dispute resolution techniques widely in its administrative agencies.

Attributing cost savings solely to mediation is tricky. There are a number of factors that may influence what an agency reports as cost savings, including business processes that change in order to accommodate mediation, technology improvement to streamline mediation and more accurately capture case data, etc. Overall, these studies show promising trends in terms of behavioral change and long-term savings both in real dollars and non-economic social impacts.

Interviews

PSC has conducted a number of key informant interviews with state agency personnel and others familiar with the use of mediation in state agencies. It is important to keep in mind that our interviews were subjective in nature and not scientific. Although we used a script to guide the discussions, the object of this activity was to develop case-study data about departmental attitudes and individual thoughts and perceptions about dispute resolution.

State Agency Interviews

All of the state agency personnel interviewed were able to point to some type of ADR method that is used in their agency—although they were not always able to define it as or equate it with mediation. The most common forms of alternative dispute resolution discussed were:

- ◆ *Pre-hearings or compliance conferences*—a technique in which the agency encourages an administrative conference between the complainant and the agency prior to a formal hearing to determine whether an agreement can be reached. In some agencies, this is a requirement prior to a hearing—in others, the request for a pre-hearing or compliance conference is handled on a more informal basis.
- ◆ *Mediation*—the use of a third party to resolve conflict between two individuals. Our interviewees appeared to understand the use of this term in a very broad sense—equating it with all the terms associated with “alternative dispute resolution” as well as defining it in the more traditional sense.

To a lesser extent agency personnel also cited the following practices as techniques used to resolve conflict:

- ◆ *Collaborative decision making*—a method in which a third-party facilitator is used to craft a solution between opposing parties prior to implementing a new rule or regulation. This is most commonly referred to

as “stakeholder input” or an “advisory group,” generally chaired by a department employee responsible for the project.

- ◆ *Restorative practice*—a set of problem-solving techniques used to engage individuals in finding alternative responses to wrongdoing. This was the least common form of ADR discussed, but it does appear to be gaining some traction—particularly in education. Practitioners often described it as “restorative justice” (a type of restorative practice)—whose protocol relies on a set of prescribed questions to facilitate conversations between disputing parties. In our research, the practice was most frequently used with adolescents involved in fights or other school disturbances.

Overall, it appears that state agencies are open to considering alternative dispute resolution processes. However, what that process is, and how and when it should be implemented in an agency’s practice, is not well understood. In general, agency personnel tended to equate mediation with a legal proceeding—not an administrative practice. Because of this, the specifics of how and when mediation should factor into the administrative complaint process (for example, prior to an investigation versus after an investigation but prior to an administrative hearing) was unclear to our interviewees.

There was also a lack of clarity among interviewees about third-party dispute resolution services through centers such as the Community Dispute Resolution Programs (CDRPs) and third-party, private mediators. During conversations about the use of or potential use of third-party resources, a few themes emerged:

- ◆ Uncertainty as to what types of cases are best suited for mediation, and uncertainty about how to determine which types of cases are best suited for mediation
- ◆ Confusion about whether mediation would replace existing compliance conference/case settlement practices
- ◆ A strong sense that agency-level subject matter expertise is required to help resolve disputes
- ◆ Concern about contracting out disputes involving licensing (which represents someone’s livelihood), entitlements, or public safety/public trust to a third party, non-governmental entity
- ◆ Concern that mediation might be used to delay an administrative hearing rather than expedite complaint resolution
- ◆ Concern about the quality/qualifications of third-party mediators

The Office of Regulatory Reform and Michigan Administrative Hearings offered us a bit of history about the institutionalized use of mediation in the administrative hearings process. Under the administration of Gov. John Engler the (then) State Office of Administrative Hearings and Rules opened an Office of Mediation. The first cases were consumer complaints from the Bureau of Commercial Services. In 2003, the practice expanded to the Wage and Hour Division to increase the mediators' caseloads and reduce hearings in Wage and Hour. In 2007, the office was closed according to the department because it "never paid for itself." This is likely because in the majority of the cases a settlement could not be achieved and they were ultimately referred back to administrative hearings.

Interviews with Consultants and Other Third Parties

In addition to speaking with state agency personnel, we captured some good information from individuals working with state agencies on dispute resolution techniques, as well as attorneys who have mediated disputes involving a state agency.

In the course of these conversations it became clear that there are several efforts within state government to involve the use of third-party facilitators/moderators (a form of mediation commonly referred to as collaborative decision making, but not always thought of as mediation) in collaborative discussions involving agencies and stakeholders. One consultant pointed to work she had done with the Michigan Department of Transportation in helping to bring to consensus a group of property owners and the department on the routing of a new road. Similarly, another consultant pointed to work that was done involving a panel of federal regulators, state officials, and a business entity involved in a permitting dispute. By and large, agencies seem to understand and value having a "disinterested" third party help direct conversation, engage participants, and keep large group discussions on topic.

Also of interest to us was the use of third-party, private mediators whose services were rendered to resolve an issue between a state agency and an individual that was not subject to an administrative review. Through these interviews we tried to ascertain when a manager might be authorized to use an outside mediator and when those cases head directly for litigation. Examples of these case types might be contract disputes (which often contain a contractual clause

requiring mediation) or tort cases in which the state attempts to settle prior to a lawsuit filing. Because we could find no central data repository for "cases referred to outside mediators," it is impossible to know how many cases fall into this category, or to generalize as to how or when outside mediators are selected.

Discussions with the DRER Board

Discussions with DRER board members helped us to understand some outside perceptions about the use of mediation in state agencies. We used information from these conversations as "leads" in our discussions with agency personnel to test the factual basis for the perceptions and try to determine why they existed. In speaking with board members several themes emerged:

- ◆ State agencies do not use, or rarely use, mediation
- ◆ State agencies will not use mediation unless it is mandated to do so
- ◆ State agencies have case-load backlogs that could be eliminated through mediation
- ◆ Privatizing dispute resolution will likely save money, although money is not really the issue with mediation—long-term behavioral change and the impact on social costs is a bigger driver
- ◆ Constituents deserve the opportunity to make their case to an objective third party
- ◆ State government does not want its problems known by a third-party entity

In general, the interviews with board members echoed the confusion of state agency personnel on how and when mediation is employed by state agencies—and what effectively constitutes ADR. Many of these presumptions are factually difficult to prove or disprove. Based on our case study data, therefore, it seems that in the absence of a uniform, statewide policy that prescribes the disposition of complaints, the prevalence and specific use of mediation techniques depend very much on the agency.

Modeling and Cost Benefit Analysis

In response to the question, "Does mediation save money over administrative hearings in Michigan state agencies?" we have concluded, again, that it depends on different factors. While we feel certain that the social costs of effective dispute resolution are substantial, they are intangible and therefore impossible to document within the scope of this

project. As far as the administrative process and the opportunity to avoid those monetary costs, mediation does provide some opportunity for cost avoidance. However, it depends on when it is inserted into the complaint resolution workflow.

This conclusion is based on an analysis of three state agency processes—one that actively uses mediation, another that used mediation in the past, and a third that uses an administrative compliance conference for case settlement prior to a formal hearing.

Michigan Department of Education, Office of Special Education (Adjudication of Due Process Complaints)

The Michigan Department of Education, Office of Special Education (OSE) currently uses mediation for complaints involving school districts and the execution of due process for children with disabilities. Offering the use of mediation is required for all due process complaints under the federal Individuals with Disabilities Education Act.

In researching whether or not mediation saves money over the administrative hearings process, our hope was to place a dollar value on an “average” due process complaint that was mediated versus a complaint that was resolved at the administrative hearings level. However, in discussions with agency staff it quickly became apparent that there is no “average” complaint, and that the number of allegations filed with each complaint makes a comparative analysis of complexity very difficult. We ran into time-keeping factors as well, which made it impossible to average the handling

WHY WE LOOKED AT OSE

Existing Mediation Project with DRER,
Due Process Complaints

CASE TYPES

Simple disputes involving two parties,
one that is regulated by state

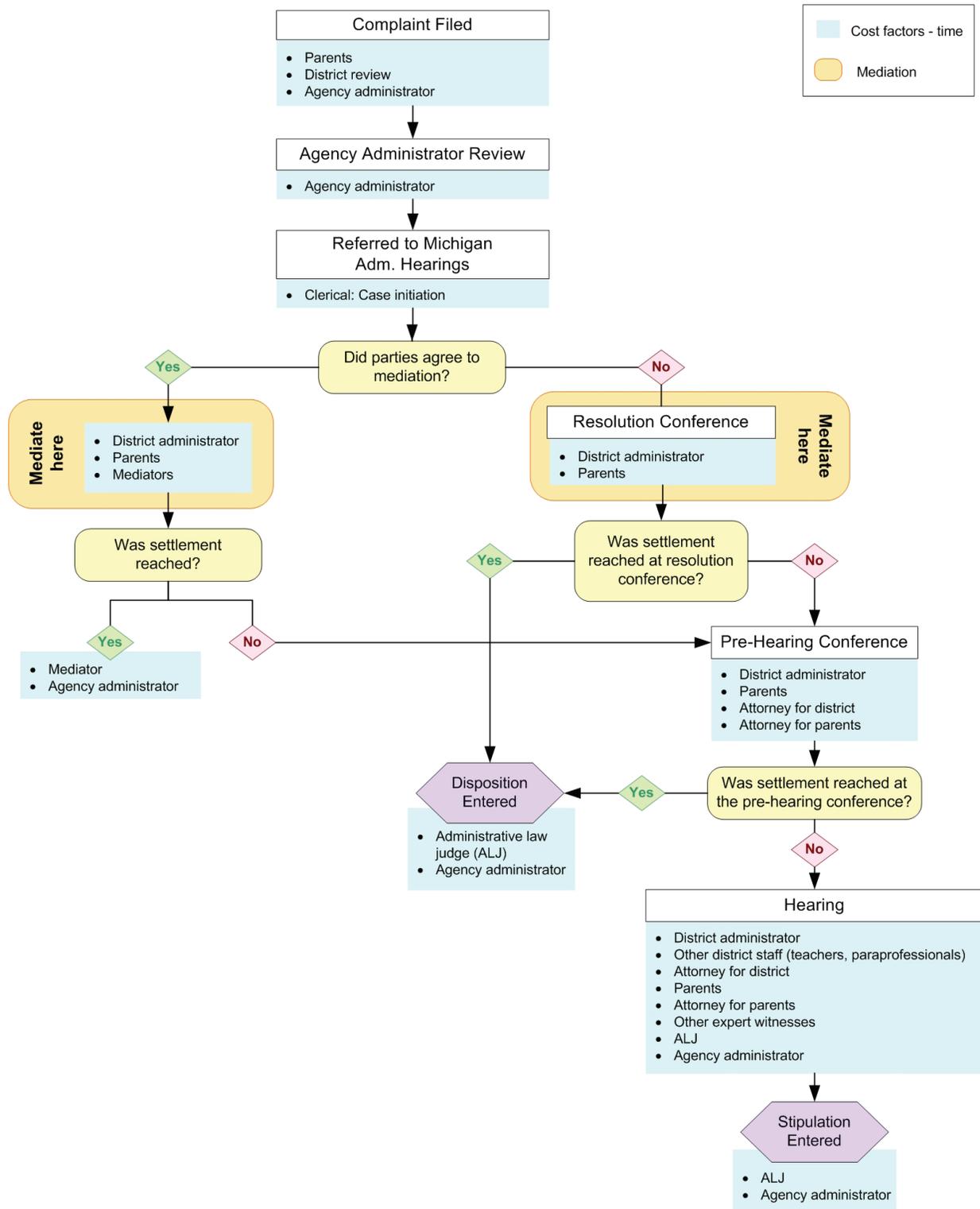
CASE VOLUME

Low

of a complaint at the state or local levels. In other words, the amount of time from filing to disposition of a case differs remarkably depending on such variables as case type, number of allegations, and type of staff assigned to handle complaints at the local level.

Instead of using numbers, we looked to the process involved in case disposition and the cost factors at each step of the process. When the process is mapped out on paper, the cost savings became very evident (see Exhibit 2).

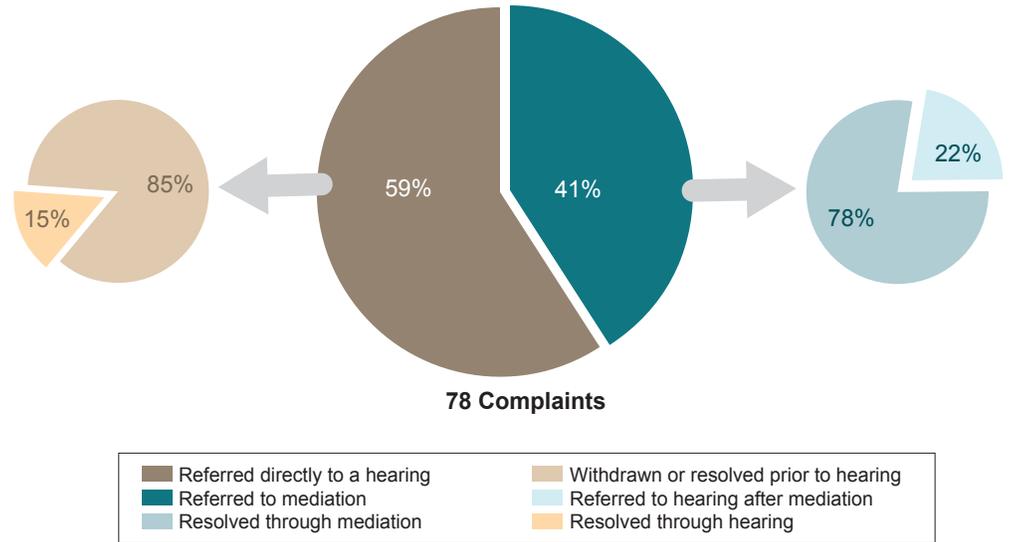
EXHIBIT 2. Michigan Department of Education, Office of Special Education
Due Process Complaint: *Mediation vs. Administrative Hearings*



SOURCE: Michigan Department of Education, Office of Special Education (MDE OSE) Complaints Database, 2011.

Each step in the process shown in Exhibit 2 represents an administrative cost to the state agency as well as the parties involved in the dispute. Because mediation occurs prior to a hearing (in this case the hearing is the fact-finding or investigation stage of the complaint resolution process), anything that can be done to resolve the issue before the hearing is held ultimately saves money. The corollary to this, however, is that if mediation is unsuccessful, it adds costs to the process. Exhibit 3 shows the case resolution data for the Office of Special Education.

EXHIBIT 3. Case Resolution Data for Michigan Department of Education, Office of Special Education



SOURCE: Michigan Department of Education, Office of Special Education (MDE OSE) Complaints Database, 2011.

The theory that mediation is most successful in reducing costs if it is offered early in the process is supported by the model in use by the Michigan Department of Civil Rights (MDCR). MDCR is the initial point of contact for citizens who wish to file a discrimination complaint. Upon filing of a complaint, parties are given the option to try third-party mediation prior to formal fact-finding. This lessens the investigatory burden of the department, reducing costs and streamlining the case closure process.

an adverse outcome. And, because the majority of these cases were referred on to an administrative hearing, mediation ultimately cost the agency money. Had mediation occurred earlier in the process, this might not have been the

Michigan Department of Licensing and Regulatory Affairs (LARA), Bureau of Commercial Services (BCS)

The experience of the BCS appears to substantiate an important finding from our analysis of the process in OSE. The BCS used mediation in the consumer complaint resolution process during the early 2000s, but found it difficult to reduce the number of cases heading to administrative hearing. This is likely because mediation occurred after the complaint investigation was complete. With the agency’s recommendation already on the table there was no incentive for the parties to quickly resolve the complaint. This resulted in mediation being used as a strategy to delay

WHY WE LOOKED AT BCS

Had mediation project in place, now discontinued

CASE TYPES

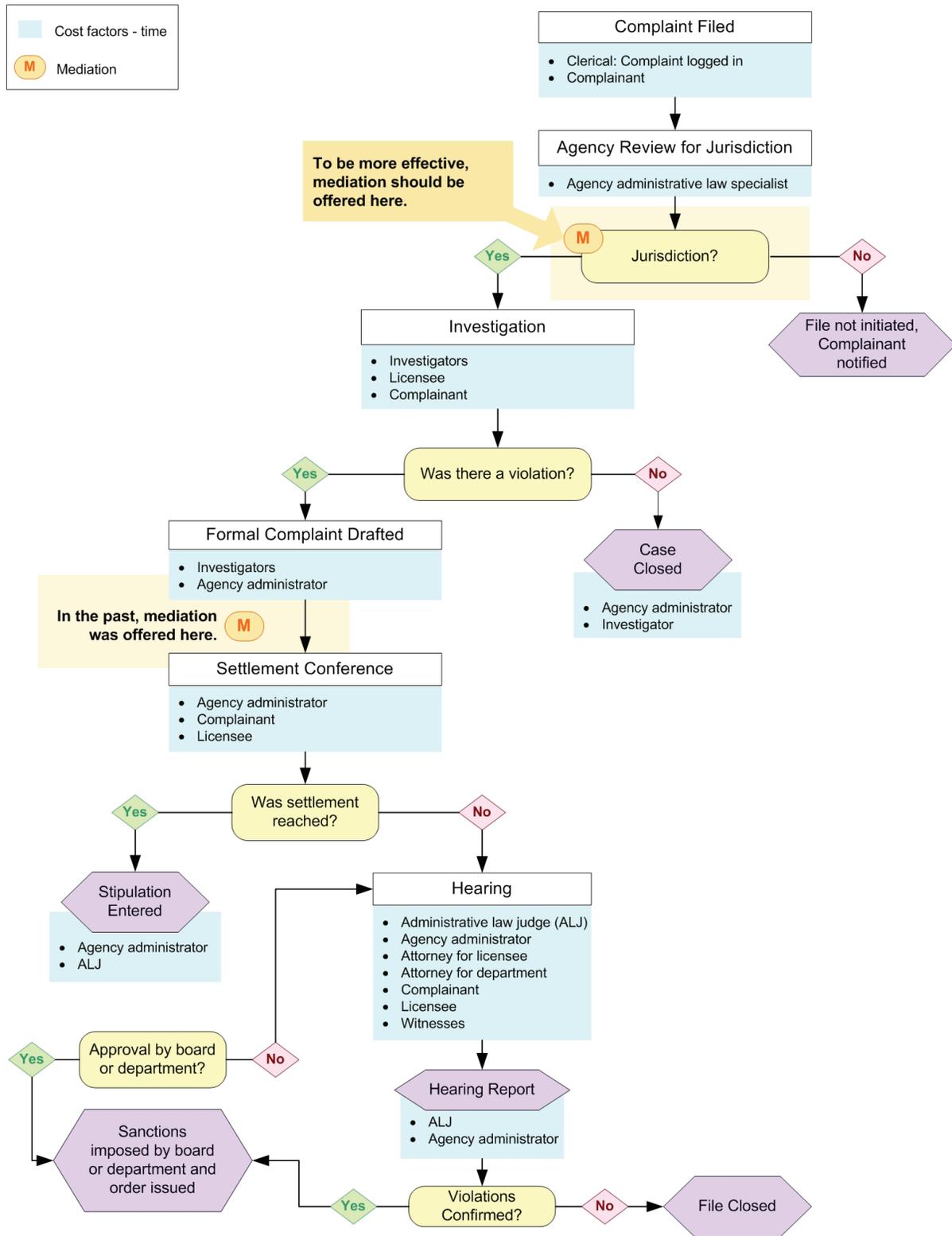
Complex disputes involving two parties, one that is regulated by the state

CASE VOLUME

Medium

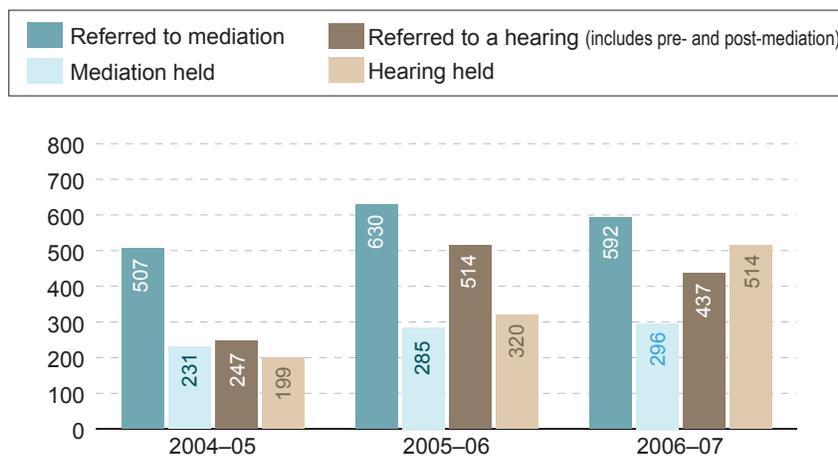
case. We documented existing practices to see if this might be the case. Exhibit 4 shows the process currently used by BCS to resolve complaints, and indicates where mediation might have proven to be more useful.

EXHIBIT 4. Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services, Current Licensing Complaint Process



SOURCE: Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services Complaints Database, 2012.

EXHIBIT 5. Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services Caseload Data 2004–2006



SOURCE: Michigan Department of Licensing and Regulatory Affairs, Bureau of Commercial Services Complaints Database, 2012.

Exhibit 5 shows the caseload data for the BCS during the time that mediation was offered in the agency. As years went on the number of cases resolved through mediation declined and the number of hearings increased.

Michigan Department of Human Services (DHS), Public Assistance Eligibility Determinations

Many of the individuals we interviewed considered DHS to be a good candidate for mediation. The belief that it would be beneficial for DHS to look for ways to reduce the number of administrative hearings was a common theme among most of the parties we interviewed.

The eligibility determinations process in the Department of Human Services represents a different case type than those we studied in the BCS and OSE. In DHS, the state is party to the dispute and is also responsible for “mediating” a complaint prior to an administrative hearing. In this case, “mediation” is referred to as a compliance conference by the state.

Another factor that makes the DHS complaint process different from the other agencies studied is that the eligibility determination—or basis of the dispute—is a calculation that, according to DHS, is prescribed and fairly straightforward and therefore not open to much interpretation. If a recipient contests the eligibility award, it is the policy of DHS that the supervisor in charge of the authorization is

WHY WE LOOKED AT DHS

Perceived process failures in disputed eligibility cases

CASE TYPES

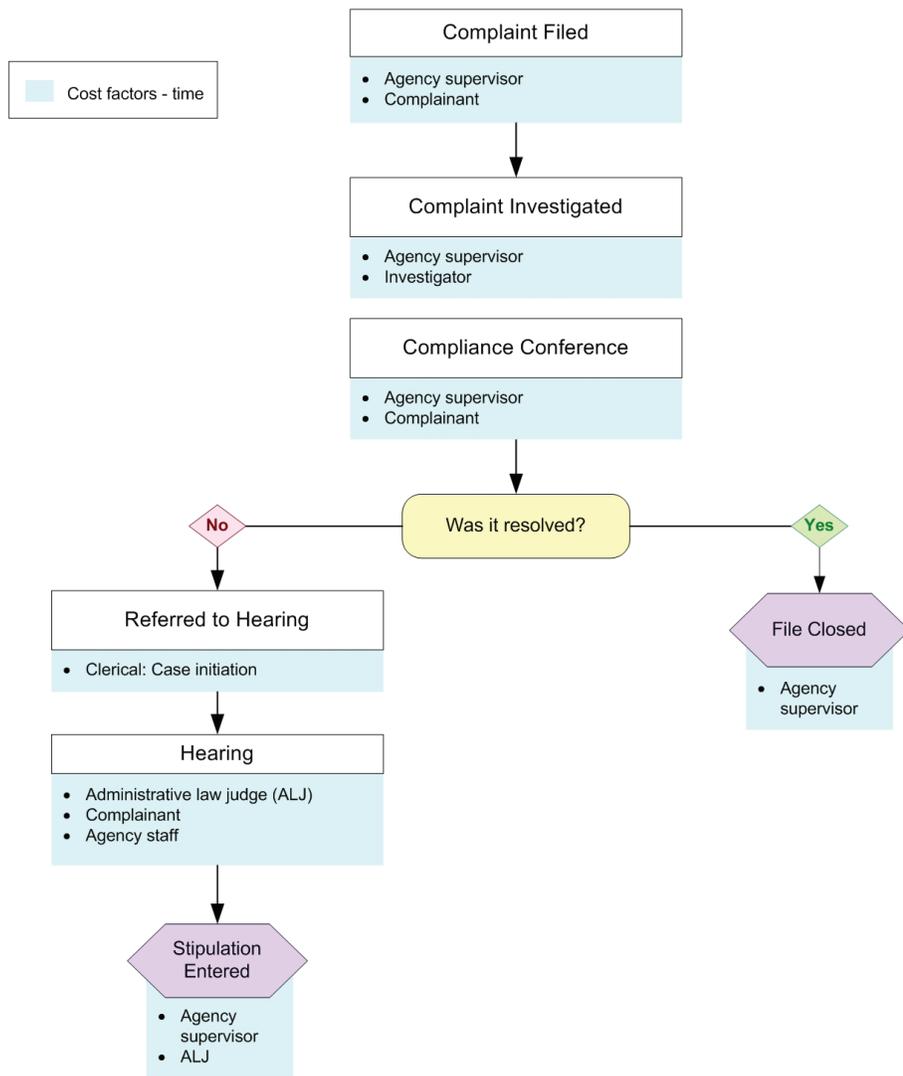
Disputes involving two parties, one of which is the state and the other a potential beneficiary

CASE VOLUME

High

responsible for defending the calculation, hence the compliance conference. If, after the recipient has been given the opportunity to present additional information or learn more about the calculation, the amount still remains in dispute, then the supervisor refers the case to the administrative hearings process. During the administrative hearing, the hearing officer can only confirm (or refute) that the agency considered the appropriate information when calculating the benefit. There is no opportunity for changing the benefit amount at this time, and should the hearing officer determine a benefit was not correctly calculated, the case returns to the office for reconsideration.

EXHIBIT 6. Michigan Department of Human Services Eligibility Determinations Process



SOURCE: Michigan Department of Human Services, Eligibility Hearings Database, 2012.

DHS provided basic data regarding the number of hearings and pre-hearing resolutions.

As shown in Exhibit 7, the compliance conference, or mediation, is an important step in the hearings process, and significantly reduces the number of cases heading to administrative hearings.

EXHIBIT 7. 2011 Department of Human Services, Eligibility Hearings Data

Complaints—Public Assistance Eligibility	2011
Total Cases	60,015
Resolved prior to hearing (compliance conference)	9,275
Withdrawn or dismissed prior to hearing	37,329
Hearings held	13,411

SOURCE: Michigan Department of Human Services, Eligibility Hearings Database, 2012.

CONCLUSION

Does mediation save money in state agencies? Yes, sometimes. Although there are many similarities in how state agencies are run, they are governed by myriad federal, state, and administrative laws and rules that make a blanket, “one-size fits all” solution impossible.

- ◆ ***Some agencies use mediation (or other dispute resolution techniques) to resolve problems—and others do not.*** There is a general lack of consistency regarding which agencies use mediation, how they use it, and when they choose to use it. In addition, some appear to be more comfortable than others in outsourcing complaint resolution to third parties. In order to expand the use of mediation in state agencies, mediation needs an advocate. The ideal advocate for changing executive agency processes is the governor, with support from his cabinet. The attorney general is another good voice for championing dispute resolution techniques. Either one or both need to be “out in front,” or at a minimum, solidly behind any effort to universally change how state agencies handle complaint resolution.
- ◆ ***Mediation is most effective when it is used early and offered often.*** In general, mediation appears most likely to save money when the following conditions are met:
 - ❖ Mediation is offered early in the complaint process. Ideally, mediation should be offered, and take place, immediately following the filing of complaint, and prior to an agency investigation.
 - ❖ If parties do not elect to go to mediation, or a statute or rule prevents mediation until after a formal investigation, mediation can still be beneficial in resolving complaints/allegations prior to an administrative hearing. Anything that can be done to improve the likelihood of settlement prior to a hearing is beneficial to the parties and has the potential to save the state money. DRER should work with state agencies to develop best practices to help administrators determine when a case is likely to be settled through mediation, and to help agencies develop policies to ensure that mediation does not become a tool to delay the administrative hearings process.
- ◆ ***The state could benefit by gathering better metrics on the complaint resolution process.*** Quantifying a dollar value of cost savings is difficult, if not impossible, given the available data. Different agencies gather different information, use different case management systems, and quantify resolution and outcomes differently. If proving cost savings is important (rather than simply improving the relationships between government and its constituents), the complaint resolution process will need to be organized more systematically throughout state government. This could be accomplished in the following ways:
 - ❖ A statewide dashboard metric that tracks case disposition starting with complaint filing, including mediation (when offered) or internal settlement conferences, voluntary withdrawals, and hearings. Understanding why cases are not settled or withdrawn is also important in improving the resolution process. Presently, it is impossible to match or group case data based on “why” they were withdrawn or were dismissed without a manual review of cases.
 - ❖ A recommendation in the State-of-the-State and budget message that state agencies review their complaint resolution process and incorporate some form of mediation. Departments should be encouraged to resolve complaints as early in the process as possible because expedited complaint resolution benefits both agencies and consumers. Each agency should be encouraged to review statute, rules, and internal workflow to determine whether mediation (either internal or third party) can be used to streamline the complaint process and resolve issues expeditiously.
- ◆ ***There is a lack of understanding about when and where dispute resolution is most effective in the complaint process and more information about how to effectively use mediation is hard to find.***
 - ❖ Agencies need guidance as to where mediation or dispute resolution belongs in the complaint process. There is a paucity of access to and guidance on best practices. A workflow guide should be developed to help state agencies implement dispute resolution processes with fidelity—and to help managers understand what conditions are most

suitable for internal resolution or third-party resolution. Additionally, there should be a common referral point for access to third-party mediators, and mechanisms should be put in place to evaluate the effectiveness/satisfaction with using these services.

- ❖ It is common practice to include mediation in the drafting of any new or updated statute, yet clearly this is not enough to encourage the use of mediation. Statutes and rules should be crafted to provide agencies with more guidance as to how and when mediation should be used.



PSC

PUBLIC SECTOR
CONSULTANTS

Putting thought into action

Public Sector Consultants is **Michigan's most respected, connected, and dedicated research and program management firm**, with specialties in governance and regulation, health care, education, energy, and environmental policy. PSC is committed to providing objective research and sound solutions to the public and private sector.

600 West St. Joseph Street, Suite 10 | Lansing, MI 48933 (517) 484-4954 | www.pscinc.com

For more information about this report, contact Emily Houk at Public Sector Consultants at (517) 484-4954, or visit us online at www.pscinc.com.