

# Resolutions

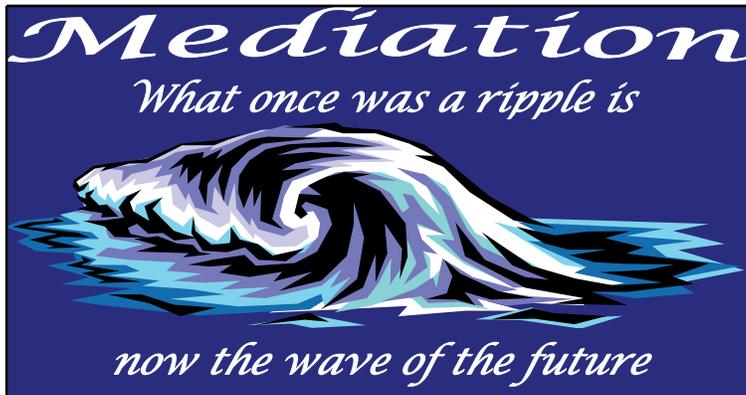
*a quarterly update on dispute resolution*

Volume 8,

Department of Dispute Resolution Services  
Office of the Executive Secretary, Supreme Court of Virginia

July 2001

## OES Celebrates 10th Anniversary of Court-Annexed ADR



This was the theme of the Office of the Executive Secretary's ADR Visioning Conference and 10<sup>th</sup> Anniversary of Court-Annexed ADR Celebration. Attended by approximately 300 people, it was a both a festive and memorable occasion in all respects. The program began with a welcome by Robert N. Baldwin, Executive Secretary of the Supreme Court of Virginia who admitted that, in the early 1980's, he thought ADR was just a temporary fad. By the late 1980's, he appreciated the importance of ADR

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and the fact that it was a new trend that had to be integrated into the court's future. Mr. Baldwin asked the audience, as it worked on visioning for the future, to consider issues including mandatory versus voluntary mediation, fee for services versus free services, and the mechanism for screening of cases in the courts for referral to mediation.

Next, Geetha Ravindra, Director of the Department of Dispute Resolution Services, thanked the mediation community for its dedication, devotion and determination to making mediation an integral part of the court system and community. She noted that, when a collection of brilliant minds, hearts and talents come together, you can expect a masterpiece. In Virginia, she expressed that together we have created a masterpiece of the highest quality dispute resolution. Geetha also appreciated the Commission on the Future of Virginia's Judicial System for its willingness to make ADR a priority as that was instrumental in establishing mediation as a key component of the court system. She then reviewed a few interesting facts about ADR in Virginia exemplifying its growth.



*Daniel Bowling Captures Audience's Imaginations*

The plenary speaker for the program was Daniel Bowling, Executive Director of the Association for Conflict Resolution. Daniel's presentation was truly the highlight of the conference. Daniel has a gift for storytelling and he wove a beautiful story about lessons he learned from his grandfather with the ideas of "truly being" and not merely "doing" and engaging in "real conversation" versus just talking. Four major themes of his discussion included: 1) diversity, 2) getting our act together and growing up as a field,

*(Continued on Page 2)*

# 10th Anniversary

(Continued from Page 1)

3) the best alternative to someone else doing it to us, and 4) focus on mastering mediation from an internal perspective.

A panel of ADR representatives from other States then shared an overview of their ADR programs, new initiatives, challenges, and future plans. **The speakers included Eileen Pruett, Director of Dispute Resolution Programs with the Supreme Court of Ohio, Leslie Ratliff, Director of the North Carolina Dispute Resolution Commission, Robert Rhudy, member of the Maryland Dispute Resolution Commission and David Michael, Director of the D.C. Superior Court Multi-Door Program.**



*Some of our Special Guests ~ Bob Rhudy, Chief Justice Carrico, David Michael and Eileen Pruett*

During the sumptuous luncheon, Barbara Hulburt, the first Director of the Department of Dispute Resolution Services, shared her perspectives on “the way things used to be” and evolution of the field. Barbara encouraged continued collaboration between the mediation community and the courts as well as ADR professionals “walking the talk.” Geetha Ravindra provided a brief overview of the key accomplishments in court-connected mediation over the last ten years. (See page six for charts illustrating the growth in the number of cases referred to mediation and funds spent on mediation).

The highlight of the luncheon was the Chief Justice’s presentation and awards ceremony. Chief Justice Harry Carrico congratulated the field on its 10<sup>th</sup> Anniversary. He noted that dispute resolution practitioners are extremely dedicated people. He made the analogy that, as a physician serves to heal the physical body and as a minister serves to heal the soul, so the mediator serves to heal the heart of the one who is hurting. He thanked the audience for providing such an invaluable service to the community.



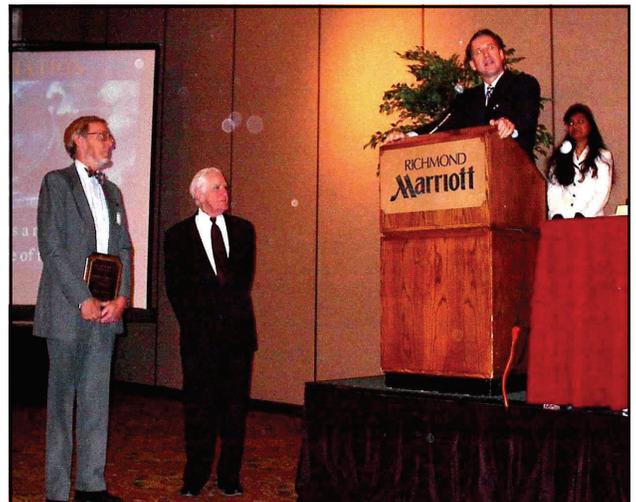
*Barbara Hulburt “Remembers When”*

The Chief Justice, along with Executive Secretary Robert Baldwin, presented certificates of appreciation to long-standing members of the Dispute Resolution Services Advisory Council: **Karen Asaro, Frank West Morrison, Mark Rubin, Merri L. Hanson, E. Franklin Dukes, Judge Diane Strickland, Judge Margaret P. Spencer, Judge Kathleen MacKay, and Judge Jeff Fairbanks.**

The following awards were also presented:

**Lawrie S. Parker** - In Honor of Outstanding Achievement in Community Mediation

**John B. McCammon** - In Honor of Excellence in Pioneering in ADR



*Larry Hoover Receives Much-Deserved Lifetime Achievement Award*

**Edwin C. Bumbaugh** - In Honor of Excellence in Mediation Training

**Barbara L. Hulburt** - In Honor of Outstanding Leadership

**Lawrence H. Hoover, Jr.** - In Honor of Lifetime Achievement

Following the luncheon, Kathy Mays, Director of Judicial Planning for the Office of the Executive Secretary, provided a stimulating presentation on emerging trends. Kathy illuminated for the audience demographic/societal trends, technological trends, economic trends, and professional trends that will affect the courts and the types of cases that dispute resolution professionals will see in the future. The audience next engaged in a visioning exercise. Participants were divided into small groups and asked to consider three questions: 1) Given the changing nature of society, how ideally should mediation be further integrated into the justice system of the future? 2) In your opinion, what are the best means through which this ideal might become a reality? 3) What should OES focus on over the next ten years to allow ADR and mediation to continue to grow and flourish? Some of the ideas generated from the breakout sessions include:

- **Mandatory mediation**
- **Increased education for the public, Bar, Judiciary, and students on mediation**
- **Expansion of definition of “court-connected” to include preventative services**
- **Increased diversity of mediators**
- **Wider range of ADR services**
- **Competitive compensation for mediators**
- **Use of technology to reduce geographic and time barriers**



*Discussion Groups Pool Their Ideas*

- **Cultural sensitivity training for mediators**
- **ADR specialists in courts**
- **More creative use of ADR**
- **Increased dialogue between mediators and Judges**
- **Reduced barriers between attorney and non-attorney mediators, private and volunteer mediators**

Daniel Bowling closed the program by debriefing the visioning exercise. Participants were given a parting gift at the conclusion of the conference ~ a mug with the theme of the program engraved on one side. Overall, the Conference was a tremendous success and set a positive tone of collaboration between the courts and the dispute resolution community for the continued growth and development of ADR in Virginia.



*Sharing Good Food and Conversation*



*Executive Secretary Rob Baldwin Receives Token of Appreciation for his Valuable Support of ADR in Virginia's Courts  
Also Pictured: Geetha Ravindra and Kathy Mays, Director of Judicial Planning*

# Mediating Across Cultures: Tips & Tools

George Bernard Shaw once noted, "Britain and America are two nations separated by a common language." American English has since taken on a new dimension. The country is now more diverse with about a third of the population represented by ethnic minorities, many of whom were foreign-born and speak International English. Communication has become more complex, especially in conflict situations.

This article offers suggestions to mediators who want to position themselves to meet the country's rapidly changing demographics.

**See diversity as raw material for joint gains.** Diversity is ways in which people differ - gender, age, religion, capability, interest, perception, culture, etc. These differences are opportunities in disguise. Consider this nursery rhyme:

Jack Sprat could eat no fat  
His wife could eat no lean.  
And betwixt them both  
They licked the platter clean.

**Avoid ethnocentrism.** Ethnocentrism describes the attitude of people who operate from the assumption that their ways of doing things are best. Mediators must not only check their personal biases at the door but also their ethnocentric attitudes of fairness, truth, etc.

**Identify the parties' key cultural variations.** Take inventory of the parties' differences and think of possible ways they can be dovetailed. Look beneath the cultural iceberg. At the very least, this exercise offers fresh insights into the root cause of the dispute and the action or inaction on the part of the parties.

**Learn quick ways to build rapport.** For some people it is a felt smile, a shared interest, or small talks; for others it is a firm handshake, a slight bow, or correct pronunciation of their names. Dr. Albert Mehrabian's "7-38-55 rule" (7% verbal, 38% vocal and 55% visual) works well with parties from high-context cultures.

Cross-cultural mediation usually takes more time, but the outcome is worth the wait.

**Listen for cultural language of negotiation.** An apology is a noble thing to do in Japan, but an admission of wrongdoing in the United States. In some cultures in the Middle East and Africa, anything other than an optimistic opening, also known as "talking to the mountain," is a serious social mistake as well as a bargaining blunder.

**Ask more than you tell.** Skilled negotiators ask twice as many questions as their average counterparts. The Japanese have a saying, "You can't really understand something until you ask five times 'Why?'" Simply ask "Why?" and keep repeating it until you can't go any further, like opening a set of Russian wooden stacking dolls.

**Speak with the parties in mind.** This is more than about using language that both parties can understand. It is about paralanguage and the "ics" of cross-cultural communication - kinesics, proxemics, chronemics, and the like. It is about avoiding self-imposed barriers.

**Bridge communication and cultural gaps.** Sometimes the gaps (perception, language, diction, speaking style) are so pronounced that facilitation techniques alone are

inadequate. The mediator may have to take on the role of a language, cultural interpreter or seek outside help.

**Seek higher common ground when cultures collide.** What is common sense to one person may be a culture shock to another. When this happens, the mediator has several options, including reframing the collision into a learning experience or taking the blame to save face

for everyone.

**Practice patience.** Dr. Condoleezza Rice said it best. Asked recently on television about the factor that led to the release of the EP-3E reconnaissance crew, the National Security Advisor said, "working the diplomatic process long enough." Cross-cultural mediation usually takes more time, but the outcome is worth the wait.

In sum, what does it take to succeed in cross-cultural mediation? Obviously, knowledge helps, but it is also important to develop the flexibility to put oneself in the cultural shoes of those who are different and to approach each situation with the attitude of a beginner's mind - one that is inquisitive, open and fresh.

## **Further Readings:**

*Conflict Mediation across Cultures* by David W. Augsburg  
*Getting to Yes*, by Roger Fisher  
*Culture's Consequences* by Geert Hofstede  
*Beyond Culture* by Edward T. Hall  
*Kiss, Bow or Shake Hands* by Terri Morrison, Wayne A. Conway and George A. Borden



# Mediation Centers Choose New Executive Directors to Lead the Way



## Duane L. Shockley Appointed by The Dispute Resolution Center in Richmond

Duane earned a B.S. degree in Business Administration from Tennessee State University in 1967. His background is varied but, most recently, he retired after 22 years from Sears Roebuck & Company in Richmond as store General Manager. He also has an extensive background in public relations as a Community Affairs Director in Atlanta. He served in that same location as Director of Equal Opportunity for the Southern Territorial Office. In that capacity, Duane settled many EEO disputes through counseling and mediation. He has served the community over the years on a number of Boards of Directors in Virginia. Duane is married with two grown sons and enjoys golf and reading and describes himself as an avid sports fan. Welcome aboard, Duane!

## Robert E. Schwander Given the Reins by The Rappahannock Mediation Center in Fredericksburg

Rob earned a B.A. in Psychology at Indiana University, an M.A. in Psychology at Drake University, and a Ph.D. in Personality at the Intereuropean Institute. Rob's most recent employment was as Executive Vice-President of MTI Global Groups where, among numerous duties, he was involved in mediating cases in private, state and federal venues and developing ADR training materials in various media. For twenty years, Rob was engaged in a consulting and psychotherapy practice. Former employment also includes a position as head administrator for a skilled care psychiatric facility in Chicago, Illinois, and supervisor of an adolescent program for emotionally disturbed children. Several areas of special interest include the role of personality in conflict within and between individuals or organizations and also the use and application of psychometrics and the use of testing within a psychological conceptualization of mediation and ADR. Rob served for four years on the Board of the C.G. Jung



### Coalition of Community Mediation Centers

**Peaceful Alternatives  
Community Mediation Services**  
P.O. Box 128  
Monroe, VA 24574  
804-929-0355  
Carolyn Pritchard, Director

**Community Mediation Center**  
36 Southgate Court, Suite 102  
Harrisonburg, VA 22801  
540-434-0059  
Suzanne Daughety, Director

**Community Mediation Center  
of Danville and Pittsylvania County**  
126 Woodside Drive, Suite F  
Danville, VA 24540  
804-836-0888  
Bob Phillips, Director

**Conflict Resolution Center**  
P.O. Box 1185  
Roanoke, VA 24006  
540-342-2063  
Christine Poulson, Director

**The Dispute Resolution Center**  
701 East Franklin Street, Suite 712  
Richmond, VA 23219  
804-343-7355  
Duane Shockley, Director

**Dispute Settlement Center**  
586 Virginian Drive  
Norfolk, VA 23505  
757-480-2777  
Robert Glover, Director

**The Mediation Center at FOCUS**  
1508 Grady Avenue  
Charlottesville, VA 22903  
804-977-2926  
Carolyn Miller, Director

**Northern Virginia Mediation Service**  
4260 Chain Bridge Road, Suite A-2  
Fairfax, VA 22030  
703-993-3656  
Rob Scott, Director

**Piedmont Dispute Resolution Center**  
P. O. Box 809  
Warrenton, VA 20188  
540-347-6650  
Lawrie Parker, Director

**The Rappahannock Mediation Center**  
910 Princess Anne Street, Third Floor  
Fredericksburg, VA 22401  
540-372-7740

## A Decade of Growth of Court-Connected Mediation

## Circuit Court Referrals to Mediation

Geetha Ravindra shared at the ADR Visioning Conference in Richmond in May an overview of the tremendous strides in the field of court-connected mediation in Virginia. The charts below are a dramatic representation of the growth seen, particularly in recent years. The figures below have further increased since the time of the conference to bring the funding to date for mediation during the current contract period to over \$525,000, a phenomenal increase since the 1999-2000 fiscal year. The number of cases mediated this year as compared to last year has more than doubled.

In 1995, after meetings with the Circuit Court Judge in Williamsburg-James City County and the local Bar, the Court decided to begin a mediation program. The procedures agreed upon are:

1. An "Intake Specialist" trained as a mediator would review all recently filed Bills of Complaint and Motions for Judgment in the Clerk's Office to identify those cases which may lend themselves to mediation.
2. Once a case is identified, the Intake Specialist would write a brief description of the issues and submit the description to the Judge of the Circuit Court.
3. If the Court agrees that the issues are appropriate for resolution through mediation, the parties will be Ordered to participate in an evaluation session. A copy of the referral format and the procedures for referral may be obtained from the Office of Dispute Resolution Services at OES.
4. If the parties agree to mediate the case, they will sign a mediation consent agreement, choose the mediator, and a time and place for the mediation session will be set.
5. If the mediation session results in the parties reaching an agreement, the draft agreement will be prepared. When it is signed by all of the parties, the Clerk will file a copy of the agreement with the papers in the case and the Court will enter an Order of Dismissal. The matter will be removed from the docket.

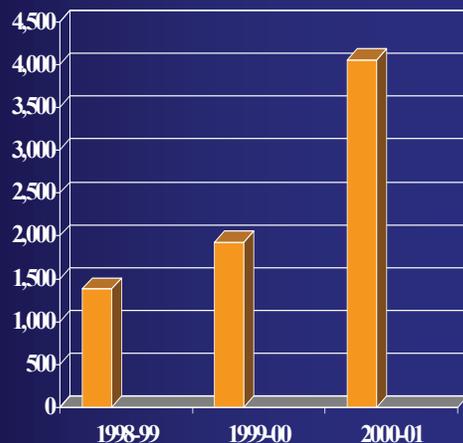
As the Circuit Court became more familiar with the process, the Circuit Court Judge started referring cases that he thought would lend themselves to mediation. The Court Certified Mediator reviews those cases and if he/she agrees, a brief summary of the case is submitted to the Circuit Court Judge, making the suggestion along with a draft of the Order, which is then usually issued. About 80% of the cases referred to an evaluation session result in mediation. Of those cases, approximately 65% reach an agreement in mediation and the case is dismissed.

Submitted by Donald Vaden, Esquire, Certified Circuit Court-Civil and Family Mediator, Williamsburg



### Court-Referred Mediations Funded

- Between 7/1/98 - 6/30/99 1,381 cases mediated
- Between 7/1/99 - 6/30/00 1,922 cases mediated
- Between 7/1/00 - 5/23/01 4,060 cases mediated



### Court-Referred Mediation Funding

- | Funding by Fiscal Year | Amount    |
|------------------------|-----------|
| • 1994-95              | \$ 55,715 |
| • 1995-96              | \$104,965 |
| • 1996-97              | \$126,655 |
| • 1997-98              | \$118,947 |
| • 1998-99              | \$204,247 |
| • 1999-00              | \$296,299 |
| • 2000-01              | \$494,405 |



# ADR Training Calendar

**PLEASE NOTE** that some of the following courses have not yet been submitted to the Supreme Court of Virginia for certification under the new **Guidelines for the Certification of Training Programs**, which became effective January 1, 2000. When registering for a course that is required for certification as a mediator, it is your responsibility to verify with the trainer that the course has been newly certified.

## 20-Hour General

### July 9-11, 2001

Northern Virginia Mediation Service  
Fairfax, 703-993-3656

### July 19-21, 2001 (Business Professionals)

Mediation and Arbitration Services  
Norfolk, 757-274-0046

### July 23-24, 2001

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

### August 6-8, 2001

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

### August 8-10, 2001

Northern Virginia Mediation Service  
Fairfax, 703-993-3656

### August 9-10, 2001

Agreements Unlimited  
Marion, 540-783-7015

### August 14-15, 2001

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

### August 23-25, 2001

Community Mediation Center  
Harrisonburg, 540-434-0059

### September 10-11, 2001

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

### September 13-15, 2001

Goodman & Company  
Richmond, 888-282-7636

### September 18-20, 2001

FSR Associates  
Charlottesville, 540-434-4258

### September 19-21, 2001

Northern Virginia Mediation Service  
Fairfax, 703-993-3656

### September 20-22, 2001

Dispute Resolution Center  
Richmond, 804-343-7355

### September 20-22, 2001 (Medical Profes.)

Mediation and Arbitration Services  
Norfolk, 757-274-0046

### September 20-22, 2001

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

### September 21-22 & 28-29, 2001

Conflict Resolution Center  
Roanoke, 540-342-2063

### September 25-October 4, 2001 (T,Th,S)

University of Richmond  
School of Continuing Studies  
Richmond, 804-289-8133

### Late September (TBA)

Mediation Center at FOCUS  
Charlottesville, 804-977-2926

### October 15-19, 2001

Dispute Settlement Center  
Norfolk, 757-480-2777

### October 16-17, 2001

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

### October 29-November 2, 2001

Mediate-Tech, Inc.  
Baltimore, MD, 540-636-8900

### October 31-November 2, 2001

Northern Virginia Mediation Service  
Fairfax, 703-993-3656

## 20-Hour Family

### July 17-19, 2001

Dispute Resolution Center  
Richmond, 804-343-7355

### July 25-26, 2001

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

### August 8-10, 2001

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

### September 13-14, 2001

Agreements Unlimited  
Marion, 540-783-7015

### October 18-20, 2001

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

### October 23-November 1, 2001 (T,Th,S)

University of Richmond  
School of Continuing Studies  
Richmond, 804-289-8133

### October 31-November 2, 2001

Mediation Center at FOCUS  
Charlottesville, 804-977-2926

## 40-Hour Family

### September 5-7 & 13-14, 2001

Northern Virginia Mediation Center  
Fairfax, 703-993-3656

### October 4-8, 2001

Mediation Matters  
Silver Spring, MD, 800-905-2221

## 4-Hour Virginia Judicial

### July 24, 2001

Dispute Settlement Center  
Norfolk, 757-480-2777

### July 26, 2001

Mediation Center at FOCUS  
Charlottesville, 804-977-2926

### July 28, 2001

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

### August 11, 2001

Agreements Unlimited  
Marion, 540-783-7015

**August 15, 2001**

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

**September 20, 2001**

FSR Associates  
Charlottesville, 540-434-4258

**September 29, 2001**

Northern Virginia Mediation Center  
Fairfax, 703-993-3656

**October 24, 2001**

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

## 8-Hour Domestic Abuse

**July 27, 2001**

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

**August 14, 2001**

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

**September 16, 2001**

Agreements Unlimited  
Marion, 540-783-7015

**October 27, 2001**

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

## 8-Hr. General Observation

**July 10, 2001**

Dispute Settlement Center  
Norfolk, 757-480-2777

**July 16-17, 2001** (Federal Workplace)

Northern Virginia Mediation Center  
Fairfax, 703-993-3656

**July 23-24, 2001** (Commercial/General)

Northern Virginia Mediation Center  
Fairfax, 703-993-3656

**July 27, 2001**

Mediation Center at FOCUS  
Charlottesville, 804-977-2926

**July 30, 2001**

Community Mediation Center  
Harrisonburg, 540-434-0059

**September 29, 2001**

Goodman & Company  
Richmond, 888-282-7636

**October 6, 2001**

University of Richmond  
School of Continuing Studies  
Richmond, 804-289-8133

**October 16, 2001**

Dispute Resolution Center  
Richmond, 804-343-7355

**October 25-26, 2001** (Fed. Workplace)

Northern Virginia Mediation Center  
Fairfax, 703-993-3656

## 8-Hr. Family Observation

**September 17, 2001**

Community Mediation Center  
Harrisonburg, 540-434-0059

## 20-Hr. Circuit Court-Civil

**August 6-7, 2001**

Mediation and Arbitration Associates  
Roanoke, 757-274-0046

**August 16-17, 2001**

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

**August 30-31, 2001**

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

**September 20-22, 2001**

Community Mediation Center  
Harrisonburg, 540-434-0059

**September 20-22, 2001**

Goodman & Company  
Richmond, 888-282-7636

**October 13, 2001** (8-hour class which  
meets partial requirements for CCC)

Northern Virginia Mediation Center  
Fairfax, 703-993-3656

**October 18-19, 2001**

Mediate-Tech, Inc.  
Front Royal, 540-636-8900

## 12-Hr. Circuit Court-Family

**September 12-13, 2001**

Mediation Center of Hampton Roads  
Norfolk, 757-624-6666

**October 4-5, 2001**

Northern Virginia Mediation Service  
Fairfax, 703-993-3656

## Mediator Ethics

**October 17, 2001**

Northern Virginia Mediation Service  
Fairfax, 703-993-3656

## Mentoring Others

**October 9, 2001**

Northern Virginia Mediation Service  
Fairfax, 703-993-3656

**October 22, 2001**

University of Richmond  
School of Continuing Studies  
Richmond, 804-289-8133

## Specialized Training

The following trainings in particular are meant to assist you in meeting the continuing education requirements for mediator recertification.

**July 13, 2001**

*ADR: Beyond Mediation*  
Northern Virginia Mediation Service  
Fairfax, 703-993-3656

**July 13, 2001**

*Preparing Memoranda & Agreements*  
Northern Virginia Mediation Service  
Fairfax, 703-993-3656

**July 17, 2001**

*Resolving Workplace Disputes*  
Dispute Settlement Center  
Norfolk, 757-480-2777

**July 18, 2001**

*Mediating EEO & Workplace Disputes*  
Northern Virginia Mediation Service  
Fairfax, 703-993-3656

**July 18, 2001**

*Considering Culture in Mediation Process*  
Northern Virginia Mediation Service  
Fairfax, 703-993-3656

**July 19-20, 2001***Negotiation Skills*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**July 25-26, 2001***Restorative Discipline for Educators*Community Mediation Center  
Harrisonburg, 540-434-0059**July 27, 2001***Parent-Child Mediation*Community Mediation Center  
Harrisonburg, 540-434-0059**August 2, 2001***Effective Cross-Cultural Negotiation Skills*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**August 16, 2001***Peer Mediation for Employees*Dispute Resolution Center  
Richmond, 804-343-7355**August 16-17, 2001***Establishing Restorative Justice Programs*Community Mediation Center  
Harrisonburg, 540-434-0059**August 20-September 17, 2001 (M,W)***Managing Conflicts Effectively*Conflict Resolution Center  
Roanoke, 540-342-2063**September 10, 2001***Conflict Resolution for Managers and Administrators*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**September 11, 2001***EDR: Electronic Dispute Resolution*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**September 12, 2001***Partnering Approach to Resolving**Contractual Disagreement*Conflict Resolution Center  
Roanoke, 540-342-2063**September 12-14, 2001***Workplace EEO Mediation Skills*

Mediate-Tech, Inc.

Metro Washington, DC, 540-636-8900

**September 13, 2001***Managing Conflict in the Workplace*Mediation & Arbitration Associates  
Richmond, 757-274-0046**September 22, 2001***Considering Culture in the Mediation**Process*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**September 24-25, 2001***Interest-Based Problem Solving Teams*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**September 28, 2001***Workplace Mediation Seminar*Community Mediation Center  
Harrisonburg, 540-434-0059**October 1, 2001***Mediating Disability Disputes*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**October 3, 2001***Win/Win Negotiation*Conflict Resolution Center  
Roanoke, 540-342-2063**October 4, 2001***Team Building for Conflict Prevention*Dispute Resolution Center  
Richmond, 804-343-7355**October 9-November 1, 2001 (T,Th)***Developing Positive Relationships with**Challenging People*Conflict Resolution Center  
Roanoke, 540-342-2063**October 10, 2001***Business Aspects of a Mediation Practice*University of Richmond  
School of Continuing Studies

Richmond, 804-289-8133

**October 10-11, 2001***Peer Mediation and Conflict Resolution**for Schools*FSR Associates  
Charlottesville, 540-434-4258**October 11, 2001***Conflict Management for Managers*Dispute Resolution Center  
Richmond, 804-343-7355**October 11-12, 2001***Facilitation/Group Consensus Building*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**October 15, 2001***Managing Conflict in the Workplace*Mediation & Arbitration Associates  
Norfolk, 757-274-0046**October 15-16, 2001***Facilitating Public Disputes*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**October 18, 2001***Mediation Skills for Management*Dispute Settlement Center  
757-480-2777**October 19-20, 2001***Transformative Mediation*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**October 22, 2001***Preparing Memoranda & Agreements*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**October 23, 2001***Resolving Workplace Disputes*Dispute Settlement Center  
Norfolk, 757-480-2777**October 23, 2001***Cultural Awareness and Diversity*

FSR Associates

Charlottesville, 540-434-4258

**October 24, 2001***Problem Solving in Organizations*Northern Virginia Mediation Service  
Fairfax, 703-993-3656**October 25, 2001***Creating Peaceful Work Environments*Dispute Settlement Center  
Norfolk, 757-480-2777**October 25-26, 2001***Victim Offender Mediation/Conferencing*Community Mediation Center  
Harrisonburg, 540-434-0059



## ADR Resource Corner



### **Book Review: RESOLVING PUBLIC CONFLICT: TRANSFORMING COMMUNITY AND GOVERNANCE by Dr. E. Franklin Dukes, Director of the Institute for Environmental Negotiation** 195 pages; St. Martin's Press, 1996; \$24.95

“During the past two decades, many elected public officials, administrators of public agencies, citizen advocates, corporate managers, and other participants in contemporary public conflicts have begun a revolution in governance. Efforts to overpower opposition, to manipulate administrative procedures, to legislate solutions, or to shift political (and moral) disputes to judicial battlegrounds are not always feasible, and are even less often effective ways to achieve public good. Increasingly, the practical need to gain agreement among divergent interests who have a stake in public decisions, who share limited power, and who have very different goals, has led to new kinds of decision-making forums.

And behind the practical need for agreement is the moral need to move beyond the type of fighting which characterizes so much public conflict. This moral need has led to the search not only for common ground, but for higher ground: a ground for engagement in public issues on terms such as fairness, integrity, openness, compassion, and responsibility. It is the search for forums and processes where individuals and organizations can be forceful advocates without being adversarial, where public officials can make effective decisions without being dictatorial, and where communities can come together rather than split apart when faced with tough problems and divisive conflicts.

For some issues, where basic consensus about the direction of policy exists, such change has meant no more than new ways of ensuring effective

public participation. But for many occasions, the adjustments in decision-making have been radical: in effect, the proverbial lions sitting down with lambs.”

This very powerful, insightful, and hopeful quote is characteristic of the wisdom and perspective included in the book, *Resolving Public Conflict*. Although scholarly in content and very well written, the book is easy to read and comprehend. Readers, from the viewpoints of mediators and citizens, can benefit from the research and rich experience of the author. The book's credibility is enhanced by the impressive listing of 365 references, as well as by Dr. Duke's extensive experience in the field of public dispute resolution at the Institute for Environmental Negotiation at the University of Virginia.

The relevance of the book's focus has certainly been enhanced by recent examples of public disputes on the national, state, and local levels and the growing awareness on the part of politicians and citizens that our present system of decision making and public participation is in need of reform. This book could serve as a model for transforming our communities and governance. Numerous examples are cited where collaborative processes are already being used to resolve public conflict with great success in many situations.

Although the book is more of a description of trends and vision for the future and less of a how to guide, helpful techniques, strategies, and

practical tips for dispute resolvers are included. Reading this book, along with a “how to” book or completing a specialized training on working with multiparty public disputes, would prepare mediators to practice in this area where the need is great and the opportunities for the future bright.

The book describes the history of public conflict in the United States and other countries, the various facilitated dispute resolution processes available to address the wide variety of public conflicts, and an overview of the practitioners who offer services inside and outside of government. Although Dr. Dukes acknowledges there are barriers to overcome in moving toward a society where disputes will be more commonly resolved through various forms of dispute resolution, he presents an optimistic picture of where this field has the potential to grow. His philosophy of practice emphasizes a transformative approach where the best potential of democracy and citizen empowerment can be promoted and realized.

The book concludes with an appendix listing and defining a large number of terms and concepts within the field of dispute resolution as a step toward providing a shared understanding of terminology. I highly recommend this book not only for dispute resolution practitioners, but for citizens and policy makers as well.



Edwin C. Bumbaugh, MSW, is Assistant Director of the Community Mediation Center in Harrisonburg and a part-time instructor at James Madison University.



# Readers' Response

**Question:**

If a mediator has reason to suspect child abuse in a circumstance where he or she is not serving as a mediator, does the mediator have a responsibility to report the suspected abuse?



**Answer:**

*Our thanks to the following contributors for their valuable responses.*

“The answer is no, mediators are only required to report suspected child abuse and/or neglect when information is learned in their professional or official capacity. However, any person who suspects that a child is an abused or neglected child may make a complaint concerning such child.

According to the Code of Virginia, Section 63.1-248.3, certain professionals, including mediators, are required to report immediately any suspected child abuse and/or neglect to the local department of social services in the county or city where the child resides or where the abuse or neglect is believed to have occurred, or to the Virginia Department of Social Services' toll-free hotline. The hotline number is 1-800-552-7096. The initial report may be made orally or in writing. The mediator is required to disclose all information which is the basis for his suspicion of abuse or neglect and shall make available to the local department any records or reports which document the basis for the complaint.

Persons required to report suspected child abuse or neglect must do so within 72 hours of their first suspicion or will be fined not more than \$500 for the first failure and for any subsequent failure not less than \$100 nor more than \$1,000. Any person making a report pursuant to Section 63.1-248.3 is immune from any civil or criminal liability unless it is proven that the person acted in bad faith or with malicious intent.”

Submitted by Rita L. Katzman, certified mediator and Program Manager  
for Child Protective Services, Virginia Department of Social Services

“ . . . Notwithstanding the probable lack of specific statutory legal obligation as a mediator and depending on the facts, e.g., the evidence for the suspected behavior, the nature of the abuse or neglect and how the mediator learned of the suspected abuse or neglect, the mediator/lawyer could have an ethical obligation to report the situation or ask another mediator/lawyer to report the case under the Rules of Professional Conduct. For example, if the mediator/lawyer learned of the suspected child abuse and neglect through supervisory responsibilities for the mediator in the case.”

Submitted by Norma E. Szakal, Senior Attorney, Education and Health,

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**New Question:**

Does Virginia Code Section 8.01-576.10 related to confidentiality in mediation mean that all parties are bound by complete confidentiality and that noone can talk to anyone else about what was said in mediation?

**You are invited to respond.**

Please send your response to: Readers' Response, c/o **Resolutions**,  
Office of the Executive Secretary, Department of Dispute Resolution  
Services, 100 North Ninth Street, Richmond, Virginia 23219.

# ***Resolutions***

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*Contributions of articles or information  
are always welcome.*

## **Important Reminder: VIRGINIA ONLINE LEGISLATURE**

On April 16th, a mailout to all mediators included draft revisions to the Mediation and Dispute Resolution Proceedings statutes. Please review the proposed revisions and send us your feedback and suggestions. The deadline for submission of comments is August 3, 2001.



## **Conferences**

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|-----------------|--|
| September 13-15 | AFCC's Northeast Regional Conference; New York, NY<br>608-251-4001<br>< <a href="mailto:afcc@afccnet.org">afcc@afccnet.org</a> >   |
| October 10-13   | Association for Conflict Resolution<br>"Coming Together: Community, Connection, & Conflict"<br>Toronto, Ontario, Canada<br>202-667-9700 ext. 208   |
| October 28-30   | Virginia Mediation Network<br>Fall Training Conference<br>Sheraton West, Richmond<br>Speakers: Deborah Kolb and Michael Lang<br>804-285-3373; <a href="http://vamediation.org">vamediation.org</a> |

# ***Resolutions***

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