

**LOST IN TRANSLATION:  
LEGISLATURE'S REVISION NECESSARY TO RESTORE FUNDS TO  
COMMUNITY BASED DISPUTE RESOLUTION PROGRAMS**

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In 1986, the California legislature enacted a statute to fund a Dispute Resolution Program. In enacting this statute the Legislature recognized that the resolution of many disputes is unnecessarily costly, time consuming and complex when achieved through formal court proceedings. As a result, the legislature intended for the funds to be directed to the community to develop an informal resolution of disputes in a non-coercive dispute resolution forum, outside of the court system. The intent of the legislature has been lost and the funds are being directed toward court programs that favor the economically well off, specifically claims over \$25,000, who have the financial resources to maintain costly and protracted litigation. The Dispute Resolution Program Act must be amended to restore the legislature's intent that the funds be used for Community programs for persons of all ethnic, racial and socioeconomic backgrounds.

The Legislature states in Business and Professions Code section 465 that the purpose of the program is to seek alternatives to costly legal process, by funding community-based dispute resolution programs reflective of the diversity of the communities to be served, funded partly by public funding and partly by users of these services on a sliding scale basis, but without cost to indigents. The legislature was keenly aware of the socio economically challenged persons and the deterrent effect that the cost of litigation has on persons in resolving disputes. Therefore the funding of Community programs would achieve to eliminate that barrier. The legislature was cognizant of the diverse demographics of Communities and the changing demographics of the State and the need to instill confidence in a dispute resolution program. Therefore, the Legislature found that local resources, including volunteer mediators/arbitrators be reflective of the diversity of the community.

However, some of the counties have lost sight of the Legislature's intent and have misdirected the funds away from under funded community programs to the detriment of the diverse communities and the socio-economically challenged. Some counties have chosen instead to fund court-connected programs, particularly claims over \$25,000 that can generally only be accessed by economically sufficient persons.

For example, Los Angeles County ignores the legislative intent by giving priority to unlimited jurisdiction civil claims (over \$25,000) by providing free services indiscriminately to all comers *provided* they are already in the litigation system. The Los Angeles court connected program specifically discriminates against Small Claims and low value 'limited jurisdiction' cases (under \$25,000 cases), by giving them the least priority and fails altogether to provide services 'on a sliding scale basis'. The violation of

legislative intent could hardly be clearer. Los Angeles County specifically limits funding for Small Claims and ignores the statutory purpose of racial, ethnic or socioeconomic diversity. By diverting funds to already well-funded unlimited jurisdiction cases, the County circumvents the statutory purpose by failing adequately to provide funding to programs for Small Claims and limited jurisdiction cases that involve disputes “between neighbors, domestic disputes and consumer-merchant disputes,” as specified by legislative intent.

Thus, the programs intended by the legislature to benefit from the funds, namely community programs involving disputes that have not already entered the court system and similar court-connected programs involving socio-economically challenged persons involved in low value limited jurisdiction and Small Claims disputes, and Youth Peer Programs, are suffering because funds are being diverted to programs serving economically prosperous, who receive dispute resolution services free of charge while paying handsomely for all other aspects of their litigation.

An enumeration of specific matters that may be referred to government-funded programs will prevent misuse of funds and uphold the statutory purpose. Business and Professions Code section 467.2 outlining the county’s eligibility requirements for funding should be revised as follows: (b) Provision of neutral person, *reflective of the diversity of the community in which they serve*, adequately trained in conflict resolution techniques as required by the rules..... (c) Provision of dispute resolution programs on a sliding scale *fee-paying* basis, and without cost to indigents, *with respect to any disputes that have not yet entered the court system, and limited jurisdiction and small claims cases*.

By incorporating the Legislative intent of diversity of community volunteers and enumerating the specific disputes that can be eligible for Dispute Resolution Funds, the Legislature will finally create what it originally envisioned: a funded community-based dispute resolution forum for all persons of all ethnic, racial and socioeconomic backgrounds.

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