



# Increasing Equity for ADR Case Participants and Professionals

## Executive Summary

The AAA® is a 501(c)(3) not-for-profit organization, an arbitral institution founded in the U.S. in 1926. For many years, the AAA has been a leader in diversity and inclusion efforts in the ADR field. We work to increase equity in the delivery of dispute resolution services and in the professional practice of ADR. We set goals, and we track our results. These efforts include our work with parties on the cases we administer, as well as developing the AAA and the ICDR® Rosters of Arbitrators and Mediators.

We go well beyond our own daily work, cases, and panels by supporting other groups and individuals expanding the availability of services to ADR beneficiaries and increasing the diversity of ADR practitioners.

- Through our contributions to the AAA-ICDR Foundation®, we support communities who use conflict prevention, conflict management, and dispute resolution.
- By supporting and working with professional groups devoted to diversity, the AAA creates opportunities for diverse future ADR professionals.

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## ADR for the Underserved: Enhancing Equity in Dispute Resolution in the U.S. and Globally

The AAA established the American Arbitration Association-International Centre for Dispute Resolution Foundation® (AAA-ICDR Foundation) in 2015 to fund critical projects, domestically and internationally.

The AAA-ICDR Foundation, a 501(c)(3) not-for-profit organization, is a public foundation and subsidiary organization of the AAA. The AAA-ICDR Foundation has given funding to organizations pursuing long-term initiatives with a focus on leveraging conflict resolution to address fairness and equity issues facing vulnerable and underserved populations such as: access to justice, crisis intervention responses by law enforcement agencies, community-based programs combating increased violence and conflict in the U.S., environmental issues, eldercare, restorative justice, and more.

## Examples of Grants Made by the Foundation

The Arizona State University Foundation's Sentinel Event Review of Police Use of Force and Vulnerable Populations: The AAA-ICDR Foundation has granted \$250,000 to the Arizona State University Foundation to convene a conference for law enforcement agencies and state policymakers to explain how Sentinel Event Reviews (SERs) would benefit their agencies and the criminal justice system as a whole. The reports will be shared with the agencies involved in the reviewed incidents and with the public at large—and restorative justice sessions will be held for those involved in each incident, based on volunteer participation. Ultimately, the goal is to be able to propose legislation for SERs to review police uses of force.



#### The RAND Corporation's Creating Dialogue via a Tabletop Exercise To Improve Community-Police Relations:

The Foundation has awarded \$249,732 to this project facilitating a tabletop exercise testing police and community emergency responses in three communities. After-action and evaluation reports will be distributed in every community, and research briefs based on the final reports will be used to recommend improvements as needed. The project will also create and disseminate an online toolkit hosted on a RAND Corporation webpage to support other communities wishing to facilitate these tabletop exercises.

New York Peace Institute: The AAA-ICDR Foundation provided \$50,000 to implement an ongoing, holistic response to community conflict that builds on current local partnerships and programs and trains community leaders and youth in mediation, conflict response skills, and restorative practices.

### AAA-ICDR Foundation Support for Diverse ADR Professionals

The Foundation maintains a Diversity Scholarship Fund to assist interested individuals in attending ADR programs. In late 2019, the AAA earmarked funding for diversity projects/programs funded by the Foundation for qualified grantees:

- \$100,000 to be used to fund stipends and/or scholarships for diverse candidates in need of financial assistance to participate in diversity programs such as the Higginbotham Fellows Program and other similar training programs; and
- \$50,000 to be used to fund the Foundation's Diversity and Inclusion in ADR focus area.

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### Equity Steps as an Arbitral Institution

Below are some of the steps we take to enhance equity in ADR through our own daily work in arbitration and mediation and steps we take to support the work of many others who are trying to increase equity for future ADR practitioners and future beneficiaries of ADR.

### AAA and ICDR Annual Organization Goals:

- New Diverse Panelists Added to Roster
- Lists Meeting Diverse Listing Goal of 20%
- Engagement with Diversity Organizations and Events
- Diverse Speakers on AAA and ICDR Education Programs

Arbitrators are not selected from the general population as jurors are—they more resemble judges, and many are actually former judges. They typically have decades of work experience in relevant arbitration practice areas. Most arbitrators and mediators are attorneys, and the American Bar Association's [2021 Profile of the Legal Profession](#) reports that, last year,



4.8% of attorneys were Hispanic, 4.7% were Black, 2.5% were Asian, 0.4% were Native American, 0.3% were Hawaiian/Pacific Islander, 2.0% were multiracial, and 37% were women. We enhance equity through our recruiting efforts for the Roster and through the lists we assemble for parties on actual cases.

In 2021, 50% of individuals added to AAA panels were diverse. Our lists proposed on cases actually achieved *greater than 20% diverse panel members*. In some case areas, up to 47% of those listed by the AAA-ICDR were diverse. Of course, arbitrators want to be selected, not simply named to the Roster or simply listed, so we must recruit well and list carefully for the parties' needs on each case. We measure our success at actual appointments as well. In 2021, the proportion of diverse panelists actually *appointed* rose to 32%.

Our diverse panelists share their knowledge and expertise and become known to the ADR community through our education programs and advisory committees. At least 50% of the faculty members on our education and training programs are diverse. Over 60% of AAA-ICDR Council members are diverse. We supported and worked with more than 50 diversity-oriented professional groups and events in 2021, through financial sponsorships and programs.

## The ICDR's Equal Representation in Arbitration Pledge

The ICDR is a signatory to the Equal Representation in Arbitration Pledge, which affirms our commitment to increase the number of female arbitrators in the international dispute resolution field. As a signatory to the Pledge and as part of the ICDR's ongoing commitment to the equal representation of women in arbitration, the ICDR maintains and makes publicly available statistics regarding the number of female arbitrator appointments in ICDR arbitrations as well as the number of women on the ICDR's Roster.

## AAA's Work with Individuals and Organizations

- **CLE-Credit Trainings in Mediation and Arbitration Ethics at the National Bar Association**

The AAA regularly partners with the NBA at its annual conferences, offering trainings designed to better equip practicing neutrals with the skills essential to ethical mediation and arbitration practice. This includes an *Aspiring Arbitrators Academy* offered in 2016, which resulted in 10 new AAA Roster members.

- **Higginbotham Fellows Program**

In 2009, the AAA launched the Higginbotham Fellows Program, named for the Honorable A. Leon Higginbotham, Jr., the first African American District Court Judge for the Eastern District of Pennsylvania and the seventh African American appointed as an Article III judge. The AAA created the Program in order to provide training, mentoring, and networking opportunities to up-and-coming diverse ADR professionals who have historically not been included to a meaningful degree in the field of ADR. In 2021, the AAA refined the Program and introduced a new format, beginning with a three-part self-study component spanning several months, followed by a four-day intensive interactive training. So far, 134 Fellows have graduated from the Program, and almost all Fellows who applied have advanced to AAA Roster appointments. An additional 17 Fellows began the self-study phase of the Program in 2021 and will complete the Program in May 2022.



- **The Diversity Student ADR Summit**

Launched in 2019, this program introduces ADR to students. The 1½-day ADR Summit for diverse law students provides an in-depth understanding of what it really takes to become a successful arbitrator and/or mediator.

Presenters include experienced ADR professionals and litigators from a variety of backgrounds, demonstrating the contours of successful career paths as an arbitrator and/or mediator. Attendees learn the importance of focusing on a specific industry, networking, connecting with mentors, gaining relevant experience, and building a good reputation in the field. Applicants come from all over the country and overseas, and accepted students receive a stipend to cover travel expenses.

- **Master Mediator Panel**

In 2021 the AAA's Commercial and Construction Divisions revised the Master Mediator Panel (MMP) each offers on large complex cases. As a result, the number of diverse Commercial MMP members more than doubled. The number of diverse Construction MMP members more than tripled. Currently the Commercial MMP is 45% diverse and the Construction MMP is 20% diverse. For this project, the AAA consulted with and was assisted by a number of bar groups with a diversity focus: the National Association of Minority & Women Owned Law Firms (NAMWOLF), National Bar Association (NBA), and Hispanic National Bar Association (HNBA).

- **The National Construction Dispute Resolution Committee Mentorship Program**

This program is an investment in the growth and development of new arbitrators who will soon undertake serious responsibilities and ethical obligations to the public as well as to the parties. The program gives new construction arbitrators a unique opportunity to tap into the existing knowledge, skills, and experience of seasoned arbitrators. Over 25 professionals participated in the first full year of the program. NCDRC is our Council Committee on the construction industry, one of the largest industries using arbitration and mediation to resolve claims.

## Contributions

The AAA contributes financially to groups working in important areas to improve equity in several areas of dispute resolution impacting social conflict, including:

- Free Legal Answers, American Bar Association
- Kids Managing Conflict, SCMA Foundation
- Active Bystandership for Law Enforcement (ABLE)
- Effective Law Enforcement for All (ELE4A)
- ABA Legal Education Police Practices Consortium