

East Coast Regional ADR Court Administrators Meeting

A meeting of East Coast ADR Court Administrators was held on April 28-29, at the Belmont Conference Center in Elkridge, Maryland. The meeting was co-sponsored by Maryland's Mediation and Conflict Resolution Office (MACRO), the Court Section of the Association for Conflict Resolution (ACR), and the Policy Consensus Initiative (PCI). Jack Hanna with the ABA Section on Dispute Resolution and Anne Skove with the National Center for State Courts also attended the meeting. The purpose of the meeting was to give directors of court-based statewide ADR offices an opportunity to gather informally, to exchange information and ideas and to further the advancement of the field of conflict resolution.

The following states were represented at the meeting: Delaware, Pennsylvania, Alabama, Maine, Vermont, North Carolina, South Carolina, New York, Massachusetts, New Jersey, Florida, Georgia, New Hampshire, Maryland, Virginia and the District of Columbia. During the two-day meeting, roundtable discussions were held on the issues of confidentiality, evaluating Court ADR programs, Funding and the Future of Court ADR programs, and Mediator Quality Assurance.

When asked to describe the state's greatest accomplishment in Court ADR and greatest challenge, the answers varied depending upon the longevity of the program. More established programs were proud to be able to offer advisory ethics opinions for mediators and provide services to low-income parties. Younger programs were excited about creating new ADR rules and simply having a central office/position devoted to the development of Court ADR. The overarching challenge most programs face is budget cuts. Other challenges include defining "mediation", getting higher courts to use mediation, and persuading attorneys that mediation is a better way to resolve disputes.

The first roundtable discussion focused on the issue of confidentiality. Each state has its own method of providing confidentiality for mediation - some by statute, some by court rule, others by rule of evidence and one by case law. Some state rules describe a mediator privilege and others a general statement regarding confidentiality with certain exceptions. The updated status of the Uniform Mediation Act is that Illinois has adopted the Act and in New Jersey, the General Assembly's Judiciary Committee passed the Act. Consideration of the Act was carried over by Maine's legislature and it was defeated in the Vermont and Massachusetts legislatures. The Act was considered in the New York and Georgia legislatures and may come up again next session. The consistency and uniformity in confidentiality rules that the drafters of the UMA had hoped for have not yet been achieved, but all the states represented agreed that this is an area we will continue to watch closely.

The second roundtable discussion was on the topic of evaluation of programs and the fourth roundtable discussion was on quality assurance. The MACRO staff facilitated both conversations and shared Maryland's experience in these areas. First, with respect to evaluation, MACRO is seeking to develop uniform instruments that will help to further

describe their programs, improve their programs, and show the benefits of their programs. They have decided not to focus on cost savings or party satisfaction, but instead on goals and objectives that would illustrate how effective programs are. These instruments are still being developed. Other states described their evaluation tools and were interested in Virginia's web-based MIS system as well as the Client Evaluation statistics. On the issue of quality assurance, MACRO has chosen to develop a voluntary program for mediator excellence. As opposed to licensing or certifying mediators, the program would integrate several non-regulatory approaches to enhance Maryland mediators' skills. Many other states represented do have certification/registration/roster qualifications. The states vary with respect to the amount of training, educational background, and mentorship experience required.

The third roundtable discussion addressed the questions of funding and the future of court ADR programs. The various state court ADR programs achieve funding in different ways. Some programs like Georgia have a filing fee that assists in supporting court ADR programs. Other states such as Maine and North Carolina have a user-fee system. Many programs charge the mediators certification/registration/roster fees at or above \$100 in addition to renewal fees also at or above \$100 per year or every two years. Mediation trainers are also charged up to \$300 for certification fees as well as renewal fees. A few states enjoy state budget allocations as well as grant support. New Jersey, which requires that the first three hours of mediation are provided free of cost, was very interested in Virginia's court contracts process as well as Virginia Code section 20-124.4 that authorized payment to mediators of \$100 per custody, visitation, child support case. All programs acknowledged the need to diversify sources of funding as well as to capture information on the value of Court ADR programs, both quantitative and qualitative, in order to effectively survive budget reductions in strained economic times.

In the future, the programs considered a number of ideas to assist in the advancement of Court ADR. Some proposals include a Best Practices for Court ADR Programs Guide, an Emerging Trends in ADR Update, a Frequently Asked Questions for Court ADR Programs, and even a Roadmap or Timeline of Key Milestones/Issues Court Programs Should Address. The group was also very interested in learning about the current state of research in Court ADR as well as an outline of what we still need to know. A bridge between the academicians and the practitioners/court programs is something that will be pursued. The Court ADR administrators were also excited to learn about a new grant that the ABA Dispute Resolution Section has received from the Hewlett Foundation that focuses on Court ADR and they look forward to assisting in developing some of the ideas/products/resources described in the grant proposal. Many states were interested in the new Mediation Info-Disk developed by the Virginia Mediation Network and funded by the Virginia Law Foundation.

The meeting was invaluable for the ADR program administrators and provides a wonderful model for similar future regional meetings. The Court Section of ACR will hold a half-day Court ADR meeting on October 14th, the day before the Annual ACR Conference in Orlando at which time a dialogue on many of the topics mentioned in Maryland can continue to be discussed.