Revisiting the Alternative Dispute Resolution Study
By Haleigh LaChance

By Haleigh LaChance
SU and its Bosserman Center for Conflict Resolution received a $750,000 grant from the Maryland Judiciary, the state’s judicial system, to analyze the use of alternative dispute resolution. Maryland is a leader in the nation for the use of mediation in its court system and the first state to comprehensively review such processes.

The Maryland court system uses a variety of processes to ensure citizens can access justice, such as traditional litigation, problem-solving courts, drug courts and alternative dispute resolution (ADR). During an ADR process, such as mediation, the disputing parties meet with a neutral third party in an effort to resolve their conflict, and more specifically settle their case, without judicial intervention. Salisbury University has conducted a four-year study on the costs, benefits, effectiveness and efficiency of ADR in the Maryland courts. As the former project manager for this study, I described our methods and goals in the last issue of Re:Search. Here, I discuss some of our early results.

In the District Court, ADR is offered to small-claims cases after they arrive at the courthouse, but generally before their trial begins. If a settlement is not reached in ADR, the parties proceed with their scheduled trial. We compared litigants who participated in ADR to litigants who only had a trial. We found that those who attended ADR, regardless of whether they settled their case, were more likely to report after their case that:

- They could express themselves, their thoughts and concerns;
- All of the underlying issues in their conflict came out;
- Their issues were resolved; and
- They acknowledged responsibility for the situation.

We surveyed both groups before and after their case and measured shifts in their attitude from the time they arrived at the courthouse to the time their cases were complete. In comparing the two groups, those participating in ADR were more likely than those who went through the standard court process:

- To take more responsibility for their role in the conflict at the end of their case than they did upon arriving, and
- To lessen their agreement with the statement “the other people [in this case] need to learn they are wrong.”

In the Circuit Court, contested custody cases are referred to mediation, unless abuse or other safety concerns are noted, in an effort to allow parents to develop custody arrangements best-suited for their children and families. Because all cases suited for mediation are already referred, we could not compare mediated cases to non-mediated cases. Instead, we observed the mediators’ strategies throughout the case and used regression analysis to isolate the impact of each type of strategy.

Again for these cases, we didn’t just ask their opinion at the end of the mediation, but rather measured shifts in their attitude from the start of the first session to the end of the last session. We found that when mediators listen and reflect back the emotions and interests of the parents, parents become statistically more likely to say they believe they can work together to raise their children; when mediators separate parents (called caucus sessions), they become less likely to believe they can work together.

Additionally, we found that when mediators attempt to elicit ideas from parents about what would work best, rather than offering their own ideas for solutions, participants are statistically more likely to reach an agreement.

For all of these results, we asked participants information about the history of their conflict, the level of police involvement, their demographics, etc., so that we could hold constant for those factors and isolate the impact of the ADR process.

While these results highlight only a few of the findings to-date, when put in context of the Judiciary’s goals and mission, they bring to light some interesting patterns. Family Administration, which assists the Judiciary with family-law issues, has a mission to “provide a fair and efficient forum to resolve family legal matters in a problem-solving manner, with the goal of improving the lives of families and children who appear before the court.” If part of the goal of family courts is to improve lives of families, then it could be argued that mediation strategies known to lead parents to believing they are more capable than before of working together to raise their children should be encouraged. Similarly, the District Court’s mission in providing equal and exact justice for all involved in litigation can be furthered by processes shown to increase the acknowledgement of personal responsibility and the full resolution of conflicts brought before the court.

This study was commissioned and overseen by the Administrative Office of the Court. The project was funded in part by the State Justice Institute. More information on our findings and the full statistical reports can be found at www.marylandADRresearch.org/publications.