Is Litigation Always the Answer?

For more than a decade, the University of Maryland School of Law has steadily been building an alternative dispute resolution (ADR) program that is rivaled by few schools for its strong academic underpinnings and its opportunities for rich, practical application. "The goal," says Dean Donald E. Gifford, "is to train and educate lawyers to be comfortable in dispute resolution processes other than litigation."

Gifford, the author of a leading book in the field, Legal Negotiation, explains some of the benefits of ADR. "Straightforward litigation is expensive and time consuming, so businesses in the future will push their lawyers to know all forms of dispute resolution from mediation to summary jury trials."

The law school began developing ADR programs after Professor Roger C. Wolf volunteered as a reporter to the Maryland State Bar Association's Special Committee on Dispute Resolution more than 12 years ago. After writing the report, which recommended child custody mediation, judicially mediated settlement conferences in civil trials, and mediation of minor first offense misdemeanors, Wolf helped expand the law school's dispute resolution course offerings beyond Counseling and Negotiation.

Students can now take advantage of a variety of additional classes, including Alternative Methods of Dispute Resolution, ADR workshops with the Maryland Attorney General's Consumer Protection Division, ADR—Health Care Workshop, a Mediation Clinic along with social work students, and Conflict Resolution in Private Transnational Economic Relations. Professors in different areas are teaching these newer options from their broad and varying legal perspectives. "Everyone on the faculty had to become sensitive to dispute resolution if we wanted to prepare our students for more than litigation," says Wolf.

In the Mediation Clinic, students are trained as mediators and handle cases referred by the prosecutors, small claims court and the community. These clinic students are actively helping parties to resolve their own cases and, in the process, aiding the courts in handling their dockets.

In development also is a mediation office in the Park Heights area of Baltimore City as part of the school's new clinical law office in that location. Wolf said students will work with Park Heights community leaders and train individuals.
to mediate neighborhood conflicts such as parking problems, noise violations and property feuds. "A lot of disputes are better handled in the community," Wolf says. "We might be more effective in solving these problems."

ADR techniques are gaining acceptance in the legal community. "There are outside pressures from consumers who are saying 'you guys [lawyers] cost too much and you have to learn new methods.' It is gaining credibility," Wolf says.

School of Law senior Anthony Kaminski has broadened his perspective on dispute resolution since he started law school. Prior to taking Professor Wolf's ADR course, Kaminski thought law school would teach him only to use the law as a saber in combat: "Before law school, I thought you learned to sharpen your sword and fight. So when we were assigned our first problem, we were ready to do battle."

Kaminski and his classmates have changed their way of thinking after studying with Professor Wolf. "By the end of the course, we realized that there are other ways of reaching a good result without saying you have to give anything away. You can work it out." Applying his experience and knowledge, he is now developing a comprehensive dispute and conflict resolution center for his employer, a premier biomedical research organization. The center will offer a range of dispute resolution techniques, from mediation to peer review panels, for solving workplace issues. "We are not going to ignore problems, but we think there are ways to solve them other than court."

Wolf is thrilled that students, such as

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The Honorable Lynne Battaglia '74

United States Attorney for the District of Maryland, Lynne A. Battaglia '74 has taught Counseling and Negotiations at the law school for many years as an adjunct professor. "I think people have a romantic view of what litigation is. Television shows that it is very dramatic to be in a courtroom," she says. "But the reality is that for every hour spent in the courtroom, five hours are spent in preparation, using financial and emotional resources."

Battaglia says in the early years of dispute resolution, "people thought we were teaching touchy-feely courses. But there has been a resurgence in the desire to improve the quality of life of attorneys and litigants, and dispute resolution is one answer. My trial attorneys would tell you that their quality of life diminishes when they are in trial," Battaglia explains. "We resolution becomes more involved, Condlin says, it might have a positive effect on lawyers' attitudes. "It might do something about lawyer adversarial attitudes, teaching them not to beat up on

"There are outside pressures from consumers who are saying 'you guys [lawyers] cost too much and you have to learn new methods.'"

Roger C. Wolf

come here to learn how to resolve disputes, not just to be litigators and corporate lawyers," Wolf observes. "When they learn about dispute resolution techniques, they are really turned on by it."

Maryland Court of Appeals Judge Alan M. Wilner '62 teaches ADR at Maryland as an adjunct professor. Wilner says Maryland judges and lawyers are slowly coming around to accepting non-traditional options. While not appropriate for every case, these alternatives often offer "better solutions than litigants can find in court, are less expensive and quicker."

have to more finely develop these types of techniques."

Maryland Professor Robert J. Condlin, who has taught Counseling and Negotiations for more than 20 years, says, "It is clear that people have to learn to solve problems in less combative and less expensive ways." Condlin foresees dispute resolution techniques becoming more complicated. For instance, potential abuses, such as unfair bargaining strength in mediation, are surfacing and will prompt counteractive attempts to curb these inequities. However, even if dispute each other and to find ways to coordinate their actions for mutual gain."

With the help of many far-sighted professors, such as Wolf, Wilner, Battaglia and Condlin, the School of Law is in the forefront of educating a new type of lawyer. While still developing sharp litigation skills, Maryland's students are benefiting from exposure to many non-traditional alternatives and the new issues they present.

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