

Alternative Dispute Resolution in the Law Schools

by James B. Boskey

*NOTE: This article is reprinted with permission from the February/March 1995 Issue (Vol 55) of **The Fourth R**, The Newsletter of the National Association for Mediation in Education*

In 1982, the Association of American Law Schools (AALS), the professional association of law schools and law teachers, held a special midyear session for law teachers at Harvard Law School on the topic of Arbitration and Other Dispute Resolution Mechanisms.

At that meeting, which lasted three days, approximately 100 law school teachers, most of them relatively new to the profession, who had been teaching courses or sections of courses on topics such as arbitration, mediation, negotiation, and related matters, discovered that they were not alone in their interest in these areas. This was for most of them a revelation. Most law faculties around the country looked on these areas, at best, as marginally appropriate for the law school curriculum, and many of those teaching in the areas had felt isolated from the main stream of legal education. By the end of that conference, the attendees had decided to petition the AALS for the formation of a section dedicated to alternative dispute resolution and authorized the publication of a newsletter dedicated to that topic to be circulated amongst those law teachers currently engaged in teaching in the area or interested in expanding their repertoire to cover some aspect of those topics.

Since that time there has been a continuing and rapid growth in the teaching of alternative dispute resolution (ADR) in law schools. As of 1992, when the last survey on the subject was completed, 162 of 168 law schools surveyed reported that they offered at least one

course in the area, and many had begun to offer comprehensive programs dealing with a wide range of dispute resolution topics. The manner in which ADR has entered the law school curriculum has varied widely from school to school. At one extreme, the University of Missouri/Columbia Law School has developed, under the leadership of Leonard Riskin, a first year curriculum that integrates various ADR topics into each of the first year required courses. At the other, many schools have merely added one or more courses, ranging from introductory surveys of the ADR field through specific courses in mediation, arbitration, negotiation, and the like to their regular curricula as offerings available to upper class student. Perhaps the most interesting and exciting development, however, has been the creation at some twenty-one law schools of clinical programs focusing on the use of dispute resolution as an alternative to litigation as a means of resolving client problems. These clinics, which mostly focus on the use of mediation, train students to serve as neutrals in a wide range of disputes and, either directly or through existing mediation programs, provide the students with the opportunity to serve as mediators in supervised situations.

There have been many other developments of importance. Several law schools, including notably Stanford, Harvard, and Wisconsin, have established centers for dispute resolution which encourage research, writing, and advanced training the field. A number of schools, notably Pepperdine and George Mason amongst others, have taken leadership positions in providing training in dispute resolution skills to attorneys already in the practice and other professionals. In addition to the frequent publication of articles on dispute resolution topics in the traditional law journals and the regular appearance of special or symposium issues of those journals dedicated to this area, three law journals are now published by law schools with schools focus on dispute resolution: *Journal of Dispute*

Resolution from Missouri/Columbia, the *Ohio State Journal of Dispute Resolution*, and the *Journal of Negotiation* from the Harvard Program on Negotiation. The first two are student journals while the latter is professionally edited in-house by members of the Harvard faculty.

In addition, the AALS section has become one of the most active in the organization, offering usually at least two programs at each annual meeting. The section newsletter, *The Alternative Newsletter* published at Seton Hall Law School, has become an international resource reaching not only the law schools but the entire dispute resolution community.

Overall, it is clear that ADR is a growth industry in the law schools. Despite the inherent conservatism of legal education, the growing acceptance of the use of ADR techniques by the courts has compelled ADR's recognition as a legitimate area of training for lawyers. The pattern increasingly being accepted is that a basic knowledge of ADR techniques is fundamental for all lawyers and that training in ADR skills is a valuable, and perhaps essential function of legal education.

James B. Boskey is Professor of Law at Seton Hall Law School in Newark, NJ. He is the publisher of The Alternative Newsletter, a resources newsletter on ADR topics, and is the Chair-Elect of the Section of Alternative Dispute Resolution of the Association of American Law Schools, which he also chaired in 1983-84

(Note: James Boskey, now deceased, is greatly missed by the ADR field.)