

# **A SMALL STEP TOWARD A TOUGH CONVERSATION: A DISCUSSION PIECE BY THE ASSOCIATION FOR CONFLICT RESOLUTION'S (ACR) DIVERSITY OF PRACTICE INITIATIVE**

**Howard Gadlin and Marvin Johnson<sup>1</sup>**

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## **Preface**

This paper was prepared by ACR's Diversity of Practice Initiative as a way to advance discourse about the great diversity of practices within the field of dispute resolution. By circulating this paper to the entire ACR membership as well as releasing it to interested individuals via social media and other avenues, ACR is inviting ideas and suggestions about how we as a field might fully understand, embrace and respect the dispute resolution community in its entirety. This document also serves as a prelude to the opening panel discussion and continued dialogue that will take place at ACR's annual conference, which will be held in San Diego, California, October, 12-15, 2011.

## **Executive Summary**

ACR's Diversity of Practice Initiative was created to examine how best to advance, acknowledge and appreciate the vast diversity of practices and practitioners and to explore ways of critically evaluating the immensely heterogeneous work undertaken in what is often referred to as the field of alternative dispute resolution (ADR). To begin this effort, we formulated several exploratory questions and posed them to a diverse focus group of leaders in the field. This report examines their responses to the following questions:

- What constitutes dispute resolution practice? What are the connections between diverse practices and the diversity of practitioners?
- What are the acceptable differences among the various approaches to practice? What ought to be the baseline ethical guidelines, standards of practice, and universal quality of practice? In what ways do different approaches to mediation suggest different standards of practice or ethical guidelines?

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<sup>1</sup> Shayla Settlers and Torin Johnson assisted in collecting, coordinating and analyzing the responses for this report.

- What is the empirical foundation for the variety approaches to ADR? What additional research and information are needed to better understand what works and what does not work?
- Is there a need to engage in open critical discourse about the variety of practices and approaches in the dispute resolution field? If so, why? If not, why not? Do we need guidelines for such conversations? If so, why? If not, why not? Where is the boundary between criticism and antagonism in professional discourse?
- How has certification helped or hindered diversity of practice? How has certification helped or hindered diversity of practitioners?
- What actions and/or activities should ACR undertake as a professional organization which is committed to diversity of practitioners and practice, and whose members cut across all areas of practice?

Overall, the responses received revealed considerable convergence and a sense of community but no overarching vision for enhancing the diversity of practices or practitioners in the field. Instead, we suggest that there are *underlying value differences* within our field that are not being addressed, indicating a need for further information gathering and renewed discourse regarding diversity of practice.

## **Introduction**

During the 2010 ACR Annual Conference, incoming President, Lou Gieszl, announced the creation of a Diversity of Practice Initiative and appointed us co-chairs of the initiative. The Initiative was to examine how to best advance, acknowledge and appreciate the vast diversity of practices and practitioners and to explore ways to critically evaluate the immensely heterogeneous work undertaken in what is often referred to as the field of ADR. Responding to this charge, we formulated a survey of six exploratory questions that would gather relevant information about this important area of concern from a very small ACR Diversity of Practice focus group. Twenty ADR practitioners, Educators and Trainers were asked to participate in the focus group. Nineteen agreed to participate. They were asked to respond to the questions and to describe their areas of practice and their mediation styles. After receiving their feedback, we collected and analyzed the responses. This report examines the responses we received.

## Areas of Practice and Mediation Styles

Eighteen of the nineteen respondents self-identified their areas of practice and mediation styles.<sup>2</sup> Their areas of practice are:

Aboriginal/Native American Issues	Energy	Police Community Relations
Agriculture, Arbitration	Environmental	Probate/Trust
Banking/Finance	ERISA	Public Health
Business	Family/Divorce	Public Policy
Child Welfare	Homeowner Association	Real Estate
Civil Rights	Insurance	Religious Disputes
Commercial	Intellectual Property	Restorative Justice
Community Contracts	Interpersonal	Securities
Construction	Labor/Management	Social Policy
Court	Land Use Planning	System Design
Criminal Law	Landlord/Tenant	Torts/Negligence Disputes/ Personal Injury/Product Liability
Disability Access	Medical/Malpractice	Transportation
Education	Online Dispute Resolution	Wage & Hour
Employment/Workplace	Organizational	
	Partnerships	

The self-described mediation styles of the focus group respondents include:

“Eclectic/Client Centered”	Facilitative/Evaluative	Repertoire/Combination of Mediations and Styles
“Embedded Mediation”	Facilitative/Transformative	Transformative
Evaluative	Narrative	Understanding-Based
Facilitative	Reflective	

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<sup>2</sup> One respondent does not have an ADR practice. Another respondent does not currently have an ADR practice. The areas in which he formally practiced are included.

## Diversity of Practice Survey Questions and Responses<sup>3</sup>

### 1. Diversity of Practice:

#### (a) What constitutes dispute resolution (DR) practice?

##### Summary

*There was general agreement that DR is referring to much more than mediation and includes any number of activities aimed to help people manage/resolve conflicts. Several responders clarified how they were interpreting “dispute resolution practice” before offering their answers. Almost all had fairly expansive interpretations of dispute resolution practice both in terms of whom they considered “practitioners” or saw as “clients.” A few were very careful to point out that they did not want to limit “practitioners” only to those who are “professionals.”*

##### Findings

An overwhelming majority of the focus group participants define “dispute resolution practice,” through examples and/or definitions, as the process of including a third party neutral to assist in resolving differences between two or more conflicting parties. These participants would agree that there is a wide range of practices and processes, such as mediation, facilitation, conciliation, restorative justice and arbitration that fall under the umbrella of “dispute resolution practice.”

Five participants specifically exclude the traditional judicial means of resolving disputes, i.e. lawyers and courts, in their definition of what constitutes “dispute resolution practice.”

Two participants focused their answer on the use of the word “practice” within the term “dispute resolution practice.” They argue that the need to define “dispute resolution” as a “practice” (“occupation”, “field”, or “profession”) has resulted in the exclusion of certain groups or processes, i.e. community mediators, since many “institutions define what they mean by ‘professional’ for their own institutional purposes and accredit [their definition] to those purposes.” For example one participant states “the term ‘practice’ has seemed, to some, to imply ‘professional practice’ mediators,” a distinction that the participant rejects on many grounds. “Many community mediators are required to have forty hours of training, as well as substantial skills and practice, before they are allowed to be on mediation panels. Many professional mediators who have a ‘practice’ in mediation have less preparation than their peers in community mediation.” Another participant states “in lieu of some larger unifying proposition that applies to everyone, what exists is a hodge-podge of callings that tend to lock

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<sup>3</sup> Some participants did not answer each of the questions.

into either substantive areas of application (commercial, family, environmental etc) or brands of practice (transformational, evaluative, facilitative, analytic, narrative etc).” The answers to this question reveal one of the ongoing tensions in the DR “field;” the tension between those who think of DR as a profession and those who believe the very use of the term “profession” excludes or diminishes the participation of many of the most effective DR practitioners.

**(b) What are the connections between diverse practices and the diversity of practitioners?**

**Summary**

*Most of the respondents mentioned and lamented the limited identity-based diversity in the dispute resolution world, especially the “professional” dispute resolution world. Everyone seemed to be a proponent of a diverse range of practices, styles, techniques and theoretical approaches. Most everyone seemed to believe that the more diverse the practices the more likely the identity-based diversity of the practitioners. Several people mentioned diversity of practice in relation to sectors, and a few pointed out that there were some sectors that seemed especially limited in the identity-based diversity of practitioners. Quite a few people expressed concern that certain sorts of credentialing – requiring certain training and or degrees – limited the identity-based diversity of the field. A few people did wonder out loud about the exact nature of the (causal) relation between identity-based diversity and diversity of practice. While many people assert their belief that diversity of practice and identity-based diversity are linked, a few questioned whether or not there was actual empirical evidence that this is the case and asked why it would be that diversity in practice was associated with great participation of minorities, women and other underrepresented groups.*

**Findings**

A large majority of the participants seemed to agree that even though there are diverse practices in dispute resolution, there is not enough diversity of practitioners in the field of dispute resolution in terms of culture, ethnicity, class, age or gender.

Five participants delineate “diversity of practitioners” by one’s race, gender, national origin, experience, and education. They suggest that one’s demographic attributes may influence how one practices dispute resolution or the type of dispute resolution that he or she practices. For example, one participant states, “that practices which go beyond traditional arbitration and mediation might attract younger or newer mediators i.e. community mediation rather than a family or civil mediator, which are generally reserved for more seasoned mediators.”

There was also general consensus among the participants that “diverse practices” relate to the diverse approaches and differing styles that a practitioner may use in order to achieve a particular outcome. Thus, in order to expand diversity of practice, practitioners might need to be willing to accept differing processes and styles for resolving disputes. Three of the participants further suggest that the more diverse the practice, the more likely the diversity of the practitioner and that one cannot exist without the other. Six participant’s comments pointed to the fact that underneath differing approaches and styles, there are certain core values, skills and techniques - e.g. a commitment to fairness, inclusion, respectful interaction, mutual listening, exchanging ideas –that require and produce an openness both to different perspectives and to different cultures.

Five participants suggest that the diversity of practitioners is sometimes limited by rules, standards and professional ethics. Another participant writes, “the more diverse practices that are recognized as dispute resolution, the more diverse the field of practitioners. Conversely, when rigid professional standards must be followed in order to qualify to practice any discipline, those standards set bars that necessarily limit the diversity of practitioners.” This conclusion was supported by another participant stating that “disconnections are present resulting in the lack of diverse practitioners’ involvement in business/commercial/high stakes/international ADR work typically requiring specialized knowledge and end users requesting evaluative mediation styles.” Similarly, according to one participant, “there cannot be a full appreciation for the various perspectives that the different areas of practice and styles of practice bring to the field unless there is a diversity of practitioners. The ADR field has become increasingly ‘ghettoized.’ Community mediation as an area of practice is one in which there are many persons of color. Commercial mediation, on the other hand, is predominately white males.”

## **2. Limits of tolerance**

### **(a) What are the acceptable differences among the various approaches to practice?**

#### **Summary**

*Several people observed that this was not a simple, straightforward question. There was very strong agreement that DR practitioners have a definite responsibility to be absolutely clear to “clients” about their approach, style and values as practitioners. All agreed that whatever the difference there ought not to be a violation of basic codes of ethics and standards of practice. A few core principles like self-determination and respectful communication surfaced in some of the responses. For the most part it appeared people seemed to believe that the codes and standards of the various professional groups provided reasonable guidance to practitioners.*

## Findings

There were two clusters of answers for to this question. Six participants stated that acceptable differences among the various approaches to practice depends largely on (1) educating the parties about the different approaches that are available to them, (2) the possible impact on the parties' resolution, and (3) practitioners offering an explanation for the approach and practices that they may use, and (4) whether parties have a choice in which mediation style they receive.

While on the other hand, six participants stated directly that acceptable differences are those that don't compromise the code of ethics and standards of practice.

Similarly, four participants stated that acceptable differences refers to different processes that one might take in order to arrive at a desired result, but mediator characteristics and attributes remain the same i.e. effective listening, empathy, impartiality, etc. For example, one participant has "...difficulty accepting 'evaluative mediation' in the ethical context than in terms of process choices that individuals have in order to resolve their disputes." This participant didn't have any problem "with evaluative processes that are framed as such (e.g., Early Neutral Evaluation)," so in that respect, this participant is "completely open to differences in the approach to the broad idea of dispute resolution."

Interestingly, none of the participants even raised a question about how a fundamental principle such as self-determination, might be threatened by certain strategic approaches (for example, the use of deception or manipulative approaches to communication) or even certain theoretical formulations of the aims of DR.

### **(b) What ought to be the baseline ethical guidelines, standards of practice, and universal quality of practice?**

## Summary

*The answers to this question were more or less a continuation of the answers to part a. above. There seems to be agreement that there is some sort of baseline ethic built around practitioner disclosure, honesty, respect and integrity and oriented toward ensuring maximum client self-determination and that this baseline ethical commitment trumps variability by sector or specialty. However, the group was split on the degree to which a more specific common standard of practice could be established across differences in practice.*

## Findings

A majority of the participants were quite comfortable with the ACR/ABA/AAA standards as a foundation for practitioners (including, self determination, confidentiality, impartiality, professional competency, conflict of interest, informed choice and respect).

Conversely, three participants stated that establishing a universal quality of practice criterion would be difficult due to the variety of processes out there. However, if one were established, it would have to be on a very broad level. For example, one participant wrote “the techniques that constitute high quality practice in the commercial setting might be ineffective if used in the setting of custody disputes (and therefore not quality practice). Transformative techniques used effectively to resolve a neighbor-to-neighbor dispute might be considered to be of ‘poor quality’ if used in the mediation of a large-scale public policy environmental dispute. In other words, the best quality of standards will come from specific areas of practice and will be much harder to define in an across-the-board manner.”

### **(c) In what ways do different approaches to mediation suggest different standards of practice or ethical guidelines?**

## Summary

*Most answers were built around an (often implicit) distinction between ethical guidelines and standards of practice. Standards of practice are more closely tied to techniques and theoretical conceptions of DR practice and the goals and aims associated with those practice differences. In some of the answers it appears that the differences expressed reflected differences in the way the terms standards of practice and ethical guidelines were being interpreted and did not reflect substantive disagreement among the respondents.*

## Findings

Due to the different approaches to mediation, most participants felt there were differing practice methods, but there were competing views on whether these differences should rise to the level of “ethical differences.”

On the one hand, eight participants acknowledged that regardless of the different approaches to mediation, the ethical guidelines are the same, but the way in which one uses techniques or styles in order to achieve a desired outcome may be different. For example, one participant states “a mediator using an evaluative style of mediation should continue to observe the ethical guidelines pertaining to self-determination, conflict of interest, and impartiality. The standard of practice, however, might dictate a more detailed disclosure of when and how the mediator will embark on [a specific] style of mediation, as well as, an

articulation of the risks to the continuation of the process.” Similarly, another participant states, “I can see how the transformative models might insist on certain approaches that don’t jive with med-arb models or how commercial mediators may be directive in ways that are inappropriate for victim-offender restorative justice mediators. But I think those differences shouldn’t be considered ‘ethical’ differences ... [rather, they should be considered] differences in techniques. Ethics implies one approach is good and one approach is bad, and I would say these different types of practice embrace different strategies because they are dealing with different types of problems.”

On the other hand, four participants assert that the standards of practice and ethical guidelines should remain the same, independent of the process being used. One participant states “facilitative and evaluative, as presently defined, do not necessarily adhere to the same standard of impartiality when an opinion is expressed.” Similarly, another participant states “it’s my understanding that transformative mediators do not give advice, while the analysis provided by evaluative mediators could be taken by parties as advice. Some of these practices may be so essential to a particular approach that they would rise to the level of being a standard or ethical guideline.”

### **3. Scientific or empirical underpinnings for the various practices**

#### **(a) What is the empirical foundation for the variety approaches to ADR?**

##### **Summary**

*Most of the respondents seemed to think that there is fairly limited empirical research relevant to the variety of approaches. There was some acknowledgment, but little excitement about some outcome research and a general sense from those who commented that there is very little in the way of real empirical tests of various theoretical ADR approaches.*

##### **Findings**

The answers to this question were varied and probably indicate significant differences among the participants in their familiarity with and confidence in empirical studies of ADR. A few people cited a considerable amount of empirical research in several different sectors of ADR. These studies, however, were not tests of various theoretical approaches but rather of outcomes and participant perceptions and satisfaction in several different domains. One participant commented that most practitioners base their judgments on their own personal experiences rather than empirical research, even when they might be aware of that research.

There were divided opinions about the value of studies that were reported as empirical tests of particular theoretical approaches. One person asserted that some studies validated one

model of mediation while others questioned the scientific rigor and validity of those same studies. A few people suggested that comparative studies need to be designed to examine what people actually do in mediation rather than how their espoused theories.

A few participants indicated that the question was unclear while a few others stated that there was a lack of or very little empirical information available. A couple of participants did not have sufficient knowledge about empirical information in order to respond.

**(b)What additional research and information are needed to better understand what works and what does not work?**

**Summary**

*A few pointed out that some of what passes for research comes from barely disguised marketing surveys and/or is based on self observation. Several people agreed that we need more probing, objective research about the actual mechanisms, neural and behavioral, of DR.*

**Findings**

Among the majority of the participants, more research which focuses on the parties' assessment, rather than the mediators' perspective, and on the various mediation processes (i.e. party satisfaction, what was helpful, description of mediation process, what didn't work, what constitutes a successful mediation) is what is needed to better understand what works and what does not work.

Furthermore, a couple of participants state that "more research on the durability of resolutions needs to be examined in order to better understand what works and what does not work".

Furthermore, a couple other participants would like to see more research within diverse communities in order to understand "what methods of dispute resolution are valued and how it can be offered to the diverse groups."

Two other participants would like to see empirical research which focuses on the science behind how the mind works and all aspects of human communication.

On the other hand, one participant stated "research is the pastime of scholars, academics and theorists. It is of little use to practitioners who are involved first-hand in actual practice. The marketplace will determine what works and what does not."

#### **4. Conversations regarding differences:**

**(a) Is there a need to engage in open critical discourse about the variety of practices and approaches in the dispute resolution field? If so, why? If not, why not?**

##### **Summary**

*While almost everyone agreed there is the need for open critical discourse, this group of respondents seemed to be a collection of people who tend not to indulge in back-biting and ad hominem attacks on colleagues, even those with whom they disagree. While all acknowledged that critical discourse is needed, there were hints of questions about whether or not we have the ability engage in such discourse and about whom would be served by this sort of discussion.*

##### **Findings**

Almost all participants stated that there was a need to engage in open critical discourse.

A few participants stated that there was a need to engage in open discourse in order to get rid of certain assumptions among practitioners. One participant writes “there is an unfortunate tendency within the dispute resolution field for practitioners of one form or style of mediation to criticize practitioners of other styles.” Another participant writes “Of course-for many reasons. We have a lot to learn from each other. We stereotype each other (‘if you do not agree with me, then you must believe...’), and we do not pursue the opportunities to work together to promote an agenda for the field and for how conflict is held.”

Other participants stated that a conversation was necessary from an educational perspective and that it was important for individuals to come together and learn about the different types of practices. One participant writes “there are still many issues that are not well understood in terms of how people can come together to address differences and conflict in collaborative, non-violent ways.”

Two participants asserted that an open critical discourse was necessary in order to clarify/re-define areas of practices that may or may not fall under mediation. One participant writes “personally, I think that as a field we are harmed by the use of ‘mediation’ as the umbrella term and that it would be helpful to be very clear about what are the various processes and under what circumstances each may be appropriate.”

Another participant stated “[t]here is absolutely no need for open critical discourse about the different practices and approaches in the DR field. What works in one situation or for some mediators may or may not work in another situation or for other mediators. Given the demands of competing for the time and attention of practitioners in their work, continuing

education and personal lives, it is a waste of time to spend it on such activities as debating differences.

**(b) Do we need guidelines for such conversations? If so, why? If not, why not?**

**Summary**

*The critical discourse questions did not elicit extensive replies. Everyone seemed to agree that there ought to be guidelines for such a conversation, but there was not a sense of any great enthusiasm about rushing off to figure out how it should be done and by whom. The need for guidelines was not surprising since this is a group of people that seems to be accustomed to structuring discussions to make them productive.*

**Findings**

An overwhelming majority of the participants stated that guidelines were necessary.

Six participants stated guidelines were needed in order to establish structure, which ultimately will ensure that expectations are set and that conversations move in a productive manner instead of deteriorating into a tirade.

While on the other hand, three participants are proponents of less rather than more guidelines. In their view, a focused process/format and a skilled facilitator would be sufficient.

**(c) Where is the boundary between criticism and antagonism in professional discourse?**

**Summary**

*Most of respondents believe in civility, respect, and avoiding personal attacks when differences are conceptual or value-based.*

**Findings**

The majority of participants believe that the boundary between criticism and professional discourse is crossed when individuals are no longer respectful to one another. They believe that guidelines for professional discourse must include professional courtesy and civility.

A couple of participants set the boundary between criticism and antagonism at a point where individuals start attacking the motives or the competency of the person being criticized, rather than engaging in a productive conversation and no longer deepening the dialogue. For example, one participant writes “it is certainly not a bright neon line-but the basic problem is

when we stop focusing on our professional differences and instead focus on personality, when we say things that are meant to shut people up rather than deepening the dialogue, and when we speak to dominate rather than share.”

## **5. Advanced practitioner certification**

### **(a) How has certification helped or hindered diversity of practice?**

#### **Summary**

*Many had limited experience and were not willing to offer opinions on this topic. A few saw some possible benefits in terms of enhancing quality of practice but there was no sense of enthusiasm for certification. Few sensed that certification was a path to improving the “profession.” Based on the responses, in some ways, the certification issue seems to have contributed most by leading to some worthwhile discussions about quality and abilities, etc. rather than by establishing a set of meaningful credentials.*

#### **Findings**

Most of the participants were unable to answer the question completely due to their limited experience with advanced certification.

Some participants viewed certification as helping the diversity of practice by “promoting and enhancing practitioner competency and effectiveness.” According to another participant, “it has helped in maintaining the quality of service and setting the standard for new practitioners to aspire to and for users to expect from the services.” It also produces a means for creating uniform, acceptable practices in a specialized area.

Conversely, one participant stated that “certification is a veiled attempt to control competition and exclude those who don’t match a pre-ordained idea. By its forced compliance with prescribed practices, certification will hinder creativity and diversity, resulting in a bland, homogenous mediation landscape.”

Others viewed the certification process as a hindrance to the diversity of practice since it generally requires that training, experience and competency be in a very specialized area, therefore marginalizing and not creating diversity within the practice. Moreover, their opinion is that some practitioners may view certification in certain practice areas as favoring some over others or as “more professional.”

A couple of participants indicated that practitioners become certified for marketing purposes. According to one, “it just lets you put some tested, credentialed certification initials on your business card.” The other participant states “there are historical reasons for the

availability of advanced practitioner status for arbitrators and family mediators. Those mediators are the ones most likely to use traditional forms of advertising to reach potential clients-and certification gives potential clients a basis for making choices among available mediators.”

On the other hand, a few participants stated that the certification has not had much impact on the diversity of practice.

### **(b) How has certification helped or hindered diversity of practitioners?**

#### **Summary**

*A number of people raised concerns about the exclusionary impact of certification and its role in limiting practitioner identity-based diversity. Some expressed concern that law degrees might be taken as a “requirement” for mediators in some settings. But the issues associated with certification – competency and effectiveness -- are important, even to those who do not believe certification measures these.*

#### **Findings**

Most of the practitioners concluded that the certification process was a hindrance to the diversity of practitioners and that the certification process would only continue to divide a field that is already divided on a number of levels.

A few participants stated that minority practitioners are immediately placed at a competitive disadvantage based on the structuring of the credentialing process. For example, the length of the certification process, cost, and mentorship opportunities with seasoned mediators, observations, admission to the bar and/or judicial experience, advanced degrees, and knowledge in a specific field immediately place a barrier between minority practitioners and advanced certification.

A few others state that the lack of diversity among senior practitioners who are responsible for credentialing is hindering the diversity of practitioners as well. Since there has been minimum success in increasing diversity among practitioners, it has resulted in minimal diversity among the most seasoned practitioners in the field. For example, one participant stated, “[u]nder representation at the advanced levels of the professions can lead to an attitude of ‘why bother, they will never let me get to the top.’”

Four of the participants indicated that they were unable to answer the question based on either having no experience with certification or lack of evidence.

## 6. Next steps for ACR:

**What actions and/or activities should be undertaken by a professional organization which is committed to diversity of practitioners and practice, and whose members cut across all areas of practice?**

### Summary

*ACR may not be seen as the center of discourse, thinking, research and innovation and therefore, it is not seen as essential to the development of the DR community/profession. One person said ACR's diversity is "both its strength and its weakness." The amazing range of difference in practices, theories and identities have somehow amalgamated into a neutral stew in which the various flavors are lost rather than enhancing one another. It would be interesting to put together all of the suggestions offered in the answers to this question and see if they could be translated into the beginning of a plan.*

### Findings

First, the majority of participants would like to see the creation of more dialogue among the different group of practitioners of varying styles on differing issues, viewpoints, processes, practices, and approaches. Within the discussion on the creation of more dialogue, participants expressed the importance of having a conversation without incivility. For example, one participant stated "ACR should initiate a 'civility initiative' designed to cultivate a willingness and ability for those in the field to engage across different value-based viewpoints with openness and without incivility-not aimed at eliminating disagreement but at increasing the ability to disagree with appreciation for deep differences." These conversations could take place at ACR conferences, on ACR's website or in ACR publications.

The second most important issue for the participants was the promotion of diversity through recruitment, apprenticeships, scholarships, mentorship, and shadowing opportunities. For example, one participant writes "I also think ACR should encourage more internal dialogue about how to broaden and diversify [the practice of] conflict intervention. I think sometimes we have been almost too focused on how to increase our membership and our membership's diversity and as a result we have not delved deeply enough into the values, practice presumptions and structural limitations that have posed the fundamental limits to diversity." Similarly, another participant writes, "like other professions that are sincere about promoting diversity, there are visible initiatives and financial commitments that go beyond lip service. The goals of ACR should be recruitment, scholarships, apprenticeships and mentoring with an objective set for expanding the diversity of the profession."

On the other hand, a few participants would like to see the development of diverse ethical guidelines, training protocols, and performance measures for the different models of practice as a central issue.

A few others suggest the need for an increase in ADR education and training--- whether it occurs at law schools, graduate schools or through the involvement of individuals who work in the field of conflict management. For example, one participant writes “with the growth in the number of schools that are offering dispute resolution programs, ACR should work with the school to both codify practices and training programs and should promote innovation at the international level.”

Within all of these suggestions, one participant maintains that ACR should take the lead “as the community of ADR practitioners.” Another participant suggests a review of the Michigan Diversity Task Force Report for action steps.

## **Conclusion**

Overall, while the answers to the individual questions were quite consistently thoughtful, and there was considerable convergence among the participants, there is no obvious grand plan for enhancing the diversity of practices or practitioners in the field. Indeed, there is reason to question whether or not we are well served by considering ourselves as a field. Reviewing the responses we received one can get the impression that we are perhaps too conflict avoidant to ferret out the issues that need to be addressed. Perhaps, the next step is to use the answers to this survey to formulate a more probing set of questions and to disseminate those on a much wider scale than this initial pilot effort. When working with a dispute we all know that feeling when we finally are asking the right questions and the real issues are coming to the surface. We may not be there yet, but we are moving in the right direction. (HG & MJ)

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