

AN ANALYSIS  
OF  
THE MARYLAND COURT  
OF SPECIAL APPEALS ADR  
DIVISION JANUARY 2012  
APPELLATE MEDIATION  
PROGRAM NATIONAL  
QUESTIONNAIRE

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SUBMITTED: SEPTEMBER 11, 2012

BY



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## EXECUTIVE SUMMARY

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In June 2012, C-DRUM was asked by the Maryland Court of Special Appeals to conduct an independent review of survey data collected by the Court.<sup>1</sup> C-DRUM's review of the Court's materials indicate that in two short years, Maryland's Court of Special Appeals has developed a robust appellate mediation program that maintains a settlement rate above the national average and based upon settlement rates is among the top ten programs in the nation and ranks third in comparison to similar programs.

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## INTRODUCTION

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In January 2010, Chief Judge Peter B. Krauser of the Maryland Court of Special Appeals created a pilot mediation conference program and ADR Division in the Court of Special Appeals. The COSA ADR Division offers mediation conferences under MD Rule 8-206(b), the rule for prehearing conferences.<sup>2</sup> In a short period of time, the mediation program evolved from a pilot program into an integrated part of the Court's case management system. The newly developed ADR Division operates with four full time staff including, a Director, Deputy Director, Staff Attorney/Mediator, and an Administrative Assistant. The office is responsible for screening cases for ADR, scheduling the ADR session, conducting the ADR process, and maintaining the quality and integrity of the program.

Although appellate mediation is new to Maryland, appellate ADR programs do exist in Maryland and elsewhere in the United States. According to survey respondents, the appellate mediation programs in Missouri and New York have provided ADR for over 30 years. Maryland's appellate prehearing conference rules have been in place for over twenty years, allowing sitting judges on the Court of Special Appeals to conduct settlement conferences so long as the judge recuses him or herself from the appellate panel in the particular matter. In order to gather information from other state courts, the COSA ADR Division developed a questionnaire for all state appellate mediation programs. This information was surveyed internally and later presented at the April 2012 American Bar Association Section on Dispute Resolution Spring Conference.

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<sup>1</sup> C-DRUM reviewed the Court's national survey and responses provided by other courts; it conducted no additional research or clarification of responses. When in doubt regarding a response, C-DRUM and the Court of Special Appeals interpreted the survey information in a light most favorable to the respondent.

<sup>2</sup> 8-206(b) Prehearing conference. The purpose of a prehearing conference is to discuss settlement, dismissal of the appeal, limitation of the issues, contents of the record and record extract, continuance of the appeal, the time or times for filing the record and brief, and other pertinent matters.

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## BACKGROUND

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In the fall of 2011, the COSA identified a need to know more information about the operation of other state appellate mediation or ADR programs. Specifically, the COSA sought to gather information about the forms of ADR utilized by each state, the types of civil cases that are being sent to ADR, whether ADR is mandated or optional, and the challenges and successes of the programs. The methodology identified to gather this information involved a written questionnaire developed by the staff of the COSA ADR Division.<sup>3</sup>

The ADR Division, during the fall of 2011, identified all state appellate mediation programs in the United States, including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands and determined that 56 appellate ADR programs existed representing 31 states and the U.S. Virgin Islands. In all cases, a program/staff person from each appellate court was personally contacted by telephone to verify the existence of the appellate mediation program and identify a point of contact.

Multiple communications occurred via email and letter formats to the pre-identified programs in order to encourage a high survey response rate.<sup>4</sup> On December 28, 2011, the COSA ADR Program Director, Mala Malhotra-Ortiz, sent a letter to the point of contact for each state appellate program and on January 5, 2012, she sent a follow up email. Shortly thereafter, on January 10, 2012, Chief Judge Krauser sent a letter to his judicial counterparts at the various appellate courts followed by an email on January 27, 2012. A deadline for completion of the survey was set for January 31, 2012.

Out of the 56 programs (representing 31 states and one territory) that were identified, 46 programs from courts in 28 states responded to the national survey by January 31, 2012. All responses to the survey were self-reported by the various programs and no verbal clarification or guidance was provided to any of the survey respondents. When in doubt regarding a response, the COSA ADR Division interpreted the survey information in a light most favorable to the respondent.

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## DATA ANALYSIS

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### I. Data Spreadsheet

In conducting its analysis, C-DRUM examined the program's jurisdiction, number of years in operation to 2011, method of authority, mandatory/ordered mediation, # of civil appeals, # of case mediated, # of case settled (full), # of cases settled (partial), mediation for pro se individuals, and use of co-mediation.<sup>5</sup> Of the 46 programs, a total of six respondents

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<sup>3</sup> See Attachment A: National Questionnaire (blank)

<sup>4</sup> A copy of the various correspondences is located in Attachment B.

<sup>5</sup> See Attachment C: Questionnaire Analysis

were excluded from the overall calculation because the programs were no longer running, had not been in existence for over a year, or provided unusable numbers<sup>6</sup>, resulting in a total of 40 programs with usable information. In determining the number of years in operation, whole years were used and calculated up to 2011. If a respondent indicated the existence of a pilot program, these years were excluded from the number of years determination.<sup>7</sup> When in doubt regarding a response, C-DRUM interpreted the survey information in a light most favorable to the respondent.

## II. National Average Resolution Rate

In calculating the national average resolution rate, the responses to question #8, “how many cases settled in mediation in the most recent year (full)” were divided by the number in question #7, “how many cases were mediated in the most recent year”, multiplied by 100% and rounded up to two significant figures. The analysis was conducted using programs that had conducted at least 20 mediations or more and those that conducted 50 mediations or more.

### (A) 20+ mediations

The 35 eligible respondents with 20 or more mediations produced a national average resolution rate in state appellate court-annexed ADR of 54.33%. The Maryland resolution rate of 57.22% places it above the national average and ranked eighth among all the eligible respondents that conducted over 20 mediations in a year.

Table 1. Top Ten Programs with 20+ Mediations by Percentage of Resolution

RANKING	STATE WITH 20+ MEDIATIONS	PERCENTAGE OF RESOLUTION
1	California District 3	94.74%
2	Oregon	79.86%
3	Ohio 11 <sup>th</sup> Appellate District	71.00%
4	Arizona Division 2	66.67%
5	Oklahoma	62.86%
6	Pennsylvania Western District	58.46%
7	Arizona Division 1	58.33%
8	Maryland	57.22%
9	Nevada	56.93%
10	California District 2	54.00%

<sup>6</sup> The six omitted states include: California 5<sup>th</sup> appellate division, California 6<sup>th</sup> appellate division, Missouri Southern District, North Dakota, Ohio 1<sup>st</sup> appellate district, and South Carolina.

<sup>7</sup> See Attachment C: Questionnaire Analysis. Additional specific adjustments or determinations can be found in the comment section of the survey analysis spreadsheet.

(B) 50+ Mediations

The 28 eligible respondents with 50 or more mediations produced a national average resolution rate of 45.46% for state appellate court-annexed ADR. Maryland, with a resolution rate of 57.22% is over 10 percentage points higher than the national average and is ranked fifth among all eligible respondents that conducted over 50 mediations in a year.

Table 2. Top Ten Programs with 50+ Mediations by Percentage of Resolution<sup>8</sup>

RANKING	STATE WITH 50+ MEDIATIONS	PERCENTAGE OF RESOLUTION
1	California District 3	94.74%
2	Oregon	79.86%
3	Ohio 11 <sup>th</sup> Appellate District	71.00%
4	Pennsylvania Western District	58.46%
5	Maryland	57.22%
6	Nevada	56.93%
7	California District 2	56.06%
8	Ohio 12 <sup>th</sup> Appellate District	54.00%
9	New Mexico	51.11%
10	Utah	49.48%

III. Programs Comparable to Maryland

In order to provide a more accurate comparison of programs, C-DRUM examined Maryland's program in contrast to other similarly structured programs. Among its various characteristics, Maryland's appellate mediation program conducted over 100 mediations, mandates/orders mediation, and has operated for five or fewer years.

(A) Of the 40 eligible respondents, 15 states conducted over 100 mediations and indicated that they had a mandatory or mandatory and voluntary/upon request appellate mediation program. Among these programs, Maryland ranks third.

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<sup>8</sup> See Attachment F: Questionnaire Analysis- 50+ Mediations

**Table 3. Top Ten Programs with 100+ Mediations and Mandatory Mediation by Percentage of Resolution<sup>9</sup>**

RANKING	STATE WITH 100+ MEDIATIONS AND MANDATORY MEDIATION	PERCENTAGE OF RESOLUTION
1	Oregon	79.86%
2	Ohio 11 <sup>th</sup> Appellate District	71.00%
3	Maryland	57.22%
4	Nevada	56.93%
5	Alabama	49.46%
6	New York 2 <sup>nd</sup> Judicial Department	43.11%
7	Pennsylvania	43.03%
8	Ohio 10 <sup>th</sup> Appellate District	40.55%
9	Kentucky	39.00%
10	Minnesota	36.67%

(B) The infancy of the Maryland program also creates a unique comparison characteristic. Of the 40 eligible state appellate programs, nine initiated appellate mediation programs within the last five years, and conducted ten or more mediations. Among the nine programs, Maryland ranks third. Also, notable is that among these nine programs, Maryland reported the highest number of mediations in a year, 187.

**Table 4. Top Programs with 10+ Mediations and Operating 5 Years or Less by Percentage of Resolution<sup>10</sup>**

RANKING	STATE WITH 10≥ MEDIATIONS AND ≤ 5 YEARS	PERCENTAGE OF RESOLUTION
1	California 3 <sup>rd</sup> District	97.74%
2	Pennsylvania Western District	58.46%
3	Maryland	57.22%
4	New Mexico	51.11%
5	Utah	49.48%
6	Pennsylvania Eastern District	42.11%
7	Tennessee	40.00%
8	Minnesota	36.67%
9	New Hampshire	28.57%

<sup>9</sup> See Attachment D: Questionnaire Analysis-100+ Mediations and Mandatory Mediation

<sup>10</sup> See Attachment E: Questionnaire Analysis-5 Years of Less and Over 10 Mediations

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## CONCLUSION

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The data collected by the COSA ADR Division provides a good source of informal comparative information. The purpose of the survey was to gather information from similar programs around the country and was never intended to be a formal evaluation or assessment. The questionnaire information does provide a basic description of the framework and characteristics of the various programs.

According to the initial research conducted by the COSA ADR Division in preparation for the ABA DR presentation, very little recent evaluation had occurred involving state appellate mediation. Among the questionnaire respondents, approximately 13 new state appellate mediation programs, including Maryland's, have emerged within the past five years, and at least two existing programs no longer operate.

C-DRUM and the Court recognize that percentage of resolution provides a limited basis upon which to evaluate any mediation program. Each state's judicial system, demographics, and institutional and public support of ADR will differ and influence the structure and statistics of a state appellate mediation program. More research is, therefore, necessary to get a more accurate picture of state appellate mediation and Maryland in relation to the national scene.

It was wise and prudent of Maryland's Court of Special Appeals to seek information and input from other programs as it develops a quality state appellate program. Given the lack of recent scientific research, the Court should explore ways to capitalize upon its existing program and strengths.

(B) 50+ Mediations

The 27 eligible respondents with 50 or more mediations produced a national average resolution rate of 46.31% for state appellate court-annexed ADR. Maryland, with a resolution rate of 57.22% is over 10 percentage points higher than the national average and is ranked fifth among all eligible respondents that conducted over 50 mediations in a year.

Table 2. Top Ten Programs with 50+ Mediations by Percentage of Resolution<sup>8</sup>

RANKING	STATE WITH 50+ MEDIATIONS	PERCENTAGE OF RESOLUTION
1	California District 3	94.74%
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(A) Of the 40 eligible respondents, 15 states conducted over 100 mediations and indicated that they had a mandatory or mandatory and voluntary/upon request appellate mediation program. Among these programs, Maryland ranks third.

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<sup>8</sup> See Attachment F: Questionnaire Analysis- 50+ Mediations



Attachment A:  
National Questionnaire (blank)

## STATE APPELLATE MEDIATION PROGRAM SURVEY

1. What year was your appellate mediation program established?
2. What formal method, if any, was used to establish the program (e.g., rule, administrative order, other)?
3. Are mediations ordered by the court or is mediation an optional service provided upon request?
4. When did the program begin conducting mediations?
5. How many civil appeals are administered by your court annually?
6. How are appellate cases selected for mediation? Please include a brief description of the criteria or indices used in such selection process.
7. How many cases were mediated in the most recent year?
8. How many cases settled in mediation in the most recent year?  
Full settlements \_\_\_\_\_ Partial settlements \_\_\_\_\_
9. How does your program define a "partial settlement?"
10. Does your program offer mediation in cases with self-represented parties? If so, approximately what percentage of the cases mediated in the most recent year involved at least one self-represented party? Does your program employ different policies or screening in cases involving self-represented parties?
11. Who serves as mediators in your program? How many of such mediators are currently active in your program?
12. What are the required qualifications for appellate mediators in your program?
13. How are mediators selected or designated for a particular case?
14. Are your cases mediated by one mediator or are they co-mediated?
15. Please describe generally the mediation approaches used by your mediators, e.g., facilitative, directive/analytical, mediation combined with neutral case evaluation, and other approaches or services.
16. Please describe the roles and relationships of judge and non-judge leadership in the direction and management of your appellate mediation program.
17. What is the annual cost of the program?

18. How many staff persons assist in the management and administration of your appellate mediation program? How many of such persons, if any, also serve as mediators in your program?
19. If parties are ordered to mediation in your program, are they permitted to "opt-out" of mediation? Please describe the grounds permitted to opt-out.
20. Is your program authorized to impose sanctions for failure to participate in mediation or for other reasons rising from the mediation process? If so, have such sanctions been imposed? Please describe.
21. What are the major case types you currently mediate, with approximate percentages (most recent year)? (e.g. contract, domestic, tort)
- 1) \_\_\_\_\_ %
- 2) \_\_\_\_\_ %
- 3) \_\_\_\_\_ %
- 4) \_\_\_\_\_ %
- 5) \_\_\_\_\_ %
- 6) \_\_\_\_\_ %
- 7) \_\_\_\_\_ %
21. If you are able to provide settlement statistics per case type, please do so.
22. What types of civil cases, if any, are ineligible for mediation in your program?
23. Has your appellate mediation program been significantly modified in program or service design or operational policies since its creation? If so, please describe.
24. What do you rate as the most significant successes of your appellate mediation program to date?
25. What are the major challenges or issues your program continues to face that you would like to discuss with other appellate mediation programs around the country?
26. How has the program affected the workload of your court? Has your court been able to dispose of more cases annually? What effect, if any, has your program had on the need for additional judicial resources?

27. Please attach copies of relevant rules, orders, guidelines, operational forms, brochures, articles and other materials that may help describe your appellate mediation program.

28. Has your program been evaluated? If so, could you share the results of the evaluation?

Mediation Program Name:

Court:

Court Case Jurisdiction:

Court Geographic Jurisdiction:

Name of Mediation Program Director/Administrator:

Address:

Telephone:

Email:

Website:

I hereby give permission to the Office of Mediation, Maryland Court of Special Appeals to use my survey response in a report created and distributed to appellate courts and other appellate mediation programs.

Date: \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Please return your completed survey and other materials by January 31, 2012 to Mala Malhotra-Ortiz, Office of Mediation, Maryland Court of Special Appeals, Courts of Appeal Building, 361 Rowe Blvd, Annapolis, MD 21401. Email, [Mala.Ortiz@mdcourts.gov](mailto:Mala.Ortiz@mdcourts.gov), phone 410-260-3715, fax 410-260-1547.

Attachment B:  
Questionnaire Correspondence

DIRECTOR LETTER

December 28, 2011

[Director/Administrator]

[Appellate Mediation Program]

[Court]

[Address]

RE: Survey of State Appellate Mediation Programs

Dear [Director/Administrator]:

Our office is conducting a survey of state appellate mediation programs throughout the United States. Out of 50 states and 14 territories in the United States, we have identified 33 states and one territory that have court-annexed appellate mediation/case settlement programs.

The purpose of this project is to discover best practices that can be shared nationally. Once all of the information is compiled, we will distribute it to you and our other colleagues. We believe that this information will assist in the management and provision of appellate mediation services around the country and will support the development of appellate mediation in states that do not currently have such programs.

We reviewed similar information compiled by the National Center for State Courts sometime in the past two years and we believe that a more comprehensive and current collection of information would be useful to our programs.

Enclosed, you will find a survey to collect information on your program. We truly appreciate your time and efforts in completing this survey by **January 31, 2012**. We hope to present the results of this survey to the 14<sup>th</sup> Annual ABA Section of Dispute Resolution Spring Conference to be held in Washington, D.C. on April 18 – 21, 2012. Should you be interested in joining us at the conference, please contact me at your earliest convenience.

We look forward to some day meeting you and other colleagues from around the country to discuss our work and progress. Thank you in advance for your support and participation.

Should you have any questions or wish to discuss further, do not hesitate to call me at: 410-260-3715.

Most sincerely,

Mala Malhotra-Ortiz, Esq.

Acting Director of Mediation  
MD Court of Special Appeals

Enclosures:

Survey

Brochure

DIRECTOR EMAIL

**From:** [mala.ortiz@mdcourts.gov](mailto:mala.ortiz@mdcourts.gov) [mailto:[mala.ortiz@mdcourts.gov](mailto:mala.ortiz@mdcourts.gov)]  
**Sent:** Thursday, January 05, 2012 4:47 AM  
**To:** [Mala's Survey - Directors@courts.state.md.us](mailto:Directors@courts.state.md.us)  
**Subject:** Response Needed: Appellate Mediation Nationwide Survey  
**Importance:** High

Dear Colleagues:

Our office is conducting a survey of state appellate mediation programs throughout the United States. Out of 50 states and 14 territories in the United States, we have identified 33 states and one territory that have court-annexed appellate mediation/case settlement programs.

The purpose of this project is to discover best practices that can be shared nationally. Once all of the information is compiled, we will distribute it to you and our other colleagues. We believe that this information will assist in the management and provision of appellate mediation services around the country and will support the development of appellate mediation in states that do not currently have such programs.

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We look forward to some day meeting you and other colleagues from around the country to discuss our work and progress. Thank you in advance for your support and participation.

Should you have any questions or wish to discuss further, do not hesitate to call me at: 410-260-3715.

Most sincerely,

Mala

Mala Malhotra-Ortiz, Esq.

Acting Director of Mediation

MD Court of Special Appeals



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Mala Malhotra-Ortiz, Esq.

Acting Director of Mediation

Maryland Court of Special Appeals

Courts of Appeal Building, 3rd Fl.

361 Rowe Boulevard

Annapolis, MD 21401

Phone: 410-260-3715

Fax: 410-260-1547

Email: [mala.ortiz@mdcourts.gov](mailto:mala.ortiz@mdcourts.gov)

CHIEF JUDGE LETTER

January 10, 2012

[Chief Judge/Administrative Judge]

[Court]

[Address]

RE: Survey of State Appellate Mediation Programs

Dear [Chief Judge/Administrative Judge\_\_\_\_\_]:

Our office is conducting a survey of state appellate mediation programs throughout the United States. Out of 50 states and 14 territories in the United States, we have identified 33 states and one territory that have court-annexed appellate mediation/case settlement programs.

On December 28, 2011, we mailed to your court, attention to the coordinator or director of your alternative dispute resolution program(s), the enclosed survey to collect information on your program. We truly appreciate your support in having your staff complete this survey by **January 31, 2012**. We hope to present the results of this survey to the 14<sup>th</sup> Annual ABA Section of Dispute Resolution Spring Conference to be held in Washington, D.C. on April 18 – 21, 2012. Should you be interested in joining us at the conference, please contact me at your earliest convenience.

The purpose of this project is to discover best practices that can be shared nationally. Once all of the information is compiled, we will distribute it to you and our other colleagues. We believe that this information will assist in the management and provision of appellate mediation services around the country and will support the development of appellate mediation in states that do not currently have such programs.

We reviewed similar information compiled by the National Center for State Courts sometime in the past two years and we believe that a more comprehensive and current collection of information would be useful to our programs.

We look forward to some day meeting you and other colleagues from around the country to discuss our work and progress. Thank you in advance for your support and participation.

Should you have any questions or wish to discuss further, do not hesitate to call me at: 410-260-1469.

Respectfully yours,

Peter B. Krauser

Chief Judge

MD Court of Special Appeals

Enclosures:

Survey

Brochure

CHIEF JUDGE EMAIL

**From:** Peter.Krauser@courts.state.md.us  
**Sent:** Friday, January 27, 2012 10:44 AM  
**To:** Mala's\_Survey\_-\_Chief\_Judges@courts.state.md.us  
**Subject:** Survey - Appellate Mediation Programs

Judges,

This is just a follow up to the letter that I sent to you on January 10, 2012. If you have not had the opportunity to respond to the survey, I would greatly appreciate your feedback. I am attaching a copy of the initial letter, together with a copy of the survey. Your comments would be of benefit to the State of Maryland as we refine our mediation program procedures.

Chief Judge Peter B. Krauser  
Court of Special Appeals of Maryland  
361 Rowe Boulevard  
Annapolis, MD 21401

Attachment C:  
Questionnaire Analysis

Survey Analysis

All Programs

State/Program	#	jurisdiction	# of years (year 1 to 2011)	Q2: method of est.	Q3: ordered/mandatory	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q8(b): # of cases settled (partial)	Q10: provide mediation?	Q14: co-mediation?	resolution rate%
Alabama	N	statewide	7	rule	Y and upon request	1780	184	91	3	N	N	49.46%
Alaska	1	statewide	10	rule	N	400-450	10	8	0	Y	N	80.00%
Arizona	2	division 2	13	rule	Y after agree to voluntarily mediate	184	21	14	1	Y	Y	66.67%
Arizona	3	division 1	15	rule	Y (after voluntarily agree to mediate)	800-900	24	14	not tracked	N	N	58.33%
Arkansas	4	statewide	3	order	N- optional, upon request	417	2	2	not provided	N	N	100.00%
California	N	6th Appellate District	2	rule		100-130	3	1	not provided	N	N	33.33%
California	N	5th Appellate District	0	rule	N	39	9	6		N		

Survey Analysis

All Programs

State/Program	Conducted over 20 mediations	ranking	100+ mediations and ordered/mandatory	5 yrs. or less and 10+ mediation	Conducted over 50 mediations
Alabama	Y		Y	N	Y
Alaska	N	0	N	N	N
Arizona	Y	4	N	N	N
Arizona	Y	7	N	N	N
Arkansas	N	0	N	N	N
California	N	0	N	N	N
California	0	0	0	0	0

Survey Analysis

All Programs

State/Program	#	jurisdiction	# of years (year 1 to 2011)	Q2: method of est.	Q3: ordered/mandatory	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q8(b): # of cases settled (partial)	Q10: proposed mediations?	Q14: co-mediation?	resolution rate%
California	5	district 3	5	rule	Y	518	95	90	0	Y	N- only for training of less experienced mediator	94.74%
California	6	district 2	9	rule	N	2715	66	37	not provided	N	N	56.06%
California	7	district 1	11	rule and order	Y	90-100	95	47	n/a	N	both	49.47%
California	8	4th Appellate District-Division 2	10	rule	Y	500	45	21	1	Y	N	46.67%
Connecticut	9	statewide-Supreme Court and Appellate Court	24	rule	Y	1000	457	137.1	not tracked	N	N	30.00%
Florida	10	Central Florida- 5th District Court of Appeal	10	admin order	Y	440	125	31	1	N	N	24.80%



Survey Analysis

All Programs

State/Program	Conducted over 20 mediations	ranking	100+ mediations and ordered/mandatory	5 yrs. or less and 10+ mediation	Conducted over 50 mediations
					Y
California	Y	1	N	Y	
California	Y	10	N	N	Y
California	Y	14	N	N	Y
California	Y	15	N	N	N
Connecticut	Y	30	Y	N	Y
Florida	Y	33	Y	N	Y

Survey Analysis

All Programs

State/Program	#	jurisdiction	# of years (year 1 to 2011)	Q2: method of est.	Q3: ordered/mandatory	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q8(b): # of cases settled (partial)	Q10: provide mediation?	Q14: co-mediation?	resolution rate%
Hawai'i	11	statewide	16	rules	Y and upon request	740	32	12	2	Y	Y	37.50%
Kentucky	12	statewide	15	rules	Y	1400	400	156	n/a	N	N	39.00%
Maryland	13	statewide	2	rule	Y	1300	187	107	13	Y	Y	57.22%
Minnesota	14	statewide	1	rules	Y	1414	120	44	not tracked	Y	N	36.67%
Missouri	N	southern district	ended in 2003									
Missouri	15	eastern district	34	rules	Y	1177	95	40	0	N	N	42.11%
Missouri	16	western district	34	rule	Y	850	81	25	not tracked	Y	N	30.86%
Montana	17	statewide	14	rule	Y	370	159	22	n/a	Y	N	13.84%
Nevada	18	statewide	14	rule	Y	800-850	404	230	3	N	N	56.93%
New Hampshire	19	statewide	2	rule	N	910	28	8	not provided	N	N	28.57%
New Mexico	20	statewide	2	order	both	834	90	46	2	Y	N	51.11%
New York	21	2nd Judicial Department	38	rule	Y	11980	1951	841	not provided	Y	N	43.11%
New York	22	3rd Judicial Department	14	rule	Y	1347	370	122	not tracked	Y	N	32.97%
North Carolina	23	statewide	7	rule	N	850	61	27	n/a	Y	N	44.26%
North Dakota	N	statewide	0	rule	Y							

Survey Analysis

All Programs

State/Program	Conducted over 20 mediations	ranking	100+ mediations and ordered/mandatory	5 yrs. or less and 10+ mediation	Conducted over 50 mediations
Hawai'i	Y	26	N	N	N
Kentucky	Y	25	Y	N	Y
Maryland	Y	8	Y	Y	Y
Minnesota	Y	27	Y	Y	Y
Missouri	0	0	0	0	0
Missouri	Y	21	N	N	Y
Missouri	Y	29	N	N	Y
Montana	Y	35	Y	N	Y
Nevada	Y	9	Y	N	Y
New Hampshire	Y	31	N	Y	N
New Mexico	Y	12	N	Y	Y
				N	Y
New York	Y	18	Y		
				N	Y
New York	Y	28	Y		
North Carolina	Y	17	N	N	Y
North Dakota	0	0	0	0	0

Survey Analysis

All Programs

State/Program	#	jurisdiction	# of years (year 1 to 2011)	Q2: method of est.	Q3: ordered/mandatory	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q8(b): # of cases settled (partial)	Q10: prose mediations?	Q14: co-mediation?	resolution rate%
Ohio	N	1st appellate district	17		N	350	4					
Ohio	24	11th appellate district	6	rule	Y and can request	291	100	71	not provided	Y	N	71.00%
Ohio	25	12th appellate district	11	rule	both	277-400	50	27	1	Y	N	54.00%
Ohio	26	4th appellate district	6	rule	both	112	30	14	0	Y	N	46.67%
Ohio	27	6th appellate district	9	rule	N	322	26	11	0	Y	N	42.31%
Ohio	28	10th appellate district	22	rule	order		217	88	not tracked	Y	N	40.55%
Ohio	29	8th appellate district	11	rule	both	700-900	322	64	2	Y	N	19.88%
Oklahoma	30	statewide	8	rule	Y	1288	35	22	not tracked	N	N	62.86%
Oregon	31	statewide	16	rule	both	350-450	144	115	3	Y	N	79.86%
Pennsylvania	32	western district	2	order	Y and can request		65	38	not tracked	Y	N	58.46%

Survey Analysis

All Programs

State/Program	Conducted over 20 mediations	ranking	100+ mediations and ordered/mandatory	5 yrs. or less and 10+ mediation	Conducted over 50 mediations
Ohio	0	0	0	0	0
Ohio	Y	3	Y	N	Y
Ohio	Y	11	N	N	Y
Ohio	Y	16	N	N	N
Ohio	Y	20	N	N	N
Ohio	Y	23	Y	N	Y
Ohio	Y	34	Y	N	Y
Oklahoma	Y	5	N	N	N
Oregon	Y	2	Y	N	Y
Pennsylvania	Y	6	N	Y	Y

Survey Analysis

All Programs

State/Program	#	jurisdiction	# of years (year 1 to 2011)	Q2: method of est.	Q3: ordered/mandatory	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q8(b): # of cases settled (partial)	Q10: proposed mediations?	Q14: co-mediation?	resolution rate%
Pennsylvania	33	commonwealth	11	order	both	2500	165	71	n/a	N	N	43.03%
Pennsylvania	34	eastern district	5	order	Y and can request	3100	95	40	not tracked	Y	Y	42.11%
Rhode Island	35	statewide	7	rule	Y and can request	170	71	28	n/a	N	N	39.44%
South Carolina	N		0		N							
Tennessee	36	statewide	3	rule	N	219	10	4	6	Y	both	40.00%
Texas	37	4th Court of Appeals	16	rule	Y	550	16	6	n/a	N	N	37.50%
Texas	38	14th Court of Appeals	14	rule	Y	650	36	9	not tracked	Y	N	25.00%
Utah	39	statewide	2	rule	Y and can request	314	97	48	0	Y	N	49.48%
											<b>average</b>	<b>54.33%</b>

Survey Analysis

All Programs

State/Program	Conducted over 20 mediations	ranking	100+ mediations and ordered/mandatory	5 yrs. or less and 10+ mediation	Conducted over 50 mediations
Pennsylvania	Y	19	Y	N	Y
Pennsylvania	Y	21	N	Y	Y
Rhode Island	Y	24	N	N	Y
South Carolina	0	0	0	0	0
Tennessee	N	0	N	Y	N
Texas	N	0	N	N	N
Texas	Y	32	N	N	N
Utah	Y	13	N	Y	Y

**Cell: D1**

**Comment:** Toby Guerin:  
excludes pilot and prior program organization

**Cell: G1**

**Comment:** Toby Guerin:  
If only provided one # then that # was used, otherwise the most recent year was used.

**Cell: H1**

**Comment:** Toby Guerin:  
For most programs this number does not reflect cases that were referred in one year, but the mediation occurred in the following year.

**Cell: B2**

**Comment:** tguerin:  
provided # of referrals only

**Cell: H2**

**Comment:** Alabama indicated that # of cases referred equals # of mediations.

**Cell: H5**

**Comment:** Toby Guerin:  
This is an average of 3 years due to change in system in the court.

**Cell: I5**

**Comment:** 3 year average

**Cell: B7**

**Comment:** tguerin:  
currently not operating

**Cell: H7**

**Comment:** Toby Guerin:  
Program currently not running due to budget cuts.

**Cell: G9**

**Comment:** Toby Guerin:  
average of 2 prior fiscal years

**Cell: J9**

**Comment:** Toby Guerin:  
program does not recognize partial settlements



## Survey Analysis

## All Programs

### Cell: G15

**Comment:** Toby Guerin:  
400 pending and 340 filed

### Cell: G18

**Comment:** Toby Guerin:  
1414 filed, 1430 dispositions

### Cell: H18

**Comment:** Toby Guerin:  
family cases only

### Cell: B19

**Comment:** tguerin:  
program no longer operating

### Cell: L23

**Comment:** only for training of less experienced mediator

### Cell: I24

**Comment:** tguerin:  
only used number that were known to settle in mediation.

### Cell: B29

**Comment:** tguerin:  
program being developed

### Cell: B30

**Comment:** tguerin:  
Did not complete the survey in full.

### Cell: K38

**Comment:** rarely

### Cell: L39

**Comment:** ony for training of less experienced mediator

### Cell: L42

**Comment:** only for training of less experienced mediator

Survey Analysis

All Programs

**Cell: B43**

**Comment: Iguerin: Program in pilot stage**

Attachment D:  
Questionnaire Analysis-  
100+ Mediations and  
Mandatory Mediations

Survey Analysis

100+ Mediations and Ordered/Mandatory

State/Program	jurisdiction	# of years (year 1 to 2011)	Q3: ordered/mandatory	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q10: pro se mediations?	Q14: co-mediation?	resolution rate%	Conucted over 20 mediations	100+ mediations and ordered/mandatory	ranking
Oregon	statewide	16	both	350-450	144	115	Y	N	79.86%	Y	Y	1
Ohio	11th appellate district	6	Y and can request	291	100	71	Y	N	71.00%	Y	Y	2
Maryland	statewide	2	Y	1300	187	107	Y	Y	57.22%	Y	Y	3
Nevada	statewide	14	Y	800-850	404	230	N	N	56.93%	Y	Y	4
Alabama	statewide	7	Y and upon request	178-	184	91	N	N	49.46%	Y	Y	5
New York	2nd Judicial Department	38	Y	11980	1951	841	Y	N	43.11%	Y	Y	6
Pennsylvania	commonwealth	11	both	2500	165	71	N	N	43.03%	Y	Y	7
Ohio	10th appellate district	22	order		217	88	Y	N	40.55%	Y	Y	8
Kentucky	statewide	15	Y	1400	400	156	N	N	39.00%	Y	Y	9
Minnesota	statewide	1	Y	1414	120	44	Y	N	36.67%	Y	Y	10
New York	3rd Judicial Department	14	Y	1347	370	122	Y	N	32.97%	Y	Y	11

State/Program	jurisdiction	# of years (year 1 to 2011)	Q3: ordered/mandatory	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q10: pro se mediations?	Q14: co-mediation?	resolution rate%	Conucted over 20 mediations	100+ mediations and ordered/mandatory	ranking
Connecticut	statewide-Supreme Court and Appellate Court	24	Y	1000	457	137.1	N	N	30.00%	Y	Y	12
Florida	Central Florida- 5th District Court of Appeal	10	Y	440	125	31	N	N	24.80%	Y	Y	13
Ohio	8th appellate district	11	both	700-900	322	64	Y	N	19.88%	Y	Y	14
Montana	statewide	14	Y	370	159	22	Y	N	13.84%	Y	Y	15

Attachment E:  
Questionnaire Analysis-  
5 Years or Less and  
10+ Mediations

## Survey Analysis

## 5 years or less and over 10 mediations

State/Program	jurisdiction	# of years (year 1 to 2011)	Q3: ordered/ mandator y	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q8(b): # of cases settled (partial)	resolution rate%	5 yrs. or less and 10+ mediation	ranking
California	district 3	5	Y	518	95	90	0	94.74%	N	1
Pennsylvania	western district	2	Y and can request		65	38	not tracked	58.46%	N	2
Maryland	statewide	2	Y	1300	187	107	13	57.22%	Y	3
New Mexico	statewide	2	both	834	90	46	2	51.11%	N	4
Utah	statewide	2	Y and can request	314	97	48	0	49.48%	N	5
Pennsylvania	eastern district	5	Y and can request	3100	95	40	not tracked	42.11%	N	6
Tennessee	statewide	3	N	219	10	4	6	40.00%	N	7
Minnesota	statewide	1	Y	1414	120	44	not tracked	36.67%	Y	8
New Hampshire	statewide	2	N	910	28	8	not provided	28.57%	N	9

Attachment F:  
Questionnaire Analysis-  
50+ Mediations



State/Program	jurisdiction	# of years (year 1 to 2011)	Q3: ordered/ mandator y	Q5: # of civil appeals (total across all courts)	Q7: # of cases mediated (total)	Q8(a): # of cases settled (full)	Q8(b): # of cases settled (partial)	resolution rate%	ranking	Conducte d over 50 mediatio ns
California	district 3	5	Y	518	95	90	0	94.74%	1	Y
Oregon	statewide	16	both	350-450	144	115	3	79.86%	2	Y
Ohio	11th appellate district	6	Y and can request	291	100	71	not provided	71.00%	3	Y
Pennsylvania	western district	2	Y and can request		65	38	not tracked	58.46%	4	Y
Maryland	statewide	2	Y	1300	187	107	13	57.22%	5	Y
Nevada	statewide	14	Y	800-850	404	230	3	56.93%	6	Y
California	district 2	9	N	2715	66	37	not provided	56.06%	7	Y
Ohio	12th appellate district	11	both	277-400	50	27	1	54.00%	8	Y
New Mexico	statewide	2	both	834	90	46	2	51.11%	9	Y
Utah	statewide	2	Y and can request	314	97	48	0	49.48%	10	Y
California	district 1	11	Y	90-100	95	47	n/a	49.47%	11	Y
Alabama	statewide	7	Y and can request	1780	184	91	3	49.46%	12	Y
North Carolina	statewide	7	N	850	61	27	n/a	44.26%	13	Y
New York	2nd Judicial Department	38	Y	11980	1951	841	not provided	43.11%	14	Y
Pennsylvania	commonwea lth	11	both	2500	165	71	n/a	43.03%	15	Y

Survey Analysis

50+ Mediations

Missouri	eastern district	34	Y	1177	95	40	0	42.11%	16	Y
Pennsylvania	eastern district	5	Y and can request	3100	95	40	not tracked	42.11%	17	Y
Ohio	10th appellate district	22	order		217	88	not tracked	40.55%	18	Y
Rhode Island	statewide	7	Y and can request	170	71	28	n/a	39.44%	19	Y
Kentucky	statewide	15	Y	1400	400	156	n/a	39.00%	20	Y
Minnesota	statewide	1	Y	1414	120	44	not tracked	36.67%	21	Y
New York	3rd Judicial Department	14	Y	1347	370	122	not tracked	32.97%	22	Y
Missouri	western district	34	Y	850	81	25	not tracked	30.86%	23	Y
Connecticut	statewide-Supreme Court and Appellate Court	24	Y	1000	457	137.1	not tracked	30.00%	24	Y
Florida	Central Florida- 5th District Court of Appeal	10	Y	440	125	31	1	24.80%	25	Y
Ohio	8th appellate district	11	both	700-900	322	64	2	19.88%	26	Y
Montana	statewide	14	Y	370	159	22	n/a	13.84%	27	Y
							avg	46.31%		