

ADR Techniques and the Academic Library

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Abstract

Alternative Dispute Resolution (including negotiation, mediation, and arbitration) can empower individuals to become invested in creating strong, mutually beneficial conflict resolutions. Recent library scholarship on conflict resolution in United States academic libraries often focuses on interpersonal relationships and the role of managers in resolving disputes, but there is a dearth of discussion about specific resolution techniques such as negotiation, mediation, or arbitration. This article introduces these three techniques, along with common obstacles and challenges.

Introduction

Despite idyllic fantasies of libraries as quiet places full of peaceful readers, academic libraries are not free from conflict. They have the same issues as any workplace, such as differing values, personal differences, and communication issues. Their larger communities, higher education campuses, are hotbeds of conflict and dynamic social change. The very structure of an academic campus is “pluralistic,” placing its parts in frequent conflict with each other. In this environment, libraries struggle with defining their role on campus (Weaver-Meyers 2002) and competition for limited resources. Inside the library, there are tensions arising from the differing job responsibilities and specializations among library staff, further limited resources and space, and role conflicts (Edwards and Walton 2000, 36).

Conflict resolution “refers to the various ways in which people or organizations deal with social conflict” (Barsky 2006, 2) and is made up of many different techniques, including facilitation, advocacy, and consulting. Some conflict resolution techniques are considered Alternative Dispute Resolution (ADR). The three most common ADR techniques are negotiation, mediation, and arbitration.

The word “alternative” in the name is because ADR is used as a legal alternative to the American court system, allowing individuals “to experience the benefits of resolving disputes without resort to costly and time-consuming trials” (Manley 2012, xxvii-xxviii). Moreover, “ADR adherents hold the conviction that the informed application of ADR techniques often leads to better outcomes for all parties in a dispute” (Manley 2012, 3). It is for that reason (the more successful resolution of disputes) that this manuscript proposes that academic library leaderships become familiar with the principles of ADR and apply them to conflicts in and involving the library.

Conflict Resolution in U.S. Academic Library Literature

Recent library scholarship on conflict resolution in United States academic libraries often focuses on interpersonal relationships and assumes that the manager will play the role peacekeeper.

An exception is how Weaver-Meyers use change and conflict management theories as groundwork for examining changes in librarian faculty status at the University of Oklahoma (2002). In this case, the faculty senate is specifically named as an unbiased third party that intervened (31) and assisted with forming a strong compromise for the librarians (32). The senate is an objective third party serving as a mediator, facilitating discussion without making

the ultimate decision. The distinction between mediation and other ADR techniques will be considered later in this manuscript.

Montgomery & Cook's 2005 book *Conflict Management for Libraries*, while light on conflict theory, has an excellent chapter on emotion intelligence for library managers, which extols many of the habits and traits that make for a good mediator or arbiter (140-160). The meat of the book is a series of library-specific conflict scenarios, with commentaries from the authors (librarians), a business consultant, and a human resources counselor. These experts are able to offer a variety of perspectives and proposed solutions. Though the commentaries do not refer to dispute resolution techniques by name, the majority of the advice aligns with the three dispute resolution techniques described in this manuscript. Often the advice is for the individuals involved in the scenario to handle the conflict themselves (negotiation, without being called such) or have a manager step in for the conflicting parties (essentially mediation or arbitration). The commentaries also occasionally recommend referring individuals to outside/third-party experts or services when there is an underlying issue not related to the immediate conflict (105), which is part of formal dispute resolution techniques.

In 2006, Plocharczyk wrote an extensive literature review of organizational conflict research for library professionals. While the article does mention the use of "conflict coaches" (95) and "facilitators" (96) to help staff learn to better manage conflict and difficult conversations, management is portrayed as the most common peacekeeper (93, 96).

In a 2010 conceptual paper published in a library journal targeted at managers, Payne uses a literature review of conflict theory to discuss whether conflict is negative (and should be discouraged) or positive (and should be encouraged). Payne concludes that non-personal conflict is a positive force for organizations (spurring growth and innovation), and recommends that managers change inputs (such as directives or team distribution) to discourage

interpersonal conflicts or by redirecting conflict away from interpersonal and toward inter-team (8-9). Payne does not discuss how managers can resolve interpersonal conflict or unproductive inter-team conflict that may arise.

While these recent examples of scholarship show an increased awareness of librarians about conflict, there is a dearth of discussion about resolution techniques such as negotiation, mediation, or arbitration. Without the context of such techniques, aspiring conflict managers lack essential frameworks that provide context to the pieces of conflict resolution advice given currently in the library literature.

Overview of the Techniques

The two key tenants of ADR are self-determination and collaboration between the conflicting parties, which provides “a high degree of satisfaction for participants and leads to more stable resolutions of disputes” (Manley 2012, 4). However, the methods and design of the techniques each vary.

Negotiation

The aberrant feature of negotiation (Figure 1) as compared to other ADR techniques is that there is no third party involved. On occasion, the conflicting parties may use representative in their stead, but those representatives are biased, representing particular sides of the disagreement (Manley 2012, 5).

When we think of negotiation, we don't always think of “collaboration.” Instead, we think of table pounding, shouting, and threats. These classic images are rooted in *positional or power-based* bargaining, wherein the outcome is purely a matter of which individual has the

most will (Fisher 2011, 7; Barsky 2006, 69). Both parties simply attack or cajole each other until one side wins. This is an ideal technique if the conflicting parties have no need of mutual respect in the future, and/or a fair and equitable solution is not desired (Barsky 2006, 88-89).

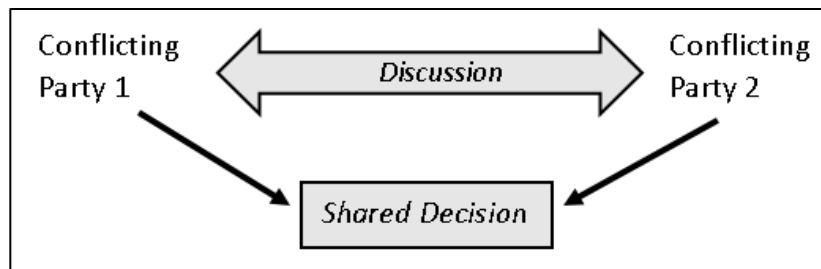


Figure 1 Negotiation, visualized

If, however, if *principled* (or *interest-based*) negotiation is used, both parties focus on their interests in the conflict, create new and varied solutions, and utilize objective/external standards for evaluation (Fisher 2011, 11; Barsky 2006, 69). This process not only creates mutual gains for the issue at hand, but also lays the groundwork for future collaboration.

Out of all the ADR techniques, negotiation “gives the parties the maximum freedom to fashion their own mutually acceptable outcomes” (Manley 2012, 5).

Limitations

Negotiation, particularly principled, may be difficult in cases with high-emotions, diametrically opposed core values among the conflicting parties, or when a rapid solution is needed (Barsky 2007, 88-89). In such situations, mediation or arbitration should be considered, so that an unbiased third party help bridge the gap or simply make decision for the parties. Negotiation is also challenging because of the work and investment needed; a negotiation’s success largely depends on careful prior research and preparation, without which it is difficult to move forward.

Example

Let's say that a cataloging librarian and an instruction librarian are in conflict because they both are trying to use a storage cabinet in the library. They may want to negotiate with each other rather than bring in a third party, in order to control the outcome. If they bring in a third-party, it is possible that both librarians will lose access to the storage cabinet. Because the two librarians must continue to work together amiably in the future, they should not debate the merits of who should use the cabinet, as such positional bargaining can turn hostile quickly. Instead, they should use positional bargaining to discuss their shared interests and purposes behind using the storage space, and together brainstorm creative solutions. With patience and mutual understanding, the cataloging and instruction librarians can negotiate a solution without involving third-party intervention from other members of the library.

Mediation

Mediation (Figure 2), in turn, is “a structured negotiation conducted with a third party neutral” (Manley, 2012, p.5). The third party, the mediator, facilitates the negotiation, but “does not have the authority to decide the outcome” (Barsky 2007, 9).

In a *settlement-focused* (or *structured*) mediation, the goal is to quickly and efficiently end conflict (Barsky 2007, 119). All the specific issues related to the conflict may not be resolved, but open conflict is ended for the time being and a general solution decided on.

Meanwhile *principled* (or *interest-based*)

mediation focuses on resolving

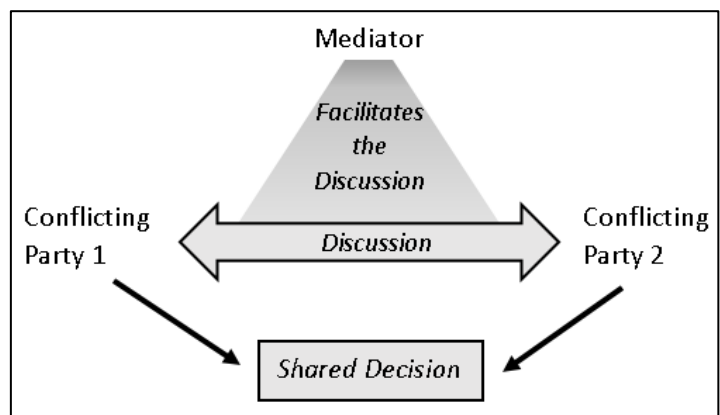


Figure 2 Mediation, visualized

“underlying interests, rather than just their overt conflict” (Barsky 2007, 120). While this can take longer, when completed successfully, the conflicting parties are more primed to hold constructive, mutually beneficial negotiations of their own in the future.

As in negotiation, power in mediation lies entirely with the conflicting parties, and therefore success and outcomes depend on the willingness of the parties to participate in the process. However, sometimes conflicting parties are interested in finding a solution, but are unable to successfully navigate the negotiation process on their own due to personality clashes, divergent conflict management skills, emotional attachment to the issue, or other hurdles. The intervention of a mediator to serve as guide (refocusing and directing the conversation as needed) can help achieve a successful negotiation and even to build a better working relationship between the conflicting parties.

Limitations

Ideally, mediation will be completely voluntary, though mandatory mediation does exist and can be successful. Even when the mediation process is required, it is essential that the resolution and outcomes are voluntary for all parties and are never forced by the mediator (Barsky 2007, 121-2).

Mediation is not reconciliation, which aims to return the conflicting parties to a previous status quo (Barsky 2007, 10). Instead, mediation looks to the future and aims for mutual beneficial decisions that suit the interests of all conflicting parties. While this may mean a return to the status quo, doing so should not be the explicit goal of mediation.

Example

Previously, we considered the example of a cataloging librarian and an instruction librarian that are in conflict over a storage cabinet. If the two librarians have been unable to hold constructive conversations to negotiate a resolution, they may want to turn to a respected third-party inside or outside the library to mediate a resolution to the conflict. The mediator would not resolve the issue by making a decision, nor would the mediator even decide what a successful outcome would (i.e., would an agreement to split the cabinet equally be considered success, even if both participants resented it? Or, would success be measured by mutual satisfaction with the solution?). The mediator's sole role would be facilitate conversation between two parties, who may struggle to conduct a productive negotiation on their own.

Arbitration

Like in mediation, arbitration (Figure 3) features an independent third party who facilitate the discussion. Unlike in mediation, the arbiter listens and collects information not to facilitate conversations between the conflicting parties, but rather to make an independent decision

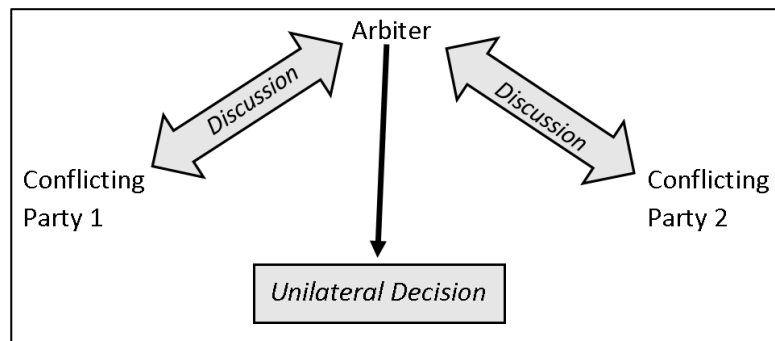


Figure 3 Arbitration, visualized

to resolve the conflict. In 2010, Witken suggested that arbiters should not act like an authoritative judge, but rather incorporate mediation techniques to include the participants in designing the ultimate solution. However, traditionally, “there is little to no communication between the [conflicting] parties during arbitration... the primary flows of communication are between each party and the arbiter” (Barsky 2007, 12).

Out of all these ADR techniques, arbitration provides the conflicting parties with the least amount of control over the resolution. The "adversarial intervention" of having the arbiter make the final decision could result in a resolution that is not satisfactory to either party. Still researchers Joosten, Bloemer, & Hillebrand found that the conflicting parties that participate still feel committed to the decision and in-control simply because they were able to have their voices heard (2016), even if the outcome is not what was desired.

Limitations

Because in arbitration the parties do not interact, there is no opportunity for constructive problem solving that can lay the foundation for future productive relationships. Arbitration is also "usually a win-or-lose process" (Manley 2012, 5), unlike other forms of ADR that encourage mutual gains.

Example

In our dispute example, if the librarians were unable or unwilling to negotiate an agreement (alone or with the aid of a mediator) about the storage closet, they could chose to simply ask someone else (commonly, a manager) to make the decision. It is also possible if the negotiation were not going well and/or being disruptive to library operations, a manager may intervene and unilaterally decide that the dispute *would* go to arbitration. The arbiter would listen to the input of both disputing parties and render a final decision regarding the cabinet, to which both librarians would have to comply, even if it were not satisfactory with either.

Challenges & Issues

Though ADR techniques are intended to give all parties an equal voice and work together to develop mutually beneficial solutions, they often will not go smoothly. Two obstacles common to all forms of ADR are conflicts of interest by the third party and resistance to ADR by the conflicting parties.

Third Parties: Conflicts of Interest

Any third parties involved in ADR (such as in arbitration or mediation) must not offer any indication of impartiality (Barsky 2007, 126). If it seems that the third party is biased, people may not even participate in the process (Carins 2015). It is a given that anyone actually involved in the dispute should not attempt to act as a third party mediator or arbiter, but even people on the outskirts of a dispute may bring conflicts of interest.

In much of the existing library literature outlined and examples given previously, the managers are assumed to be the third party, but that can be problematic. Due to pre-existing history between a manager and her employees, it may be difficult for the participants to trust that their manager is completely unbiased or lacking favoritism. Additionally, there is an unavoidable power imbalance between a manager and her employees, which may trigger dependence on the manager to make decisions for the participants. This would prevent a manager from truly facilitating a conversation between the participants as a third party should.

Additionally, an ADR third party facilitator must be able to guarantee impartiality to the conflicting parties to encourage trust and participation (Barsky 2007, 122-3). If the third party supervises one or more of the conflicting parties, the parties may be loath to admit to certain things for fear of future repercussions. For example, whether it falling asleep at the job, missing a delivery, or stealing a pencil from the supply closet, worrying about what your manager would

think limits openness. For their part, any manager would struggle not to have their future opinions of an employee after hearing such a confession.

This is not to say that a library manager can never serve as a mediator or arbiter to her employees, but they must appear totally unbiased be prepared to treat the conflict resolution as truly confidential. Due to the difficulties in doing so, managers may do well to consider bringing in a truly objective third party or empowering the participants to solve their own issue through negotiation.

Participant Resistance

The participants (conflicting parties) will bring many forms of resistance to the table. They may be overly dependent on the third party or they may be petrified of the unknown (Olczak, Duffy, and Grosch 1991, 160-2). They may also have a negative preconception of how the resolution process will work, such as assuming the third party is already biased. They is particularly try with arbitration, which has a strong negative connotation because of abusive mandatory arbitration contracts (Silver-Greenberg 2016)

Preventing Participant Resistance

Participants and third parties alike can take simple steps to prevent some resistance. At the outset, any third party present should disclosure their credentials and experience, as well as firmly state their neutrality (without, of course, bragging). So long as the third party continues to display trustworthiness and competence throughout the rest of the resolution process, this will put participants at ease (Olczak, Duffy, and Grosch 1991, 58).

Structure, and ground rules should be established and agreed upon by all, since ambiguity increases fear (Olczak, Duffy, and Grosch 1991, 162). For example,

Finally, it should be established early in the discussion that conflict resolution is about addressing issues, not about the people involved (Fisher and Ury, 2011, 21-23). In our previous example, the discussions should stay focused on the parties' needs for storage space, not personal attacks.

Moving Past Participant Resistance

Despite efforts, resistance will still appear, and when it does the participants and third party should not attempt to cure it, but merely move past it by reframing the issue under discussion (Olczak, Duffy, and Grosch 1991, 161) When reframing, the mediator/arbitrator should try to focus on the interests of the participant, rather than their stated positions (Fisher and Ury 2011, 43) to encourage creative thinking and problem solving towards the goal of mutual gain.

Conclusion

ADR, with its focus on discussion, problem solving, and mutual benefit, is a natural recourse for conflict management in academic libraries "because higher education is premised on the concept of shared governance" (Hogler, Gross, and Bryne 2008, 31). Understanding how negotiation, mediation, and arbitration work can empower library leaders to better decide when, who, and how one of them should serve as third-party facilitators to conflicts. With better conflict resolution, academic libraries will be able to work more efficiently as part of their campuses, providing needed services to the faculty, students, and staff.

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References

- Barsky, Allan Edward. 2007. *Conflict Resolution for the Helping Professions*. Belmont, CA: Thomson, Brooks/Cole.
- Bowling, Daniel, and David Hoffman, eds. 2003. *Bringing Peace into the Room: How the Personal Qualities of the Mediator Impact the Process of Conflict Resolution*. 1 edition. San Francisco: Jossey-Bass.
- Carns, Ann. 2015. "Binding Arbitration Rules Get Consumer Protection Bureau Scrutiny." *The New York Times*. March 10. <https://www-nytimes-com.liblink.uncw.edu/2015/03/11/business/binding-arbitration-rules-get-consumer-protection-bureau-scrutiny.html>.
- Cohen, Steven. 2017. "Focusing on Interests rather than Positions." *Mediate*. Accessed February 6. <http://www.mediate.com/articles/tnsc.cfm>.
- Eddy, Bill. 2017. "Why Healing Is Hard for High-Conflict People." *LinkedIn*. January 4. <https://www.linkedin.com/pulse/why-healing-hard-high-conflict-people-bill-eddy>.
- Edwards, C., & Walton, G. 2000. "Change and conflict in the academic library." *Library Management; Bradford*, 21(1), 35–41.
- Fisher, Roger, William L. Ury, and Bruce Patton. 2011. *Getting to Yes: Negotiating Agreement Without Giving In*. Upd Rev edition. New York: Penguin Books.
- Hogler, Raymond, Michael A. Gross, and Zinta S. Byrne. 2009. "Making Governance Work in Academia: Nonunion Arbitration as a Method of Dispute Resolution for University Faculty." *International Journal of Conflict Management; Bowling Green* 20 (1): 31–45.
doi:<http://dx.doi.org.liblink.uncw.edu/10.1108/10444060910931594>.

- Imperati, Sam. 2017. "Traits of a 'Mediator.'" *Mediate*. Accessed February 27. <http://www.mediate.com/articles/imperati1.cfm>.
- Joosten, Herm, Josée M. M. Bloemer, and Bas Hillebrand. 2016. "The Effects of Third-Party Arbitration: A Field Experiment." *Journal of Consumer Affairs* 50 (3): 585–610. doi:10.1111/joca.12119.
- Manley, Elizabeth P. 2012. *Alternative Dispute Resolution in North Carolina: A New Civil Procedure*. Edited by Elizabeth P. Manley, Frank C. Laney, Lynn P. Roundtree, and Catherine Brohaugh. Cary, NC: North Carolina Bar Foundation.
- Olczak, Paul V., Karen Grover Duffy, and James W. Grosch, eds. 1991. "Resistance to Mediation: A Social-Clinical Analysis." In *Community Mediation: A Handbook for Practitioners and Researchers*, 1 edition, 153–66. New York: The Guilford Press.
- Payne, David. 2010. "Harnessing Conflict." *Library Leadership and Management* 24 (1): 6–11.
- Plocharczyk, Leah. 2006. "On Organizational Conflict: Reaping the Benefits of Effective Conflict Management." *Journal of Access Services* 4 (1–2): 85–120.
doi:http://dx.doi.org.liblink.uncw.edu/10.1300/J204v04n01_06.
- Silver-Greenberg, Jessica, and Michael Corkery. 2016. "Start-Ups Embrace Arbitration to Settle Workplace Disputes." *The New York Times*, May 14. <https://www.nytimes.com/2016/05/15/business/dealbook/start-ups-embrace-arbitration-to-settle-workplace-disputes.html>.
- Weaver-Meyers, Pat. 2002. "Conflict Resolution: A Case Study about Academic Librarians and Faculty Status." *College & Research Libraries* 63 (1): 25–34. doi:10.5860/crl.63.1.25.
- Witkin, Nathan. 2010. "Consensus Arbitration: A Negotiation-Based Decision-Making Process for Arbitrators." *Negotiation Journal*; Oxford 26 (3): 309–25.