

**MINUTES**  
**Custody Mediation Advisory Committee**  
**March 19, 2021**

The Custody Mediation Advisory Committee (CMAC) met online via WebEx on Friday, March 19, 2021. The Honorable J. Corpening called the meeting to order at 10 a.m.

*CMAC Members:*

Judge J. Corpening, Committee Chair  
Sheila Eley  
Sanya Eller  
Kristen Hirsch  
Cheryl Howell  
Rick Igou  
Judge Walczyk

*NCAOC Staff:*

Ryan Boyce  
Stephanie C. Smith  
Kari Marvin  
DeShield Greene  
Tara Minter

Welcome & Approval of Draft Minutes

Judge Corpening welcomed everyone to the meeting and reminded members that the meeting is being live streamed from a link on the Secretary of State's website to meet the state's open meeting requirements. Ryan Boyce, new NCAOC Deputy Director, was welcomed to the meeting. The minutes from the November 6, 2020 CMAC meeting were unanimously approved without changes on a motion from Sheila Eley and seconded by Rick Igou.

Custody Mediation Program Update

Stephanie Smith shared that the mediator from District 23 was hired for the vacancy in District 1, so there is now a vacancy in District 23. Kari Marvin is helping Chief District Court Judge Byrd review applications and conduct interviews.

The Custody Mediation Program has joined with Family Court to offer an online training on trauma-informed court practices for custody mediators, custody mediation program assistants, and family court staff on April 26<sup>th</sup>. There will be three presenters:

- Dr. Jamilla Holcomb, Florida State University, an expert in family dynamics and trauma counseling
- Dawn Kuhlman, a mediator specializing in trauma-informed mediation
- Nisha Williams, Legal Director at the NC Coalition Against Domestic Violence

There will be a panel discussion with the entire group in the morning, and then in the afternoon facilitated conversations will take place in small groups organized by court function.

Stephanie is receiving questions from the custody mediators about how/when to start working with parties in-person again and she is referring those questions back to the Chief District Court Judges (CDCJs). Stephanie anticipates that after the pandemic ends, there may be a re-examination of the criteria listed in the Uniform Rules about how/when

online resources are offered. Some judges have told Stephanie they are interested in continuing the practice of online orientation.

#### Statewide Uniform Parenting Agreement Template

Kari shared the template format that is under construction by Bert Barber, with the NCAOC Organizational Learning and Development Division. The web-based platform he created will allow the mediators to easily navigate the template, choose options including schedules with calendars, and tweak language as they draft parenting agreements. Once a mediator has chosen a clause, the unselected choices will be deleted from the draft. Mediators will also be able to name the parties, identify their legal relationship to the child/ren, and then designate how they will be identified in the remainder of the document, which will help in cases with non-parent third parties or same-gender parents. Bert will attend the July meeting to share the final product.

The committee re-examined one of the modification clauses (*Modification/Not Replacing in Full*) in the current template that allowed mediators to list just the custody provisions that were modified. Judge Corpening shared the concern that other committee members and judges hold – that mediators should avoid referencing only the agreed upon modifications in a parenting agreement without including the rest of the custody provisions from previous court orders. These types of “build upon” orders can be confusing for parents to track and understand as they exist in multiple orders and not in one document. Challenges arise for enforcement purposes and it is difficult to register multiple orders if parties move to another state compared to one inclusive order.

Kristen Hirsch shared that including all the language from a previous court order in a modified parenting agreement can sometimes be problematic when the previous order contains, for example, financial information that is prohibited in parenting agreements. Previous court orders may also include findings of fact and other legal terminology the parties may be attached to but are not typically included in parenting agreements.

Judge Corpening and Cheryl Howell advised that modifying the custody provisions of a previous court order would not impact the previous financial/non-custody provisions and mediators can make it clear exactly what that the parenting agreement modifies. The committee discussed appropriate wording and agreed the following language will be used in the *Modification/Replace in Full* clause: *...modifies and replaces the custody provisions of previous court orders*. The *Modification/Not Replacing in Full* clause will be eliminated from the statewide template. Stephanie will train the mediators to write full parenting agreements for modifications of previous custody provisions and to discontinue the use of any “build upon” agreements.

Kristen asked if Temporary Parenting Agreements could be used by parents to partially modify previous custody orders. Judge Corpening and Cheryl both agreed that it would raise the same concerns as the “build upon” orders noted above and therefore they would recommend against that practice.

Kari asked about adding the term “non-prejudicial” to the temporary clause, and Cheryl responded that the additional language is not needed as long as a return date is built in to the temporary agreement, even if the parties fail to appear for the return appointment. Because the term “non-prejudicial” does not add value and may in fact cause confusion, the committee members agreed it should not be added to the template.

#### Integrated Case Management System (ICMS)

The Integrated Case Management System (ICMS) team are seeking statewide policies and forms that can be built-in to the new system. Stephanie asked CMAC members to consider a statewide best practice for the time requirement to repeat orientation for modification cases. Most districts currently specify a timeframe somewhere between two and five years. Kristen shared that her district requires parties to repeat orientation if it has been five years since they last attended orientation. In Kristen’s opinion, that seems like a long time between orientations, and she offered there may be some room to require online resources for repeat parties. Sheila shared that District 6 asks parties to repeat orientation if it has been two years since they last attended, and she thought that timeframe worked well. Sanya Eller shared that District 12 currently has a five-year timeframe, and she feels parties could benefit from a shorter timeframe like three years. Sanya also noted that the issues may have changed for the parties, and therefore attending orientation again may help provide them with information for their current issues. Rick suggested that three years may be an appropriate timeframe. Judge Corpening also thought three years seemed like a good timeframe to consider, noting that orientations are updated over time and new information may be available. Judge Corpening noted that there seemed to be consensus around three years for a return to orientation, and committee members concurred.

#### Domestic Violence Screening Protocol

Stephanie Smith noted that Erin Murphy, NC State School of Social Work intern, has been working extensively on the screening process and has identified an increase in domestic violence threshold markers during the pandemic. Stephanie, Erin, the custody mediators, and the Family Court Administrator met to discuss how the Durham pilot project was working. Stephanie noted the interviews for “red flag” cases have been beneficial to provide resource referral information well in advance of mediation so domestic violence victims understand the parameters of mediation. While conducting the interviews, Stephanie has also garnered information that will be helpful as she writes/develops video scripts for opt-in parties.

#### Family Court Update

DeShield reported that the Family Court Advisory Commission (FCAC) approved the revised time standards during their December meeting; however, no changes were made to the custody time standards. One of the suggested changes was to track the time standard from the date of service rather than filing, and while the Commission recognized it was a valid concern, that change was not incorporated but may be considered after the statewide implementation of ICMS.

At the March meeting, the FCAC approved the family court annual report. The report includes statistics and a listing of available programs as well as information on the impact of COVID-19. It is posted on the nccourts.gov if CMAC members are interested in reviewing the report.

The family court web page was recently updated to include information about starting a family court program and pre-implementation strategies. The budget will not allow for an expansion district this year but CDCJ Wilhelm in District 19A has expressed an interest in implementing a family court and DeShield and Lori Cole will be working with them on pre-implementation strategies.

Based on a report from Judge Dixon in District 19C, a subcommittee of FCAC members was created to explore the FCAC potentially supporting legislation for a Uniform Parentage Act, which would address the gap in NC laws regarding assistive reproductive technology and legal parentage. Cheryl Howell will chair.

#### Human Trafficking

Tara Minter reported there is legislation being considered by the General Assembly that would increase the minimum age to marry to 18 in NC. The Human Trafficking Commission is partnering with the NC Coalition Against Human Trafficking to create educational webinars. The Commission is also exploring hosting a two day in-person symposium in September in Raleigh.

#### Conclusion

The next meeting date is July 30, 2021. Judge Walczyk asked if the committee would consider changing the meeting time from 10 am to Noon to coincide with breaks in court, and committee members were all supportive of starting the meeting at Noon. Judge Corpening concluded the meeting at 11:11 a.m.