

MINUTES
Custody Mediation Advisory Committee
November 2, 2018

The Custody Mediation Advisory Committee (CMAC) met on Friday, November 2, 2018. The Honorable J. Corpening called the meeting to order at 10:10 a.m.

CMAC Members:

Judge J. Corpening, Committee Chair
Andrea Bosquez-Porter
Sanya Eller
Sheila Eley
Mike Haswell
Cheryl Howell
Rick Igou

NCAOC Staff:

Stephanie C. Smith
Lori Cole
Kari Marvin
Stephanie Satkowiak
Kayla Wilson

Welcome & Approval of Draft Minutes from March

Judge Corpening welcomed everyone to the meeting and asked everyone to introduce themselves. Kayla Wilson, NCAOC Custody Mediation intern, was welcomed to the meeting. Upon review of the recent draft minutes, the minutes were approved on a motion from Shelia Eley, second by Sanya Eller.

Custody Mediation Program Update

The fall in-service training was held October 15-16. The topics covered included Uniform Rules changes, case processing, and language access concerns. Staff mediators Lori Wainright, Shelly Harney, and Kathy Marth led training components that were well received by their colleagues. Dr. Tammy Lenski, noted conflict resolution author and trainer, will lead the spring training scheduled April 1-2.

Stephanie has been fielding calls from mediators and Chief District Court Judges (CDCJs) with questions/concerns about the upcoming redistricting. Brad Fowler, Director of Research and Planning, was tasked with assessing the impact of redistricting on the workload for key programs including Custody Mediation. He recommends custody mediators retain their current county assignments regardless of the redistricting. Because additional funds are not available to create new positions for new districts, this means that some mediators will work in three separate judicial districts.

Two mediators are retiring at the end of the year in District 27A/B and District 28. Since District 27A/B is chronically understaffed, Stephanie requested the position increase from 30 to 40 hours but currently there is no funding available.

Subcommittee Report – DV Protocol/Uniform Rules

Director Warren approved the changes to the Uniform Rules and the addition of the Domestic Violence (DV) Screening Protocol. Judge Corpening will alert the CDCJs to the preferred orientation tiers as well as instruction for Zoom mediations over telephone mediation whenever possible. Director Warren instructed Stephanie to consult with Brooke Crozier, Manager of the Office of Language Access Services, to determine the best way to meet interpreting needs during the DV screening process. Stephanie was also asked to organize a working group to determine how the screening protocol can be implemented. The working group met in early November and identified the biggest obstacle to overcome is “pausing” the case progression long enough so

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parties can be properly screened after filing and prior to orientation. The second major obstacle is the logistics surrounding notifying parties of an opt-in step given the lack of contact information available prior to orientation and limited staff resources.

The committee discussed the process for having judges determine whether cases should be waived from custody mediation. Cheryl Howell indicated the NCAOC can make rules that supplement the statute, but not rules that contradict the statute. While the statute allows for waivers, Judicial Standards stressed the parties have a right to be heard. In addition, Judicial Standards emphasized judges should not be “rubber stamping” waiver requests generated by the screening process. The committee discussed a double waiver process, whereby the judge receives *ex parte* information from the screener with case identifying information removed. If the judge waives the case and a party objects, that party will have an opportunity to be heard. The committee discussed the benefits of the hearing as the best place for the opt-in process to occur. Andrea Bosquez-Porter inquired whether many parties whose case had been waived would object to the waiver. Stephanie Smith shared that in the District 5 pilot project, parties that have been through the screening process do not usually question the decision to waive a case because they understand more about what can/can’t be done in mediation.

Stephanie shared that District 26 is already screening cases for DV, but currently there is no opt-in process. The pilot study being conducted in Durham is looking at how many of the filed custody cases have threshold markers and/or designated red flags. So far, the number of cases that have threshold markers is far less than what the district mediators thought it would be. Research is also being conducted on cases closed with a parenting agreement in FY 2011-12 in Districts 3A, 14 and 26. The cases are being reviewed to determine if threshold markers and/or designated red flags were present pre-mediation and post-mediation.

Stephanie shared that an oversight has been corrected in the Uniform Rules. Previously pending criminal charges were included as threshold markers, and now recent criminal convictions between the parties has been added to the list of threshold markers. Stephanie also asked the committee for feedback on whether Rule 65 orders should be considered a threshold marker. Cheryl indicated mediators should treat Rule 65 orders in the same manner as Domestic Violence Protective Orders. Stephanie indicated it is difficult to screen for which pertain to or address domestic violence. Andrea suggested mediators could ask parties if they have any order that prohibits contact or instructs you not to hurt this person.

Cheryl asked that the latest version of the Uniform Rules be sent to ensure that all committee members are referring to the most recent copy for review. Judge Corpening reminded the committee it may be time consuming to get all of the details of the DV screening protocol established, and the process should not be rushed because of the importance and longevity of the work.

Domestic Violence Update

Stephanie Satkowiak reported that Ft. Bragg went live as a filing site in Cumberland County in September. Onslow had to suspend Domestic Violence e-filing because of courthouse closures due to the hurricane. She said the Onslow Sheriff inquired as to when they would be able to get e-filing back. Stephanie talked to interested parties in Wayne County, and they felt that Seymour Johnson could be a filing site, following in the footsteps of Ft. Bragg. Stephanie presented at the Judicial Conference, and there is interest in e-filing from District 13. District 19C is also interested, and the community has worked to find adequate space for the DV agency. Sheila shared that Judge Branch pitched the idea of e-filing in Bertie County and the clerk liked the idea. Stephanie said Bertie County would be the best place to start in District 6, and the program could

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possibly expand from there. Stephanie spent the day in Mecklenburg to observe the workload in anticipation of e-filing going live there.

Cheryl brought up a concern she has heard from Legal Aid attorneys and law enforcement regarding children's names being pulled in by autofill. Andrea shared she had also heard this concern. Stephanie will follow up on this issue; her initial thought is that it is a training issue, because the system works from the "top down."

Family Court Update

Lori Cole shared that the Department of Health and Human Services approved the Parent Education/Access & Visitation grant at the same amount as the previous year. Parent Education information is recorded and is ready to be put online. The recording also incorporates The Most Important Job video. A workshop for regional training about civil domestic case management has been developed for judges and different team members. Dates have not been set up yet.

The Civil Domestic Case Management Summary & Survey Results report was shared with Family Court CDCJs by Judge Warren at the judge's conference. The Family Court CDCJs and FCAs are gathering next week to develop a group response addressing concerns with the recommendations found in the report. Committee members discussed the benefits of family court. Committee members shared how many who opposed family court at the beginning are now its biggest supporters. Andrea indicated she would reach out to the Family Law Council to make a statement in support of family court. Committee members also discussed the difficulty in creating uniformity in local rules until stakeholders know the capabilities of the new case management system.

Conclusion

Judge Corpening concluded the meeting at 11:30 am. A doodle poll will be sent to CMAC members to establish 2019 meeting dates.