

MINUTES
Custody Mediation Advisory Committee
July 13, 2018

The Custody Mediation Advisory Committee (CMAC) met on Friday, July 13, 2018. The Honorable J. Corpening called the meeting to order at 10:07 a.m.

CMAC Members:

Judge J. Corpening, Committee Chair
Sanya Eller
Sheila Eley
Mike Haswell
Cheryl Howell
Rick Igou
Judge Toni King
Amily McCool

NCAOC Staff:

Stephanie C. Smith
Lori Cole
Kari Marvin
Tara Minter
Stephanie Satkowiak

Welcome & Approval of Draft Minutes from March

Judge Corpening welcomed everyone to the meeting. Judge Corpening shared that Judge Carmical will no longer be a member of the CMAC due to his recent appointment as a Superior Court Judge. Judge Corpening acknowledged Judge Carmical's dedicated service to the CMAC and indicated "...his voice would be missed." Tara Minter, a new NCAOC Court Programs Specialist, was welcomed to the meeting. Tara is currently working on Domestic Violence issues and will transition to Human Trafficking this fall.

Upon review of the recent draft minutes, Stephanie Satkowiak indicated a correction should be made to the final sentence in the Domestic Violence Update section: *Stephanie is working with researchers at UNC, and there has been a statistically significant decrease in voluntary dismissals in Guilford County following the implementation of e-filing.* **Voluntary dismissals** should be changed to **involuntary dismissals**. With that correction, the minutes were approved on a motion from Shelia Eley, seconded by Amily McCool.

Custody Mediation Program Update

A new mediator was hired in District 14.

Polling data from the April 23-24 training was shared, prompting a discussion about mediating contempt motions. Most districts don't utilize the custody mediation program for contempt motions because they prioritize new and modification custody cases.

A redistricting map from the General Assembly website was distributed to CMAC members to alert them to potential impacts on the Custody Mediation Program staff. Since there was a lot of uncertainty about the finality of the redistricting process, it was agreed that Stephanie Smith will continue to monitor and report back to the committee in November.

Stephanie has identified the trainer she would like to bring to the NCAOC in the spring and is in the process of getting budget approval.

The recent increase in the NCAOC budget will be directed towards the new case management system. Stephanie was part of a focus group that helped identify needs for the new system. Any new system will require further statewide uniformity in custody mediation processes and

procedures. The CMAC will help identify what kind of uniformity changes should be made, i.e. timelines to register for orientation, statewide Parenting Agreement template, etc.

The CMAC had suggested deleting an outdated section detailing returns to mediation from the NCAOC form *Order Approving Parenting Agreement* (AOC-CV-631). This change was approved by the Forms Committee effective April 2018.

District 26 is now resolving custody contempt motions with the help of volunteer attorneys. The custody mediators raised concerns whether this practice is a form of mediation and therefore conflicts with the requirements of the Custody Mediation Program. Stephanie Smith spoke with the NCAOC Legal staff and with the local judge overseeing the practice. Because the process is voluntary and the volunteer attorneys are writing Memorandum of Judgments rather than Parenting Agreements, the practice is not crossing any boundaries that conflict with the Custody Mediation Program.

Stephanie attended the Association of Family and Conciliation Courts (AFCC) conference in Washington D.C. in late May. Shelly Harney and Lori Wainright, custody mediators in District 5, led a well-received workshop at the conference on how to incorporate trauma-informed practices in orientation and mediation. They also delivered a presentation on trauma-informed practices and the effects of toxic stress for their custody mediation peers at the training in April.

Subcommittee Report – DV Protocol/Uniform Rules

Judge Corpening submitted the proposed updates to the Uniform Rules to the NC Judicial Standards Commission and Director Warren. Judge Corpening spoke with Carolyn Dubay regarding the Judicial Standards informal review to ensure the waiver process comports with due process. Judicial Standards indicated that ex parte communication in the waiver process is allowable if it is part of the NCAOC Uniform Rules. Judicial Standards was concerned about the screener waiving mediation cases rather than judge. The screener should give the information to the judge and the judge should make the final decision whether to waive. Amily asked if the Uniform Rules are written so that the judge can delegate their authority, would it still be a problem? Judge Corpening answered it would still be problematic, and Cheryl explained that the statute says the judge waives cases, so they cannot delegate that authority unless the statute changed. Amily and Stephanie expressed concern that despite all of the work/research put into screening custody cases with domestic violence, some judges will still send all cases to custody mediation. Cheryl and Judge Corpening indicated that training for judges can help underscore the importance of waiving cases that are inappropriate or possibly even dangerous to send to custody mediation.

Stephanie discussed results from the DV screening pilot project currently underway in District 5. Since January 2018, 300 custody cases have been screened through CaseWise (civil case management system) and CIPRS (criminal case database). Of the 300 cases, 40 cases had “threshold markers” (five criteria listed on page 9 of the Uniform Rules) and 65 cases had “red flags” (additional criteria that indicate potential safety risk); 20 of these “red flag” cases were sent for an interview via Zoom with a contractor who has extensive training in domestic violence and mediation. The contractor used a screening tool designed by Stephanie Smith, and 17 of those 20 cases were deemed inappropriate for custody mediation. The pilot project has provided useful feedback from the mediators and the screener which will be helpful as the DV screening protocol expands statewide upon approval of the revised Uniform Rules. Judge Corpening shared his perspective as Chief District Court Judge in District 5 that the mediators and judges are pleased with the pilot screening protocol in their district. Stephanie plans to oversee research on custody cases that came to mediation in 2011-12 to assess domestic violence post custody mediation.

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Judge King indicated there are Masters of Social Work students in Fayetteville who need clinical hours. She suggested they may be able to meet with DV clients to help screen them for custody mediation if an accredited supervisor is available.

Domestic Violence Update

Stephanie Satkowiak reported that e-filing went live in Cumberland County on June 4th. The Rape Crisis Center is serving as a filing site, and an agreement has just been executed with Ft. Bragg to serve as a filing site, with the goal to be operational by Labor Day. In Onslow County, the Jacksonville Police Department has an advocate on site and will serve as an e-filing location. It is estimated that 60 cases per month will be filed there. In addition, Camp Lejeune has expressed interest in becoming a filing site. Stephanie indicated that significant enhancements have been made to the e-filing system based on user feedback. Buncombe County is exploring whether e-filing would be a good fit, and Mecklenburg County is still on-board for establishing e-filing. In Forsyth County, every domestic violence case is e-filed.

The group discussed the use of “OBO,” (on behalf of), and while there is no official definition, it is heavily used in practice but is problematic because it is used improperly and makes searches difficult. Stephanie indicated she can gather information to share with Cheryl, who already has addressed the issue on her blog.

Family Court Update

Lori Cole shared that Stephanie Nesbitt is working with the Department of Health and Human Services to finalize the next cycle of the Parent Education/Access & Visitation grant. Lori and Stephanie visited Durham and observed that the orientation went well, with the custody mediation information presented first followed by the new parent education material and parent education video. The entire presentation took about 90 minutes. Lori, Stephanie Nesbitt and Stephanie Smith met with the Wake County custody mediators to discuss including parent education at the Wake County orientations but that addition is on hold for now. Lori is working with Cheryl Howell on regional training for case management for domestic cases.

Conclusion

Judge Corpening asked that Amily McCool be added to the CMAC as an at large member and that someone be added from the North Carolina Coalition Against Domestic Violence. Judge Corpening concluded the meeting at 11:55 am. The next CMAC meeting date is Friday, November 2nd.