

**MINUTES**  
**Custody Mediation Advisory Committee**  
**November 8, 2019**

The Custody Mediation Advisory Committee (CMAC) met on Friday, November 9, 2019. The Honorable J. Corpening called the meeting to order at 10 a.m.

*CMAC Members:*

Judge J. Corpening, Committee Chair  
Sheila Eley  
Mike Haswell  
Cheryl Howell  
Sherry Honeycutt Everett  
Rick Igou  
Judge Christine Walczyk  
Marci Ward

*NCAOC Staff:*

Danielle Carman  
Stephanie C. Smith  
Kari Marvin  
Tara Minter  
Stephanie Satkowiak

Welcome & Approval of Draft Minutes from July

Judge Corpening welcomed everyone to the meeting and introduced NCAOC Deputy Director Danielle Carman and Judge Christine Walczyk from District 10. The minutes from the July 12, 2019 CMAC meeting were approved without changes on a motion from Sheila Eley, second by Mike Haswell.

Custody Mediation Program Update

Kari Marvin reviewed the polling results gathered during the fall training. Mediators were asked about safety issues, time standards for repeating orientation, notable changes in their districts, and ZOOM use.

District and statewide 2018-19 fiscal year statistics were shared along with a statewide 3-year comparison. Chief District Court Judges (CDCJs) were sent this information in September. Overall the trend was a slight decrease in cases, particularly in the districts impacted by Hurricane Florence. Custody filings statewide for the 2018-19 fiscal year were the lowest recorded in the past seven years. However, some western districts showed an increase in cases, particularly District 30 with a 50% increase in the caseload. Of the cases mediated statewide, 49% have a draft written and 31% are closed with a Parenting Agreement.

After conversations with NCAOC Interim Director McKinley Wooten and Judge Corpening, Stephanie re-introduced discussion about the supervision model for custody mediators. Currently the CDCJ is the hiring authority and supervisor, and this can be problematic when mediators do not attend training, resist implementing best practices, and ignore guidance from the Custody Mediation Program Manager. Stephanie is concerned that with major new initiatives requiring uniformity like the Domestic Violence Screening Protocol and the transition to the Integrated Case Management System (ICMS), some mediators will ignore guidance from the Custody Mediation Program Manager. Judge Corpening shared that as a CDCJ, he is supportive of moving to

*Custody Mediation Advisory Committee – November 8, 2019*

a management model like Guardian ad Litem with regional managers reporting to the NCAOC staff. Custody Mediation is the only other statewide program and that management model would help bring uniformity to the program. Rick Igou also thought the Guardian ad Litem management model would be beneficial for consistency across the state. Judge Corpening acknowledged, and other members concurred, that some CDCJs would not want to give up their supervisory role. Judge Corpening suggested that McKinley Wooten, Danielle Carman, and Stephanie Smith should discuss the issue and recommend a model that he can propose to the CDCJs at their summer conference. Currently Judge Corpening is the president of the Chief District Court Judges Association.

The new Juvenile Form, *Order and Notice to Mediation in Juvenile Proceeding* (AOC-J-135), was released in September. This statewide form replaces local forms and will help juvenile judges include pertinent information before sending certain juvenile cases to custody mediation.

Stephanie also brought to the attention of the CMAC the language of N.C.G.S. 7B-905.1(d), which governs mediated modifications of a visitation plan. In part, the statute provides: “A copy of any agreement reached in custody mediation . . . shall be approved by the court. The provisions of G.S. 50-13.1(d) through (f) apply to this section.” Following discussion, the CMAC members agreed there was no intent to prevent a judge from rejecting a mediated agreement for good reason. Danielle offered to spearhead communication with the NCAOC legislative staff to pursue a technical correction.

Sherry Honeycutt Everett discussed Senate Bill 493, which allows that subsequent orders supersede any Domestic Violence Protective Order (DVPO). Judge Corpening emphasized that safety provisions are included in DVPOs for good reason and cautioned that mediators should not be including details in a Parenting Agreement that conflict with the protective measures of a DVPO. However, the law impacts any DVPO in existence as of December 1, 2019. Sherry, Cheryl Howell, and Judge Walczyk expressed concerns over the impact of this new law. Sherry asked that CMAC members share comments/concerns/suggestions about the law with her as the North Carolina Coalition Against Domestic Violence plans to work with lobbyists to make appropriate modifications to the law. Judge Walczyk shared that Wake County mediators have asked if they can write Parenting Agreements that override DVPO no-contact provisions and other restrictions between parents. Stephanie indicated other mediators have also made inquiries.

#### Subcommittee Report – DV Protocol/Uniform Rules

Stephanie reported the DV Screening Protocol pilot project continues in Durham and has provided useful data for moving forward with implementation in other districts and eventually statewide. Over 210 cases have been screened, and 10 were waived (5%). Stephanie and Sherry are collaboratively working to streamline the opt-in process; neither thinks having the judge ask the parties in open court whether they want to go to mediation is appropriate. They are researching opt-in avenues, and Stephanie may create a 5-10 minute educational video to help insure victims are making an informed choice.

Intake forms filled out at orientation are also being reviewed for DV and if there are concerns, parties are sent to a DV Screener for individual interviews. The DV Screener may recommend mediation, ZOOM mediation, shuttle mediation, sending the case to a judge for waiver review, referral to a DV agency, etc.

Stephanie shared that it is important to have the DV Screening Protocol operational in one of the ICMS roll-out districts because it will then be incorporated into the ICMS system. Judge Walczyk shared she has time concerns for District 10 as a pilot site because they are understaffed, and the caseload is significantly higher than District 14. Stephanie said she would explore implementing the DV Screening Protocol in at least one county in District 11.

#### Domestic Violence Update

Stephanie Satkowiak reported Mecklenburg went live with DV E-filing on Oct. 28, bringing the total of operational DV E-filing counties in NC to 12. Brunswick is scheduled to go live in June 2020. The no-cost grant extension was approved by the Office of Violence Against Women (OVW), and they have representatives coming to North Carolina for a site visit and they have specifically asked to see Ft. Bragg's DV E-filing operation. The UNC School of Public Health received grant funding to research the outcomes of DV E-filing. An initial review indicates decreases in the DV homicide rate and involuntary dismissals in sites with DV E-filing. Sherry inquired about what happens with DV E-filing once the ICMS system is in place, and Stephanie responded how the two systems will interface is still under consideration. Judge Walczyk mentioned that it is easier to read typed orders, and Stephanie offered to visit Wake to help judges with Jabber migration in an effort to decrease hand-written orders.

#### Family Court Update

Beginning in November 2014, upon vacancy, Family Court Case Coordinator positions were reclassified to Family Court Judicial Assistant. Employees hired into these positions were brought in on the Deputy Clerk pay scale. These positions were reclassified back to Family Court Case Coordinator as of September 2019. Anyone hired as a Family Court Judicial Assistant with a salary lower than the minimum for Family Court Case Coordinator recently received an increase up to the minimum salary for that position. The reclassification and change in pay scale will help with recruitment and retention of Family Court Case Coordinators and Family Court Administrators.

DeShield Greene returned to Court Programs in early November to fill the vacancy created by Stephanie Nesbitt's retirement. DeShield will be the primary point of contact for western family court districts. DeShield previously served in this role from 2007-2013 and recently has been working in NCAOC Training & Development. Her extensive knowledge of the NC court system will aid in supporting family court with the transition to ICMS.

#### Old Business

The CMAC held a conference call October 4<sup>th</sup> to discuss an issue Judge Walczyk brought to the group for feedback. Some judges in District 10 are unwilling to sign parenting

agreements without proof of service in the file. Judge Walczyk was seeking guidance on what actions mediators are ethically allowed to take to address service issues. Stephanie Smith shared that some districts check for service on CaseWise and do not schedule orientation and/or mediation until service is complete. Many districts operate under the premise that presence at orientation or mediation is acknowledgement of service. The CMAC members concurred that mediators should distance themselves from advising/assisting with service. Ultimately, the family court judges in District 10 edited the parenting agreement template to address their service concerns. Changes are highlighted:

“Acknowledgement of Intentions. This parenting agreement was reached voluntarily after both parties had an opportunity to review the contents of the Complaint filed in this action. The parents understand that by signing this agreement he or she is submitting to the jurisdiction of the Court and making a general appearance in this action. The parents further understand that it is their responsibility to review this parenting agreement with an attorney before signing. When signed by both parents, this agreement will be submitted to the court for its approval and may be incorporated into any decree that may be entered in any proceeding for which it is appropriate.”

#### Conclusion

Judge Corpening concluded the meeting at Noon. A doodle poll will be sent to determine the CMAC meeting dates for 2020.