

**MINUTES**  
**Custody Mediation Advisory Committee**  
**March 15, 2019**

The Custody Mediation Advisory Committee (CMAC) met on Friday, March 15, 2019. The Honorable J. Corpening called the meeting to order at 9:33 a.m.

*CMAC Members:*

Judge J. Corpening, Committee Chair  
Andrea Bosquez-Porter  
Sanya Eller (phone)  
Sheila Eley  
Mike Haswell  
Cheryl Howell (phone)  
Sherry Honeycutt Everett  
Rick Igou

*NCAOC Staff:*

Stephanie C. Smith  
Lori Cole  
Kari Marvin  
Stephanie Satkowiak

Welcome & Approval of Draft Minutes from November

Judge Corpening welcomed everyone to the meeting and introduced Sherry Honeycutt Everett, the new CMAC representative from the North Carolina Coalition Against Domestic Violence (NCCADV). The minutes from the November 2, 2018 CMAC meeting were approved without changes on a motion from Andrea Bosquez-Porter, second by Rick Igou.

Custody Mediation Program Update

Due to vacancies and long-term illness, custody mediation coverage has been requested at numerous sites. Two new mediators were hired to fill vacancies in District 26 and District 28.

Stephanie Smith shared that the process for one of the recent hires raised questions about the statute's requirement for a "...master's degree in social work, counseling or a comparable human relations discipline." Over the years, different hiring authorities have inquired whether a law degree meets the requirement of the statute and Human Resources consistently maintained a Juris Doctorate did not meet the educational requirement. Recent NCAOC Director Warren approved the hiring of a candidate with a Juris Doctorate rather than a degree in social work or a related field. At Stephanie Smith's request, Cheryl Howell researched the issue prior to the CMAC meeting and found:

There is no legislative history or study and no appellate case law interpreting this part of the statute. It is clear the statute requires a "master's degree" and a law degree is not a master's degree. When defining a term that isn't defined elsewhere in the law, the appellate courts often will look to the dictionary, stating that they are required to give terms "*their ordinary meaning*." Miriam-Webster defines "*human relations*" as a "*study of human problems from organizational and interpersonal relations (as in industry)*" or "*a course, a study or program designed to develop better interpersonal and intergroup adjustments.*"

CMAC members discussed educational credentials for custody mediators and the intent of the statute. Sheila Eley suggested striking "comparable human relations discipline" from the statute. CMAC members acknowledged that changing the statute could be difficult and controversial. Rick Igou suggested there may be room in the Uniform Rules to clarify the intent of the statute. He proposed Rule 4.01 could be expanded to include "...and approved by the Custody Mediation

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Manager.” Judge Corpening will reach out to NCAOC Director McKinley Wooten to share CMAC’s opinion that the recent exception to the educational requirement should not be recurring.

District 26 was given approval by past NCAOC Director Warren to create a staff position for a Permanency Mediator. Stephanie is concerned about the allocation of resources, as the position is slated to be taken from the Custody Mediation/Permanency Mediation budget and there will be less funding available to other districts that also utilize Permanency Mediation.

Tammy Lenski led an effective training for custody mediators in 2016 and returns to lead training for the custody mediators on April 1 & 2. Lenski will focus on providing tools and strategies for mediators to help clients navigate the difficult “groan zone” of a mediation session, moving from divergent to convergent thoughts and ideas.

Stephanie is collaborating with Tara Kozlowski, Executive Director of the North Carolina Dispute Resolution Commission, on ideas for training and networking between the programs during Conflict Resolution Week. Tara plans to attend the April training with the custody mediators.

Stephanie shared that Director Wooten has asked the CMAC to identify processes and forms that can be uniform statewide in consideration of the transition to a case management system.

Stephanie has been contacted by parents and mediators who wish to postpone a custody mediation session when the parties have recently received a temporary custody order in court and have not had time to experience what the judge ordered. Several districts, including District 6 and District 14, will only schedule cases for temporary custody hearings after the parties have attended custody mediation. In contrast, Mike Haswell commented that in District 8, it is most common for cases to attend their mediation session after their temporary custody hearing. He reported that questions had just started to arise about that timeline. Judge Corpening shared that his district is trending towards less temporary custody hearings, while Andrea shared that District 10 utilizes temporary custody orders frequently. Judge Corpening offered this topic as an example of how processes/procedures may need to be made more uniform prior to the new case management system.

Stephanie shared a question from a mediator: *Is it required that changes to a draft Parenting Agreement be sent to attorneys prior to the parties’ signing?* Sometimes there are multiple rounds of changes, and the parties often ask the mediator to not send further drafts to their attorney. The CMAC members discussed the requirement and clarified that the original draft and final draft for signature must be sent to the parties’ attorneys for their review. Members considered whether the Uniform Rules need to be clarified, but it was decided this is a training issue and does not require a Uniform Rule change.

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

There are two research projects being conducted on custody cases with DV. The focus of the first research project is reviewing cases that reached a Parenting Agreement in 2011-12 for pre/post mediation DV. The second research project entails reviewing custody cases that were identified as having current Ex Parte/DVPOs in place or recent criminal charges. Additional data pulled from these cases includes a comparison of the custody filing date to the DV filing date and outcomes in custody mediation and DV hearings. Sample cases from both research projects were shared that highlight inappropriate cases sent to custody mediation.

Stephanie Smith has been working with court partners in Durham to prepare for the DV screening pilot launch. At filing, family court staff will identify cases that have threshold markers present. Chief District Court Judge Evans will be given a waiver form that identifies what markers are present. At filing, parties will be given an orientation date, and if the case ends up being waived, a notice will be sent explaining the case was waived from custody mediation, along with instructions on how either party can ask for a judicial hearing to nullify the waiver. Having reviewed custody filings in Durham in the previous month, only 2 cases out of 50 would have met the threshold marker criteria for waiver. The screening process requires access to both CaseWise (civil case database) and CIPRS (criminal case database), but the new case management system should simplify this process.

#### Domestic Violence Update

Stephanie Satkowiak reported that E-filing launched February 4<sup>th</sup> in Rowan County. As of February 11<sup>th</sup>, Onslow County was back up and running with E-filing following the disruptions caused by Hurricane Florence. Orange County is scheduled to launch E-filing April 8<sup>th</sup>, and there are ongoing discussions to bring E-filing to Brunswick County and Johnston County. NC Aware went live, giving local police departments access to E-filing documents.

North Carolina is the only state that files Ex Parte DV cases electronically. UNC's research has shown that in counties where E-filing is present, involuntary dismissals have significantly dropped. For example, in Guilford County, the involuntary dismissals dropped from 806 to 503. Service numbers have also improved, with Durham going from 4% to 88%. Finally, parties have reported better quality of service, including access to an advocate and meaningful interactions with a judge.

#### Family Court Update

Lori Cole shared that Director Wooten has authorized family court to fill current vacancies. District 19D (two counties) and District 16A (three counties) each have one family court staff person and are requesting additional staff resources.

The Access & Visitation grant was renewed, and there is a meeting planned this summer to consider ways to expand the program. Parent Education brochures are now available in hard copy and online.

The Family Court Advisory Committee is working on updating domestic violence forms. Updates should be ready to go to the Forms Committee in May.

#### Conclusion

Judge Corpening concluded the meeting at 11:28 am. The next meeting will be held Friday, July 12<sup>th</sup>.