

**MINUTES**  
**Custody Mediation Advisory Committee**  
**July 15, 2022**

The Custody Mediation Advisory Committee (CMAC) held a hybrid in-person/WebEx meeting on Friday, July 15, 2022. The Honorable J. Corpening called the meeting to order at 11 am.

*CMAC Members:*

Judge Jay Corpening, Committee Chair  
Cheryl Howell  
Rick Igou  
Sheila Eley  
Guest: Tara Kozlowski, Director,  
Dispute Resolution Commission

*NCAOC Staff:*

Asia Prince  
Stephanie C. Smith  
Kari Marvin  
DeShield Greene  
Tara Minter  
Stephanie Satkowiak

**Welcome & Approval of Draft Minutes**

Judge Corpening welcomed everyone, both in-person and remote members, and shared that the meeting is livestreamed to satisfy the state's open meeting requirements. Draft minutes from the March 4, 2022, meeting were shared in advance of the meeting. After review, the minutes were unanimously approved without changes on a motion from Sheila Eley and seconded by Rick Igou.

**Custody Mediation Program Update**

Stephanie Smith reported there has been a record-breaking number of custody mediator vacancies in 2022. Some of the vacancies are due to mediators retiring earlier than they planned. They pointed to health concerns they had regarding required in-person sessions. Other mediators cited salary discontent or challenging personnel situations as the reason for their resignations. Seven new mediators have been hired this year. Training and preparing a new mediator to mediate solo takes roughly two months and includes a 40-hour program led by Stephanie and Kari Marvin, 18 hours of mediation observations, 24 hours' worth of co-mediations, and numerous coaching sessions.

When there is a vacancy or mediator absence, Kari coordinates coverage for the affected district. With the unprecedented coverage need this year, Kari created a shared spreadsheet to streamline the communication between districts, coverage mediators, and the NCAOC Custody Mediation Program. Over 200 cases have been mediated this year by coverage mediators. Judge Corpening offered his thanks to Stephanie and Kari for assistance with the vacancy in District 5. He reported the support offered during the candidate screening, interviews, and with coverage is invaluable to the field.

The DV Screening Protocol video was submitted by the NCPBS producer to an international contest where it won a Silver Telly award. The awards and certificates of appreciation will be arriving in the next few months.

The fall training will take place during Conflict Resolution Week. Bernie Mayer will lead the training via Zoom for the group.

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## Custody Mediator Qualifications

Judge Corpening introduced the topic of mediator qualifications. Since the Custody Mediation Program's inception in 1989, the statute governing the program has required mediators to hold a master's degree in psychology, social work, family counseling, or a comparable human relations discipline. During this recent short legislative session, HB 607 was scheduled for a vote with section 19 (a) revising the aforementioned qualifications thusly:

### **REVISE CUSTODY MEDIATOR QUALIFICATIONS**

#### **SECTION 19.(a)** G.S. 7A-494(c) reads as rewritten:

- "(c) For a person to qualify to provide mediation services under this Article, that person shall show that ~~he or she~~the person complies with all of the following:
- (1) Has at minimum of either (i) a master's degree in psychology, social work, family counselling, or a comparable human relations discipline; and discipline, or (ii) an active license to practice law in North Carolina.
  - (2) Has at least 40 hours of training in mediation techniques by a qualified instructor of mediation as determined by the Administrative Office of the ~~Courts; and~~Courts.
  - (3) Has had professional training and experience relating to child development, family dynamics, domestic relations, or comparable ~~areas;~~and areas.
  - (4) Meets such other criteria as may be specified by the Administrative Office of the Courts."

In short, an active N.C. law license would be equivalent to the previous educational requirements for a custody mediator.

Court Programs manager, Asia Prince, explained that this change was pursued after several Chief District Court Judges requested it. Asia shared Stephanie's concerns with NCAOC Director Judge Heath who approved tabling this section of the bill, allowing time for the CMAC to meet and provide feedback prior to the next legislative session.

Stephanie shared her understanding of the reasoning beneath the current requirements. The field of clinical counseling lends itself to family mediation since clinicians are trained to use language to expand a conversation, engage high-conflict parties, search for underlying concerns, and build on a family's existing strengths. Attorneys are trained to use language to advocate for a party and argue a position. Mental health clinicians are also trained to understand complex family systems and the effects of trauma. Capitalizing

on these skills, the program actively uses a facilitative model of mediation which best fits with the emotional nature of custody mediation. Chief District Court Judges, who are the hiring authority for the program, often hold the belief that custody mediators who are attorneys will be better able to assist parties in mediation. However, custody mediators do not give legal guidance or apply the law. Stephanie shared her opinion that if attorneys were hired as custody mediators the program would quickly become more directive in its approach and similar to family financial mediation.

Cheryl Howell described previous discussions related to the qualifications of mediators. Since the stated intent of the program is to reduce the acrimony between parties that comes with the adversarial litigation process, the general consensus was that parents needed mediators with a background in family counseling more than an individual with a legal background. Cheryl indicated this focus is pervasive throughout the program, in that custody mediators draft parenting agreements rather than consent orders and that child support is not addressed. Initially, some judges wanted the parenting agreements to read more like other court orders, but with training, Cheryl said, most judges understand why custody mediators avoid legalese and instead use the less adversarial language in the agreements. Cheryl questioned what benefits would be gained by employing attorney mediators for custody mediation other than trying to make it look and feel like other parts of the legal process.

CMAC invited Tara Kozlowski, Director of the Dispute Resolution Commission (DRC), to participate in the conversation regarding mediator qualifications. Tara noted that her comments were not on behalf of the DRC whose board has not discussed this topic in their recent meetings. Tara personally feels that the Custody Mediation Program and the DRC Mediation Program have clearly defined and separate roles that have allowed both programs to thrive interdependently.

From Tara's review of the history of the Family Financial Program, it is clear that custody issues were explicitly exempt from their program. Current practice allows for custody issues to be brought into the family financial mediations only if the Custody Mediation Program requirement has been fulfilled and all parties agree. Tara further explained that the General Assembly defined eight fields that qualify mediators in the Family Financial Program: advanced practitioner status (difficult to receive, only 3 across the state), a N.C. law license with five years of experiences, a CPA, and five other fields with advanced degrees in social sciences. Of the approximately 370 family financial mediators, only 7 are non-attorneys. The non-attorney mediators do not get many cases, probably because family financial issues are highly dependent on application of the law and may be better served by those with a legal background compared to non-attorneys. Tara also shared that historical DRC meeting notes indicated that the Family Financial Program recognized and relied on the value of the educational piece that parties receive in the Custody Mediation Program. In 1999, former DRC Chair Judge Walker interviewed Judge Jane Harper from District 26. Judge Harper explained that parents benefit when they can discuss their children without lawyers present because there is less posturing. From her personal experience, Tara explained she has a deeper understanding of the Custody Mediation Program since she left private practice for her current role with

the DRC. Tara noted the Custody Mediation Program resolves a significant number of custody cases that no longer require judicial attention. She also noted that even those cases that did not resolve often have a seed planted during their experience in mediation that aid the co-parenting relationship. Tara explained that it works well for custody mediators with their clinical backgrounds to navigate the emotional piece of custody. This process often helps the litigants prepare for the other issues in their case.

Stephanie expanded on this idea, explaining that custody mediators help parties de-escalate the conflict and wade through a wide range of emotions in order to navigate co-parenting issues. Sometimes parties need several sessions to be able to work through their emotions before they can address the underlying concerns that will allow them to co-parent. Stephanie finds it easier to train custody mediators with backgrounds in counseling because they are steeped in the skillset required to help people communicate during crises.

Tara added that she has attended a Custody Mediation Program annual training and observed the very different material covered. While both programs focus on communication, the Family Financial Program training leans heavily on the rules and standards. The Custody Mediation Program focuses on ways to navigate the emotional content.

Stephanie Satkowiak shared that she practiced family law in Michigan, and she had not witnessed facilitative mediation for custody actions prior to coming to North Carolina. After learning about the program and seeing it in action, she realized the inherent value of offering something different than attorney litigators who are trained to apply the law. She feels that changing the qualifications to include attorneys could be the start of eroding a program that has worked well for 35 years.

Rick Igou echoed what had been previously shared by others. He is a certified mediator with the DRC and he is a contractor in the Permanency Mediation program managed by Stephanie. Rick doesn't believe that changing the qualifications to include licensed attorneys would benefit the Custody Mediation Program.

Judge Corpening said he is adamantly opposed to the statutory revision. As a Chief District Court Judge for 16 years who is the hiring authority for custody mediators in District 5, he would not consider hiring an attorney for the position. He feels the value of having a counseling professional in the role of custody mediator is immeasurable. Starting at orientation, the tone is set for being Adverse Childhood Events (ACES) informed in working with people who have experienced trauma. Judge Corpening added that there is no better way to start the process of resolving conflict than utilizing professionals trained in trauma and trauma response, skilled in de-escalation, and experienced in building healthy communication. A shift to hiring lawyers as custody mediators would be a step away from trauma-informed courts. The mediators in his district not only help families in custody mediation, but they also hold leadership positions in the Resiliency Task Force and are positively impacting families at the community level. In addition, Judge Corpening has heard firsthand accounts from parents

who have participated in the Custody Mediation Program. They emphasized how valuable it was to have someone who could help them step back from their current crisis of separation or divorce to refocus on the best interests of their child(ren). He added that the Family Financial Program has a different and distinct role and does a tremendous job with the financial issues. Judge Corpening concluded by saying both the Family Financial Program and the Custody Mediation Program have separate roles and he believes it is important to keep them distinct.

Asia summarized the feedback from committee members as being opposed to adding a N.C. law license as an alternative to the current educational qualifications for custody mediators. He inquired whether the committee could provide him with a written recommendation that he can share with Judge Heath. Judge Corpening agreed to do so; he thanked all the members and guest, Tara Kozlowski, for their input.

### **Domestic Violence Update**

Stephanie Satkowiak reported that UNC has received grant funding to study how the domestic violence e-filing system performed during the pandemic. Stephanie used District 19C (Rowan) as an example of how the domestic violence docket was able to keep progressing, even when the courthouse was shut down, because staff members could access the e-filing system remotely and were able to process cases. Stephanie and the UNC research team were invited to join a National Center for State Courts discussion involving communities that are challenged with limited access to wifi/internet. North Carolina was highlighted for partnering with the NC Commission of Indian Affairs and discussed how technology can be leveraged for tribal communities. Stephanie is in the process of reviewing research on domestic violence intervention programs (aka batterer intervention programs) and their limited success. She shared that there are pivot ideas that can be built upon to help find resources that judges may be able to utilize with perpetrators. Stephanie is traveling extensively, providing e-filing training to new judges.

### **Family Court Update**

DeShield Greene shared that the Family Court Advisory Commission (FCAC) voted to submit the Uniform Parentage Act recommendations to Chief Justice Newby. The Family Court Annual Report is finalized and posted on [nccourts.gov](http://nccourts.gov). The Family Court Conference held in May was successful with strong attendance and positive feedback. DeShield thanked Cheryl for her contributions to content ideas and Judge Corpening for presenting at the conference. Another conference is being planned for Spring 2023. Districts 4, 19A, and 19C have expressed interest in family court and DeShield and Lori Cole have been guiding the staff through pre-implementation strategies, including Parent Education, backlog review, and judicial assignment. The next FCAC will be held in person at the NCJC on September 16<sup>th</sup>.

### **Human Trafficking**

Tara Minter reported that the Human Trafficking Commission's annual conference will be held in Raleigh on September 5<sup>th</sup>. Registration is required but there is no fee. The 2021 Federal Human Trafficking report is available and includes an interactive database. Tara and Asia are conducting a site visit to the WORTH (We Overcome Recidivism Through

Healing) court in Cumberland County that has received funding from the General Assembly. The Governor's Crime Commission has a Children's Justice Act taskforce that is expanding into the anti-human trafficking area. Tara was invited to serve on the workgroup for a two-year term. The Governor's Crime Commission now has a new data portal featuring arrest data that includes human trafficking information that was previously difficult to obtain at the state level. In the future it will include offender and victim characteristic data that will prove crucial in addressing human trafficking.

### **Court Programs Update**

Asia Prince shared that Kara Mann has been hired as the Office of Language Access Manager. He added that he and Ryan Boyce are working with Human Resources to address Custody Mediation staffing needs, and hopefully funding will be provided during the long session of the General Assembly.

### **Conclusion**

Judge Corpening concluded the meeting at 12:06 p.m. The next meeting will be held Friday, November 18 at Noon.