

MINUTES
Custody Mediation Advisory Committee
November 17, 2023

The Custody Mediation Advisory Committee (CMAC) held a hybrid in-person/WebEx meeting on Friday, November 17, 2023. The Honorable J. Corpening called the meeting to order at Noon.

CMAC Members:

Judge Jay Corpening, Committee Chair
Judge Samantha Cabe
Michelle Hamilton
Kristen Hirsch
Cheryl Howell
Rick Igou
Valerie Laney
Judge Christine Walczyk
Marci Ward

NCAOC Staff:

Stephanie C. Smith
Kari Marvin
Lori Cole
Polly Handrahan

Welcome & Approval of Draft Minutes

Judge Corpening called the meeting to order and welcomed everyone. The draft minutes from the July 14, 2023, meeting were shared in advance. After review, the minutes were unanimously approved without changes on a motion from Rick Igou and seconded by Cheryl Howell.

Abuse/Neglect/Dependency (A/N/D) Cases to Custody Mediation

Stephanie Smith shared the proposed changes to the Permanency Mediation Uniform Rules with stakeholders such as Wendy Sotolongo (IDS Parent Defender), Gail Carelli (Deputy Attorney DHHS), and Reggie O'Rourke (Associate Counsel for Guardian Ad Litem). These stakeholders were excited with the potential the new rules offer and had no changes to suggest. If CMAC agrees, the next step is to forward the proposed changes to AOC Director Ryan Boyce. Stephanie hopes to attend a Family Court training in the fall to discuss Permanency Mediation.

Fiscal Year Statistics and 10-Year Trends

Kari Marvin shared the statewide Custody Mediation Fiscal Year (FY) 2022-23 statistics. In August, the Chief District Court Judges were sent the statewide statistics as well as 3-year comparisons for their districts which can help identify trends. The AOC workload formula was explained to CMAC members as it relates to determining staffing levels based on the number of cases mediated and not mediated, administrative help, travel requirements, etc.

Kari shared the following 10-year program trends:

- The number of custody filings compared with the number of new cases sent to custody mediation

- the number of cases mediated
- sessions held
- parenting agreements drafted
- cases closed with failure to appear.

The percentage of new custody filings sent to custody mediation has ranged between 58-64% over the last decade. In Odyssey, all custody actions are supposed to be flagged for Custody Mediation by the clerks. This may increase the caseload in districts where cases are currently able to bypass custody mediation without a waiver.

As discussed during the last several CMAC meetings, the failure to appear cases have continued to significantly rise, particularly in the larger districts. Mediators have been given specific district data regarding failure to appear cases so they can investigate. Based on their reports, factors that impact failure to appear cases include whether the party was ever served, accuracy of contact information provided in the filing, increase in Pro-Se filings/not completing all of the steps, whether the failure to appear was for orientation or for the session, and whether judges are sending cases back to mediation if they have bypassed the program without a waiver. Mediators also mention a possible culture change with more attorneys conducting private mediations and parents being unaware of the Custody Mediation Program. At this time, there are too many contributing factors to accurately determine if utilizing online sessions have impacted the failure to appear rate. Rick suggested that it may be helpful to work with the Dispute Resolution section of the NC Bar to encourage use of the program. Kristen Hirsch suggested that in addition to statewide data, districts compare their custody filings with the number of new cases sent to custody mediation.

Custody Mediation Program Update

The fall training was held October 19-20 with Dr. Peter Maida, a nationally known mediation trainer, who appeared remotely. Dr. Maida will lead a follow-up session in person at the next training, scheduled for March 6-8 in Beaufort. The focus of both trainings is the topic of impasse in custody mediation.

The new mediator in District 12 is currently being trained, and the new permanency mediation coordinator in District 26 joined for some of the trainings on mediation techniques.

Safe Babies Court

Polly Handrahan was introduced as the Safe Babies Court Manager, and she acknowledged Judge Corpening's role in helping to get this program launched. Safe Babies Court is housed at the AOC and is a partnership with Department of Health and Human Services. Funding sources include the General Assembly, Duke Endowment, and Dogwood Health from the western part of the state. Safe Babies Court is a judicially led collaborative approach to child welfare covering ages 0-3. The pilot sites are New Hanover, Yancey, and Mitchell. The purpose is to break through barriers that hinder these cases, and a therapeutic approach is utilized to help both parents and children. Polly and Kristin Stout, the State Coordinator for Safe Babies Court, are working closely with the

North Carolina Child Treatment Program to review what types of assessment processes can be utilized. Zero to Three will come to the AOC to perform a state case mapping, bringing all experts to the table with a focus to reduce redundancy and improve efficiencies. Judge Corpening shared that an overlap between Safe Babies Court and the Custody Mediation Program is increased family time, including opportunities to form an attachment between child and parent, being involved with medical appointments, etc. Stephanie also sees opportunities for collaboration between Safe Babies Court and Permanency Mediation.

Family Court/Access & Visitation Update

Lori Cole reported the legislature approved four court coordinator positions for Family Court. One is going to District 19B, and the others are designated for the new Family Court sites in Districts 5, 25, and 27. Once the positions are filled, the new districts will work on implementation steps and aim to begin Family Court operations after March 2024. With these additions, Family Court will cover 33 counties and 18 districts which is over 54% of the state's population.

The 2023 Annual Report is posted and contains data and activity for FY 21-22. The 2024 report will be ready in March and will include FY 22-23 data.

The 2024 Family Court Conference is scheduled to take place in Kitty Hawk March 11-13. Judges and court management staff who work with domestic and juvenile abuse/neglect/dependency cases are encouraged to attend. The agenda is not yet finalized, but topics are expected to include Judicial Assignment, Temporary Hearing Strategies, Odyssey Preview, Mental Health First Aid, and Timely Entry of Orders.

Beginning October 1st, the number of Access & Visitation (A&V) Coordinators was reduced to five positions. All are now 40-hour positions covering specific regions. The Cumberland County vacancy was filled in July. Mecklenburg has not yet been successful in finding a suitable candidate and there are concerns that the difficulty in filling these positions is due to limited grant funds available through DHHS. It is anticipated that the increase in hours and salary in the upcoming fiscal year will help with recruitment efforts and foster retention of A&V Coordinators.

Conclusion

Judge Corpening concluded the meeting at 1:10 p.m. Kari will send a poll to determine the 2024 meeting dates.