

MINUTES
Custody Mediation Advisory Committee
March 22, 2024

The Custody Mediation Advisory Committee (CMAC) held a hybrid in-person/WebEx meeting on Friday, March 22, 2024. The Honorable J. Corpening called the meeting to order at Noon.

CMAC Members: OBJ

Judge Jay Corpening, Committee Chair
Judge Samantha Cabe
Rick Igou
Valerie Laney
Judge Christine Walczyk
Marc Ward
Nisha Williams
Alyssia Rivera (intern with Judge Corpening)

NCAOC Staff:

Stephanie C. Smith
Kari Marvin
Lori Cole

Welcome & Approval of Draft Minutes

Judge Corpening called the meeting to order and welcomed everyone. The November 17, 2023 committee meeting minutes were shared in advance. After review, the minutes were unanimously approved without changes on a motion from Rick Igou and seconded by Nisha Williams.

Permanency Planning Mediation (PPM)

Stephanie Smith reported that the amended Uniform Rules were approved by NCAOC Director Ryan Boyce. Stephanie is in the process of revising the PPM webpage so interested stakeholders can understand the process of referring cases for mediation.

Custody Mediation Program Update

The Domestic Violence Screening Protocol continues as a successful pilot program in District 16. District 20, where there was a recent DV fatality, is exploring the possibility of implementing the protocol. A first step may include collecting data on threshold markers and red flags.

Cheryl Howell invited the Custody Mediation Program to be a part of two special topic panels at the judges training to be held April 10-12. Kristen Hirsch, mediator in District 16 and a member of CMAC, will participate in a panel on Parenting Agreements. Kari Marvin will be part of the panel focusing on third-party cases.

In advance of the panel, Kari surveyed the field and found that 60% of the districts have no special process for third-party cases, while 32% of the districts report that a hearing on standing must take place prior to mediation, and 8% of the districts reported “other.” Almost one-third of the districts indicate that their local rules address third party cases, while two-thirds of the districts report their local rules do not address third-party cases. The majority of mediators indicated having concerns about mediating third-party cases

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without a hearing on standing prior to the mediation. Mediators are trained to talk with their Chief District Court Judge to determine how third-party cases are handled in their districts. Kari will also share the excerpt developed by CMAC for the orientation book, *Putting Children First*, to help explain the implications of agreeing to share custody with a non-parent third party: [Putting Children First](#) (see page 14).

Recently a Chief District Court Judge expressed concern about parties modifying recently adjudicated court orders in custody mediation. The concern was specifically related to custody orders that include issues such as drug and alcohol treatment, anger management classes, parent education, etc. Lori Cole shared that the issue came up in the Family Court Administrators meeting as one district had several cases where similar provisions were left out of Parenting Agreements that modified orders recently decided upon by the court. Committee members discussed the issue and concurred that parents are free to make these arrangements in parenting agreements. Therefore, the best practice is for the assigned judge to review the drafted modification. Stephanie added that she will train the mediators to: 1) flag any unusual modifications for the assigned judge to review, and 2) remind parties that modifications will be reviewed by the judge who may or may not approve them.

Lori described how the CMAC recommendation to rewrite the whole agreement rather than adding piecemeal modifications was shared with the Family Court Administrators. Kari shared that the modification language in the statewide template states that "...this Parenting Agreement modifies and replaces the **custody provisions** of the following previous court order(s).

Committee members discussed whether drug testing, anger management, etc. are considered custody provisions. Judge Corpening explained that it is difficult to give a precise answer on what constitutes a custody provision, and it is all the more reason for the judge who heard the initial complaint to review any Parenting Agreement modifying the court order.

Mediators have asked about electronic signatures for parents, especially as there is movement towards more events taking place online. Judge Cabe indicated that having signatures notarized offers protection against any fraudulent practice where one party signs for the other or pressures the other to sign. Rick asked whether it would be helpful for mediators to become notaries, and Stephanie explained that having notarized signatures helps parents avoid a trip to the courthouse so it would only be helpful if the notarized signatures could take place remotely. CMAC members agreed parent signatures are important and options can be further explored.

Stephanie shared that there have been requests to revisit whether drug testing costs can be addressed in Parenting Agreements. There are numerous cases where substance misuse has been a significant issue and drug testing is an important piece of the agreement. This issue was discussed by CMAC in 2017 and the recommendation was that financial information should not be included, but cost for drug testing could be included if

approved by the Chief District Court Judge. CMAC members discussed whether agreements with significant drug testing provisions are better suited for court. Members also questioned why attorneys would not create consent orders and add the financial information they are seeking. Judge Corpening plans to revisit the issue during the next meeting and asked NCAOC staff to gather information from previous CMAC discussions to share with members.

The spring training was held in Beaufort March 6-8 with Dr. Peter Maida, a nationally recognized trainer. Dr. Maida's training on impasse was a follow-up to the training he led with custody mediators in the fall. This was the first training held at an off-site location in many years and the mediators were pleased to meet in a location other than the NCJC.

Safe Babies Court

Polly Handrahan was unable to attend in-person but sent an update read by Kari:

Since the last meeting Safe Babies Court (SBC) has made significant progress with implementation. In December the mission and vision statements were developed. In January, Zero to Three came to Raleigh to complete state-level case mapping, a visual standard operating procedures document. This meeting included participants from the local sites, representatives from Department of Health and Human Services, Indigent Defense Services, Guardian Ad Litem, UNC School of Government, and the AOC. The state policies and procedures manual was developed based on the information gathered during case mapping. The first advisory meeting was also held in January.

Safe Babies Court staff will be traveling to Yancey, Mitchell, and New Hanover Counties to complete their local level case mapping and detailed procedures manuals will be developed that include each site's unique circumstances.

The first Site Implementation Team (SIT) meetings will be held in April to discuss any local site issues. Data and trends will be reviewed to identify needs and address any barriers that arise. Safe Babies Court staff will also meet with community partners to provide an overview of the program.

Family Court/Access & Visitation Update

Lori Cole reported the [2024 Annual Report for the Family Court Program](#) was recently posted. It contains FY22-23 data and family court program activity through December 2023. New Family Court Coordinators have been hired in Districts 5, 25, 27, and 37. New family court districts are convening local advisory committees and updating local rules to reflect court-driven processes.

The 2024 Family Court Conference took place in Kitty Hawk March 11-13. Around 70 judges and court management staff who work with domestic and juvenile abuse/neglect/dependency (A/N/D) cases participated. Topics included one judge – one family case assignment, active case management for both domestic and juvenile A/N/D cases, an Odyssey preview, timely entry of orders, and vicarious trauma.

The Access and Visitation (A&V) coordinators are developing generic forms (custody, visitation, contempt) for the use of parents statewide. Mecklenburg County is recruiting to fill the vacant A&V Coordinator position for the southern region. Norma Boyd is providing coverage for this region in the interim.

Recently several districts have expressed interest in using the 37-minute self-directed online AOC parent education public resource, *The Most Important Job*. Video and materials are available in both English and Spanish. Verification emails can be set up to send a copy to staff for tracking attendance. Judge Cabe suggested that posters could be made for the courtroom with a QR code to access parent education resources. Nisha added that she will remind DV staff around the state about the services A&V coordinators provide.

Conclusion

Judge Corpening concluded the meeting at 1:05 p.m. The next meeting will be July 12, and it will be fully remote due to construction at the Judicial Center.