



SUPREME COURT OF VIRGINIA

RESOLUTIONS

OFFICE OF THE EXECUTIVE SECRETARY

*Department of Judicial Services
Division of Dispute Resolution*

100 North 9th Street
Richmond, Virginia 23219

SALLY CAMPBELL NAMED AS NEW DRS COORDINATOR



Paul DeLosh, Director of the Judicial Services Department, presented Sally Campbell with the Distinguished Service Award.

Sally (Sarah P.) Campbell joined the Department of Judicial Services as Alternative Dispute Resolution Specialist for the Division of Dispute Resolution in November of 2006. Before coming to the Supreme Court, she established and managed her own law practice and assisted in the development of a collaborative law practice group in central Virginia. Sally holds a J.D. from the University of Richmond and has been certified as a mediator since 2000. She has been a member of the Virginia Mediation Network since 1999.

Sally has been a perfect fit to our staff and has already demonstrated a keen desire to raise and enforce the standard of excellence for our mediation community and its service to the courts. Sally possesses a strong sense of professional ethics and serves by example the need to model excellence in everything we do.

Sally has been working with our ADR Ethics Committee to revise the Standards of Ethics, Guidelines for Certification of Mediators, and the Complaint Procedures to render them more effective for purposes of oversight of the growing team of professional mediators who serve our

ON THE INSIDE

Sally Campbell New DRS Coordinator	1
Mediator Review Committee Decision	3
VACCR List Update	7
Interview with Geetha Ravindra	8
Notice to Family Mediators	12
Mediation-Child Support & Public Assistance	13
Virginia ADR Statistics	14

(Continued on page 2)

(continued from page 1)

citizens and our courts.

Just as Sally was coming on board with DRS, we were moving forward with the daunting task of working with our Department of Judicial Information Technology on the automation of several primary and very complex components of the function of our office and the mediation services offered to the courts. Sally assumed the leading role for DRS on this exciting project.

Demonstrating an exceptional work ethic, she has already made many valuable contributions to DRS and DJS. It was the combination of these qualities that earned Sally a Distinguished Service Award from the Office of the Executive Secretary at a December 2007 awards ceremony. We are very pleased to announce that Sally Campbell has been promoted to the position of Dispute Resolution Services Coordinator, replacing Geetha Ravindra who departed recently to enter private practice. Congratulations are in order and we are looking forward to the continued growth of ADR in Virginia under Sally's capable leadership.

ADR COORDINATOR POSITION VACANCY

The promotion of Sally Campbell to DRS Coordinator has created a full-time opening on staff for the ADR Specialist position, which has been advertised locally and posted to the OES web site. The initial deadline to receive applications was December 21, 2007; however, applications will be accepted until the position has been filled. The job description is as follows.

ADR SPECIALIST - DEPARTMENT OF JUDICIAL SERVICES

The Office of the Executive Secretary of the Supreme Court of Virginia is seeking applicants for an Alternative Dispute Resolution Specialist within the Department of Judicial Services. This department oversees the development and support of judicial services including innovative dispute resolution efforts within Virginia's judicial system.

Duties: Assist in identifying long-range court-connected ADR needs and establishing objectives and strategies to meet those needs. Develop and provide training to practitioners, court personnel, businesses, members of the bar, judges and the general public. Administer mediator certification program and oversee training requirements to meet changing needs. Support administration of contracts with dispute resolution providers. Develop articles for Resolutions newsletter. Prepare grant proposals for innovative ADR projects. Work cooperatively with local ADR providers and programs statewide. Provide ADR-related technical assistance to courts and local programs. Assist in preparing reports analyzing ADR legislative requirements. Occasional statewide travel is required. Position will be based in the Richmond office.

Qualifications: A degree from an accredited college or university with course work in law, public administration, conflict resolution, education, social science or court administration is preferred. Relevant experience in the areas of mediation, grievance processing, arbitration or other forms of dispute resolution, and Virginia mediator certification, are highly desired. Demonstrated ability to develop and conduct adult education training. Ability to communicate effectively orally and in writing. Ability to work effectively with legal and business personnel, ADR providers, advisory groups and the public at-large. Excellent organizational skills. Ability to independently and simultaneously handle a number of tasks, projects and administrative assignments. Demonstrated experience in successfully initiating, developing and managing research and action projects is highly desired. Some knowledge of the legislative process and familiarity with the work of various government agencies, including the court system.

Applications will be accepted until the position is filled; to ensure immediate consideration, please submit State application, resume and salary requirements by December 21, 2007 to: Human Resources Department, Supreme Court of Virginia, 100 North Ninth Street, Third Floor, Richmond, VA 23219. EOE

MEDIATOR REVIEW COMMITTEE DECISION

The Mediator Review Committee has considered a formal complaint against a mediator and issued a decision decertifying the mediator. The decision is provided here both to give notice to the public of the decertification and to provide mediators an opportunity to gain knowledge and understanding of mediator ethics and responsibilities from the application of Virginia's Guidelines for the Training and Certification of Court-Referred Mediators and Standards of Ethics and Professional Responsibility for Certified Mediators to actual situations.

MEDIATOR REVIEW COMMITTEE'S DECISION REGARDING COMPLAINTS AGAINST DAVID McDONALD

Complaints and Procedural History

David McDonald is a certified mediator and a certified mentor in Norfolk, Virginia. In 2006, a number of complaints were lodged against Mr. McDonald.¹ Pursuant to the Complaint Procedures for Mediators Certified to Receive Court-Referred Cases (1997), the Mediator Complaint Panel examined these complaints. On May 3, 2007, the Mediator Complaint Panel forwarded the complaints relating to two issues to the Mediator Review Committee: 1) complaints that a number of people, who were seeking to become certified mediators, were "mentored" by non-certified mentors and that Mr. McDonald signed "Mentee Evaluation Forms" for such people without having mentored them; and 2) complaints that David McDonald had taught an Orientation to the Virginia Judicial System by himself, notwithstanding the requirement of the Office of Executive Secretary (OES) that he teach it with a co-trainer who is a member of the Virginia State Bar.

After proper notice and by agreement of counsel, a hearing was held before the Mediator Review Committee,² on July 9, 2007, in Richmond. The hearing was attended by David McDonald, and his counsel, Ray W. King, Esq., by Complainant Geetha Ravindra, of OES, and her attorney, Peter W. Messitt, Esq., Senior Assistant Attorney General, and by Complainants Diane Poljacik, Linda Cataldo, Donna Cox and Karen Collier. Testimony was received from the Complainants and Mr. McDonald and by telephone from Holly Tracy. Both counsel, the Complainants and members of the Review Committee were afforded the opportunity to question the witnesses. In addition, a number of documents were received into evidence. The Review Committee granted counsel and the complainants until July 23 to submit further evidence and a number of Affidavits were received by electronic means. The record of the hearing remained open for submissions of rebuttal evidence and of memoranda from counsel until July 31, 2007.

The Mediator Review Committee has carefully reviewed the Mediator Complaint Panel's concerns, Mr. McDonald's responses thereto, the testimony of the witnesses, the documents introduced at the hearing on July 9, the affidavits submitted by Mr. McDonald's counsel thereafter, oral argument of counsel at the hearing, and written memoranda submitted by counsel.

Hearing Testimony and Evidence

Mr. McDonald testified that he had been a mediator since 1993. Through his Mediation Center of Hampton Roads (MCHR), Mr. McDonald provided mediation services and training, including training that is a prerequisite for a person to become a mediator certified to receive referrals of cases from the Virginia court system. From his own testimony and from affidavits of witnesses, it is evident that Mr. McDonald has actively promoted the use of mediation in the courts in Tidewater. As MCHR's primary trainer, he has trained many individuals in mediation. He is also a certified mentor.

(continued on page 4)

(continued from page 3)

Mentoring. The Mediation Center of Hampton Roads (MCHR) offered opportunities for newly-trained individuals to co-mediate cases. On numerous occasions, certified mediators, who were not certified mentors, co-mediated cases with trainees. At the direction of Mr. McDonald and the MCHR staff, the certified mediators filled out "Mentee Evaluation Forms" describing the mediation and were instructed "until you become a certified mentor, leave mediator name & signature blank." (Collier Exhibit #1; see also Poljacik Exhibit #3). Subsequently, Mr. McDonald, who was a certified mentor, would insert his name and sign the form as if he had mentored, and co-mediated the case with the trainee.

For example, Complainant Cataldo testified that although she was not a certified mentor, she was asked by the MCHR office manager to mentor a trainee in February 2004. Complainant Poljacik testified that only a few months after she was certified as a mediator in March 2004, she was asked to co-mediate with a trainee and, after the mediation, was instructed to fill out an evaluation form. She was given several sample forms to see how others had filled out such forms. In another instance in April 2005, Poljacik prepared a handwritten evaluation form for a mentee; it was subsequently retyped, listing Mr. McDonald as the co-mediator, and signed by him as if he had mentored the trainee (Poljacik Exhibit #1). In yet another instance, the comediator typed a Mentee Evaluation Form with her name and certificate information; her name and number were later excised and replaced by Mr. McDonald's handwritten name and number on the form that he signed in July, 2005. (Poljacik Exhibit #2). There was further evidence of Mr. McDonald also having signed a Mentee Evaluation Form for a mediation that he did not attend. (Tracy Exhibit #1). On each form was the question prescribed by OES: "Based on your co-mediation with the mentee, do you recommend that this trainee should be certified after completion of all required training and co-mediations?" In signing the form, Mr. McDonald did not explain that he had not co-mediated with the person whose certification he was recommending.

Mr. McDonald admitted that he used mediators, who were not certified mentors, to evaluate trainees and that he had signed the forms even though he did not mentor, or co-mediate with, the trainees. Mr. McDonald stated that he did this about once every two weeks. He stated that he had done this because of pressure to get trainees through the certification process as soon as possible. It was stipulated that this conduct occurred over a couple of years. Mr. McDonald said he stopped the practice in February, 2006, because what he was doing was not right.

Judicial System Course. Among the training courses offered at MCHR was an orientation to Virginia's Judicial System, which a person seeking certification was required to take unless he/she was a member of the Virginia Bar. Beginning in 2000, OES required that this course be taught by a member of the Virginia Bar.³ Mr. McDonald, who is not an attorney but who had taught the course previously, requested a waiver of this requirement. OES denied his request to teach the course by himself. On August 22, 2000, OES certified the four-hour course "Introduction to Virginia's Judicial System," with Mr. McDonald and Paul Warren, a Virginia licensed attorney, listed as co-trainers. Certification was contingent upon, among other things, "maintaining an on-going contact with the Office of Executive Secretary regarding changes in the primary trainer(s). . . ." Subsequently, Mr. Warren participated in at least one training, but it is undisputed that Mr. McDonald taught the course several times without Mr. Warren or another attorney as co-trainer and

(continued on page 5)

(continued from page 4)

without so informing OES. In 2006, after OES complained about Mr. McDonald teaching the course alone, Mr. McDonald advised that the course would be co-taught with Mr. Warren.

Discussion

Virginia has established a system for the certification of mediators who wish to receive court-referred cases. “A neutral who desires to provide mediation and receive referrals from the court shall be certified pursuant to guidelines promulgated by the Judicial Council of Virginia.” Va. Code Section 8.01-576.8. The Judicial Council has adopted Guidelines for the Training and Certification of Court-Referred Mediators (eff. 2000). The Guidelines’ Statement of Intent provides that

It is the desire and expectation of the citizens of Virginia to have access to a highly competent and responsive judiciary. Where the judicial system includes dispute resolution alternatives such as mediation, citizens should expect the same level of service. The following Guidelines for the Training and Certification of Court-Referred Mediators are intended to ensure that court-referred mediators also meet a high standard of competence and ethical responsibility.

These Guidelines require that persons seeking to be certified to receive court cases provide, *inter alia*, documentation to OES that they have completed prescribed mediation training and “evaluations by certified Mentors.” Guidelines at B.4. Applicants (other than members of the Virginia State Bar) must also submit evidence of having taken an introductory course about Virginia’s Judicial System. Guidelines at C.5.

Applicants for certification must submit to OES evidence of “supervised co-mediation” that has been “evaluated by certified Mentor(s), such evaluation to include a recommendation by the certified Mentor(s) as to whether the applicant should be certified along with the reasons for the certification.” Guidelines at D.1.c., D.2.c., D.3.c. and D.4.c. In order to become a certified mentor, one must first be a certified mediator and then be re-certified “at least once,” and must have participated in a mentoring skills course and submitted a mentoring application to OES. Mentor Qualifications at 1 & 2. Thus, under the Virginia system, a certified mentor has a prescribed amount of experience and training above that of a certified mediator. The mentor “must specifically discuss with the trainee things they did well, areas that could use some improvement, and things that could have been done differently.” Mentor Responsibilities at 2.

Mentoring. The Committee has concluded that, by clear and convincing evidence, Mr. McDonald’s conduct with respect to mentoring is a violation of Section H. 1 of the Guidelines and Section A of the Standards of Ethics and Professional Responsibility for Certified Mediators (adopted 2002) (hereinafter “Standards”).

Section H.1 of the Guidelines⁴ provides that

At any time during the period of certification or subsequent recertification, upon notice and an opportunity to be heard, a certified mediator who is . . . found to have engaged in conduct prejudicial to the proper administration of justice, shall be removed from the list of certified mediators.

Mr. McDonald’s conduct was “prejudicial to the proper administration of justice.” The Virginia system for training and certifying mediators entrusts trained and experienced certified mentors with the responsibilities of evaluating trainees and recommending whether the trainees should be certified. By repeatedly, and over the course of at least two years (2004 and 2005), using noncertified mentors to assume the responsibilities of evaluating and recommending trainees, Mr. McDonald engaged in conduct that inevitably undermined the system for assuring a sufficient level of competence for new mediators. His false signing of the Mentee evaluation forms served to disguise who was doing the mentoring, thereby enabling the uncertified mentoring to go on as long as it did. His false statements about applicants for certification also undercut confidence that

(Continued on page 6)

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OES can have in his ability to train and mentor new mediators, and threatens the courts' and public's confidence in the integrity of the training and certification system. Mr. McDonald's conduct is prejudicial to the proper administration of the Judiciary's court-referred mediation program.

Mr. McDonald's conduct also clearly violates Standard A,⁵ which provides, in pertinent part:

Mediators shall conduct themselves in a manner that will instill confidence in the mediation process, confidence in the integrity and competence of mediators, and confidence that the disputes entrusted to mediators are handled in accordance with the highest ethical standards. . . .

Where, as here, a prominent mediator such as Mr. McDonald repeatedly had non-certified mentors evaluate and recommend trainees for certification, he subverted – rather than instilled – confidence of the public, the courts and users in the mediation process. False statements by a mediator who trains others about mediation inevitably undermine his own integrity and that of the mediation profession. Mr. McDonald's pattern of behavior threatens the confidence that disputes entrusted to him will be handled in accordance with the “highest ethical standards.”

Judicial System Course. With respect to the Judicial System training complaint, Mr. McDonald taught the course without Paul Warren or another member of the Virginia Bar and therefore did not comply with the terms under which the course was certified. Although it displays disregard for the conditions under which the course was certified by OES, Mr. McDonald's conduct does not, in the view of the Committee, constitute, by clear and convincing evidence, a violation of either H. 1 of the Guidelines or A of the Standards. Indeed, the Committee believes that the appropriate remedy for such conduct is decertification of the course, rather than action against the mediator.⁶

Result and Sanctions

It is the decision of the Mediator Review Committee that:

- A. The complaints that Mr. McDonald taught the Orientation to the Virginia Judicial System by himself are dismissed.
- B. Mr. McDonald's conduct with respect to non-certified mentoring are found, by clear and convincing evidence, to be violations of the Guideline H.1 and Standard A.
- C. Because these violations are serious and sanctions are warranted, the Committee, pursuant to Section 8 of the Complaint Procedures for Mediators Certified to Receive Court-Referred Cases, imposes the following sanctions:
 1. David McDonald shall be decertified as a mediator, effective September 17, 2007, for a period of nine months thereafter. After such period of nine months has passed, he may re-apply to be certified as a mediator.
 2. David McDonald shall be decertified as a mentor and he shall not mentor trainees seeking mediation certification, effective September 17, 2007, for a period of two years.
 3. The Committee recommends that OES publish this Decision in the Resolutions newsletter and that it notify any dispute resolution center, court service unit or other entity with whom David McDonald is affiliated, of this Decision, subject, however, to the rules of confidentiality set out in section 10 of the Complaint Procedures and any other such rules applicable hereto.
- D. The Committee makes reference to the right of the mediator to request reconsideration and/or an opportunity to be heard by making a written request to the Executive Secretary within 30 days of receiving notification of the action taken herein, pursuant to Section 9 of the Complaint Procedures for Mediators Certified to Receive Court-Referred Cases (1997).

(continued on page 7)

(Continued from page 6)

¹Complaints were filed by Holly Tracy, Shartory Speller, Diane Poljacik, Donna Cox, Fleta Karen Collier, Cynthia Royster, Linda Cataldo, Deborah Bennett and Geetha Ravindra.

Although the complaints involved a number of issues, the Review Committee has only examined the complained-about conduct that was referred to it by the Complaint Panel.

²A quorum of members of the Review Committee was present, i.e., Paula M. Young, chair; Frank West Morrison, Jeannette P. Twomey, and Samuel S. Jackson, Jr..

³Section 7 of the Guidelines for the Certification of Mediation Training Programs (effective 2000) (hereinafter Training Programs Guidelines).

⁴In the 2006 version of these Guidelines, this language is found at section G.1.

⁵Although Section A is captioned "Preamble," the Committee notes that the section contains both obligatory language (e.g., where the section uses the verb "shall") and explanatory language (where the section explains that the Standards are meant to be interpretative of the main text of the standards). The fact that Section A is a designated section of the Standards also supports our view that it sets forth standards of behavior for mediators.

⁶Section 17 of the Guidelines for Certification of Mediation Training Program provides that "Upon notice and an opportunity for the presenters of the program to be heard, a certified training program that is found not to meet the continuing requirements of course content, structure, and training staff or whose evaluations indicate that the participants in the training are not satisfied with the quality of the training may be decertified."

Dated: August 14, 2007

MEDIATOR REVIEW COMMITTEE

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Samuel S. Jackson, Jr.
Frank West Morrison
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A BRIEF CONVERSATION WITH GEETHA RAVINDRA



Geetha Ravindra

She is a devoted wife and mother, an active member of the Hindu community, and a visionary teacher of alternative dispute resolution. In her decade of leadership in Dispute Resolution Services at the Supreme Court of Virginia, Geetha Ravindra transformed alternative dispute resolution in the Commonwealth. She has overseen the certification of over 1000 mediators and 500 mediation training programs. She has revised the Guidelines for the Training and Certification of Court-Referred Mediators, the Standards of Ethics for Court-Certified Mediators, and the Complaint Procedures. She has developed comprehensive Guidelines for Mediation and the Unauthorized Practice of Law and an innovative Judicial Settlement Conference Program that can boast a 60-70% success rate and a 99% litigant satisfaction rate. She has designed new Mentor Responsibilities, a Mediation Coordinator Program, and an exit survey that indicates 80-85% of cases reach agreement in all or some of the issues in dispute and 95% of parties are highly satisfied with mediation services.

Throughout her tenure at Dispute Resolution Services, Geetha Ravindra has worked tirelessly to ensure that all litigants have access to justice in the most efficient and effective way possible, whether it be through mediation, conciliation, or judicial settlement conference services. Now, as she has embarked on a new phase in her service to the alternative dispute resolution community through her private practice, Geetha takes a moment to reflect on her journey thus far.

How were you first introduced to alternative dispute resolution?

I had the opportunity as a summer intern while I was in law school to work for the Duke University Private Adjudication Center, a company that provided customized ADR services. Basically, I was able to get my first exposure to mediation and ADR processes working for them, and then they hired me after graduation. The first major project I was responsible for was the Dalkon Shield Arbitration Program.

What drew you to the world of ADR?

My main reason for going to law school was to help people. I loved how ADR provided an opportunity to assist parties informally, helped them reach resolutions that met their needs and brought closure to whatever dispute they were involved with in a non-threatening way. That was so wonderful to be a part of something like that. I saw that first with the Dalkon Shield program (the arbi

(continued on page 9)

(continued from page 8)

tration of a case involving defective intra-uterine devices that caused many problems for women around the world). I worked on it for four years. It was the most successful resolution of a mass tort at that time. Mediation is a wonderful vehicle for providing parties access to justice quickly and efficiently.

How did you know that you could do the job of being Director of the Department of Dispute Resolution Services?

Well, I worked part time for the first director, Barbara Hulbert, for about six months before applying for this position. Having worked in the office and understanding its responsibilities of certification and education of the Bar, which were our primary responsibilities at the time, I felt fairly confident I could do that. And I had several ideas of where this could go in the future. I was the youngest director ever hired and the first Indian, obviously. I have done things I shouldn't be doing throughout my life, such as skipping grades. I think I've always reached for the stars and been blessed to have some of these opportunities that have come along.

How did you feel when you learned that you had been chosen to be the Director of the Department of Dispute Resolution Services?

I was very excited and very optimistic about our direction. ADR, at that point, in the court-connected sense was about five years old, and the momentum was building. We were at that critical point where I knew we had to emphasize the understanding and integrating of it in the courts. Of course, I was very grateful to Mr. Rob Baldwin for giving me this opportunity.

We spent a lot of time in educating lawyers and in educational conferences for judges – explaining what cases are appropriate for mediation and advocacy. We were also trying to address the lawyer versus non-lawyer mediation issue. We had to spend a significant amount of time discussing the unauthorized practice of law in mediation. I think that we're seen as a leader in that issue. We've never limited mediation to people of a certain background; in some states you have to have a legal background. Unlike some states, we enjoy a mediator community from all different backgrounds, and I think that's been helpful in our growth.

What was your favorite part about being Director of Dispute Resolution Services?

Program development. I loved being able to develop and implement new programs that either supported greater use of mediation and/or ADR or developed new ADR processes. For example, the legislation 20 -124.4 was very exciting because it allowed us to make a legislative change that ensured that all contested custody, visitation, and support mediations would be paid for. Similarly, the Judicial Settlement Conference program was a wonderful hybrid innovation that drew upon the tremendous experience of our retired Circuit Court judges.

(continued on page 10)

(continued from page 9)

Also, I am so excited by the work we have done in the mandatory parent education arena and restorative justice.

I loved working with the judges and the mediation community and thought the relationships were really, really fantastic. I collaborated with them in many ways over the last ten years. We were a very small office for a long time, just Melanie and me. We could not have accomplished everything we have without the Bar, the Bench, and the mediation community.

What do you feel was your greatest accomplishment at DRS?

To be honest, I don't know that I could point to one thing. I'm just very pleased with several things our office has initiated – everything from Guidelines for Mediation and the Unauthorized Practice of Law to a system of mediation coordinators and contract funding to the new Judicial Settlement Conference program. I think all of these have been really positive initiatives.

With everything that you have accomplished with ADR services in Virginia, do you have any regrets?

My main regret is that I'm not able to see the revisions to the Complaint Procedures, Standards of Ethics for Court-Certified Mediators, and Guidelines for the Training and Certification of Court- Referred Mediators to their conclusion. My other regret is that I won't be able to be a part of implementing the most recent Futures Commission recommendations because I was a part of developing them.

At this juncture, where do you see Virginia compared with other states in terms of the services that are provided, how mediation is supported by the state, and how it's perceived by clients?

I think that we're truly one of the leaders in the country in all of those areas. We have a solid certification and continuing education program. Many states don't have qualifications to serve as a mediator even in a court-referred situation. We have quality assurance measures that many, many states do not have. We are one of the few states that include in our Rules of Professional Conduct that lawyers must consider mediation. This past year I was able to work with the Joint Virginia State Bar - Virginia Bar Association Committee on ADR, and we added an ADR component to the professionalism course, which is mandatory for all new lawyers.

Many states are not as proactive as we are. For example, historically, we've provided training during the judges' pre-bench orientation. We have funds from the General Assembly that allow for no-cost mediation and Judicial Settlement Conference services throughout the state. A few states may provide no cost mediation for indigent parties, but in Virginia, people across the board have access to free mediation. And, we have coordinators that we pay to facilitate the referrals from the court to the mediators.

(continued on page 11)

(continued from page 10)

What is your vision or hope for ADR in the future, in Virginia and beyond?

My goal would be to continue the growth of mediation, working with the Virginia Mediation Network, the Joint Virginia State Bar - Virginia Bar Association Committee on ADR, the Virginia State Bar Fee Dispute Committee, and the community mediation centers. I'm hoping to continue our expansion at a national and local level.

My hope would be that mediation and ADR processes, in general, continue to grow and expand in use: that all courts throughout the state are able to integrate ADR services effectively and that citizens of the Commonwealth will have access to mediation, both at no cost and through private providers. And, my hope would be that the educational institutions as well as law schools will more proactively focus on curriculum that provides information on mediation and non-adversarial methods of dispute resolution.

I think that in the future we're going to see the legal profession move towards collaborative practice, which would hopefully better serve the litigants. I really think we're going to be doing a lot more of this and a lot better. My hope is that practitioners will expand their services beyond the court system. I want people to think outside the box and recognize the potential for application of ADR services in a variety of other contexts; for example, in the healthcare industry, in elder care matters, and in the corporate sector.

With all of the work that you've done, your participation in so many professional and cultural groups, and your devotion to your family, the eternal question: how do you do it all? How do you balance everything?

I don't think I'm unique. I think all of us are balancing our professional and personal lives every day. Establishing priorities. Being very organized. A lot of support at home is the only way we can do it. It's having a really strong commitment to your work, your family, and your community. That commitment will help you develop a balance that's meaningful.

*A personal message
from Geetha
to the readers of
Resolutions*

It has been such an honor and pleasure working with the mediation community over the last 11 years, and I wish you all the very best in your respective practices. I'm looking forward to working with you all in a different capacity in the future.

This interview was conducted by and the article submitted by You Lee H. Kim, third-year law student at The College of William & Mary. You Lee served as student intern in the DRS office the summer of 2007 and also did an externship in DRS during the Fall 2007 semester. DRS would like to express sincere appreciation to You Lee for her many contributions, always performed with excellence, diligence and enthusiasm.

Notice to Family Mediators Extrapolating a Child Support Amount

In June 2006, Dispute Resolution Services offered training in four Virginia localities for family mediators. The primary focus of the training was working with guidelines and worksheets to compute child and spousal support. The training presentation was posted on the mediation page of the court's web site following the training. It was brought to our attention recently that an error existed on the slide describing how to extrapolate a child support amount. Many thanks to Carol McCue and Alice Burlinson, who both served on the Family Mediation Committee that compiled the training manual for this training, for preparing an accurate example of this procedure. You may be accustomed to referring to the procedure as "interpolation," which also is appropriate. New slides have been substituted for the erroneous slide in the online presentation and the example is also provided below. Please print and save the example to update your resource manual provided at the 2006 training. We want to be very sure all child support calculations are executed accurately.

EXTRAPOLATING A CHILD SUPPORT AMOUNT

Example: The parties' combined gross income is \$2967.00 a month. They have one child.

What is the child support amount for that child?

These figures are from the child support tables:

Gross Income	Support amount for 1 child
2950	440
2967	???
3000	445

1. Find the difference between the combined gross income for the parties and the lower combined gross income figure from the chart:

$$2967 - 2950 = 17$$

2. Divide the answer from step #1 by 50

$$17/50 = .34$$

3. Find the difference between the two child support amounts (at the higher and lower income figures) on the chart

$$445 - 440 = 5$$

4. Multiply the answer in step #2 by the answer in step #3

$$.34 \times 5 = 1.7$$

5. Add the result of the calculation in step 4 to the lower child support figure in the chart to get the amount of support for your desired gross income

$$1.7 + 440 = 441.7 \text{ or round to } 442$$

MEDIATION ~ CHILD SUPPORT AND PUBLIC ASSISTANCE

Most family mediators know that for families where the parent or caretaker is receiving public assistance on behalf of a child, mediation of child support is not appropriate. The Family Mediation Resource Manual prepared by the Office of the Executive Secretary, Supreme Court of Virginia, June 2006, includes the following statement:

“Recipients of public assistance automatically become clients of DCSE (The Division of Child Support Enforcement) as they assign their rights to support to the state when they receive benefits now known as Temporary Assistance to Needy Families (TANF). Mediators do not mediate cases involving public assistance, as the state is the party in interest, not the individual receiving the benefits.” (Page 69 -- emphasis added)

What is often overlooked, however, is the statement on the following page:

“The payment of TANF benefits by DSS creates a debt to the State, which DCSE is responsible for collecting from the non-custodial parent or parents. Because of this responsibility, mediation is not possible in child support cases involving a child whose caretaker is receiving or has received TANF payments and where an outstanding debt to the State exists unless a staff member of DCSE is present in the mediation to represent the interests of the Commonwealth of Virginia.” (Page 70 – emphasis added)

In order to comply with this regulation, all intake screening forms should identify whether or not the parent or caretaker is now or has ever received TANF benefits for the child who is the subject of the mediation case. If the answer to that question is “yes”, then the issue of support should not be mediated without the involvement of DCSE.

Equally important for Virginia family mediators to understand is that for almost all other benefits programs, child support payments are deemed “unearned income” to the receiving party and are added to the income from all other sources when determining eligibility for assistance. (This surprises many because the IRS does not treat child support payments as income to the receiving party.) The receipt of child support payments may impact eligibility for Food Stamps, Medicaid, FAMIS, Day Care, General Relief, Fuel Assistance, and a number of other assistance programs. (In fact, the receipt of child support payments for one child who is not on the TANF assistance grant may impact the eligibility of the custodial parent or caretaker to receive TANF for other children in the household.) Failure to report any change in income – including child support – may result in the receipt of benefits to which the individual is not legally entitled.

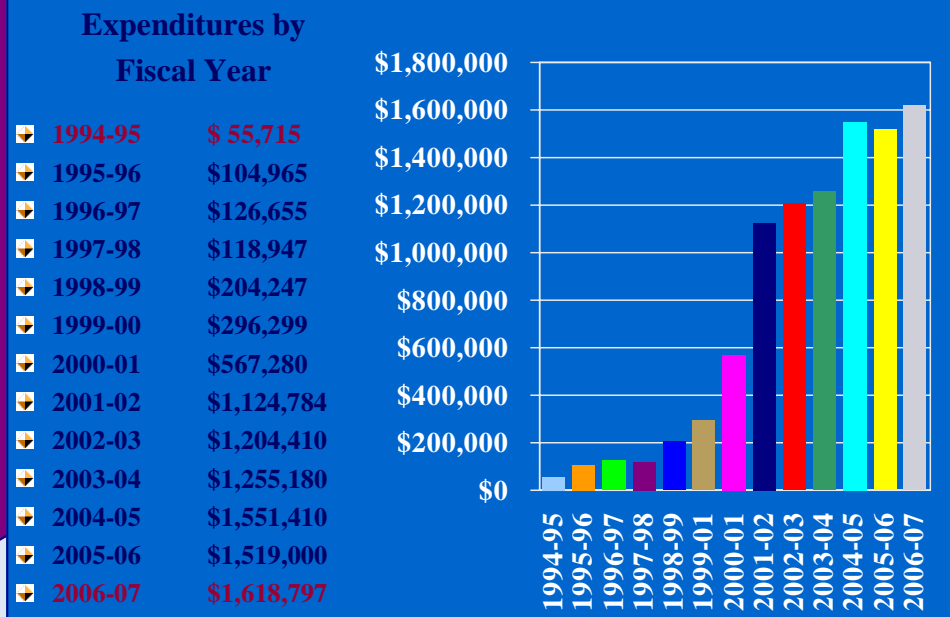
Family mediators working with a parent who is currently receiving Medicaid or Day Care Assistance for one or more children need to realize that the parent may not continue to be eligible for these benefits once the child support is received. This is important information for all parties in the mediation to know.

Article submitted by Gwen T. Monroe, Director of the Frederick County Department of Social Services. Gwen is also a Virginia certified J&DR mediator.

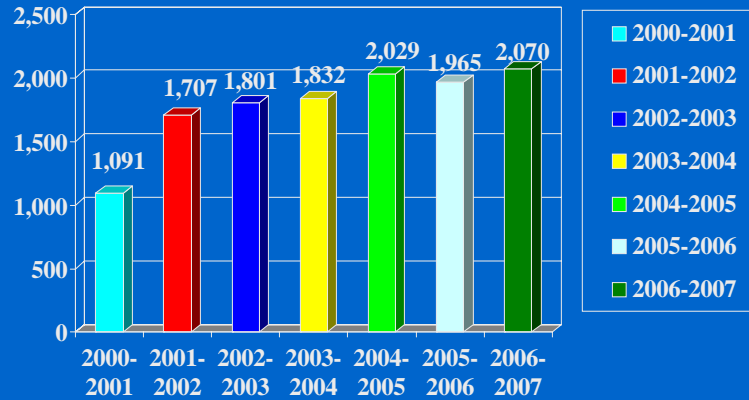
VIRGINIA ADR STATISTICS AS OF THE END OF FISCAL YEAR 2006-07

The following charts summarize ADR expenditures as of the end of the 2006-07 fiscal year. These figures include court-referred mediations conducted under mediation contracts awarded for the 2006-07 fiscal year by the Office of the Executive Secretary, custody, visitation and support mediations funded under *VA Code* Section 20-124.4, and judicial settlement conferences conducted by duly trained and designated retired circuit court judges. It's exciting to see the progression and growth of these various forms of ADR in Virginia in recent years.

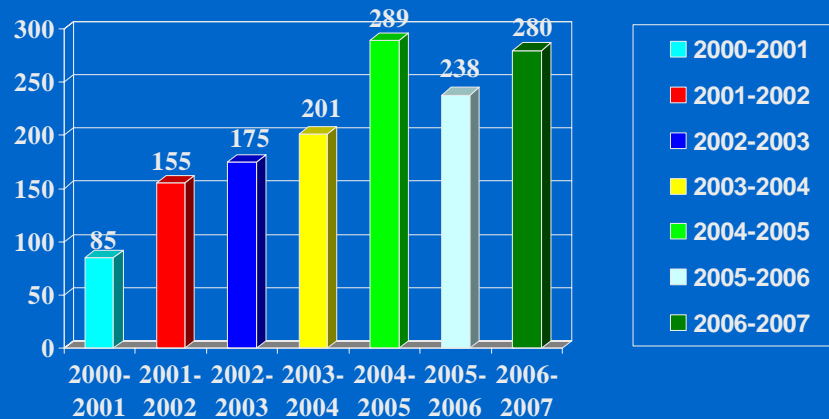
Court-Referred ADR Expenditures



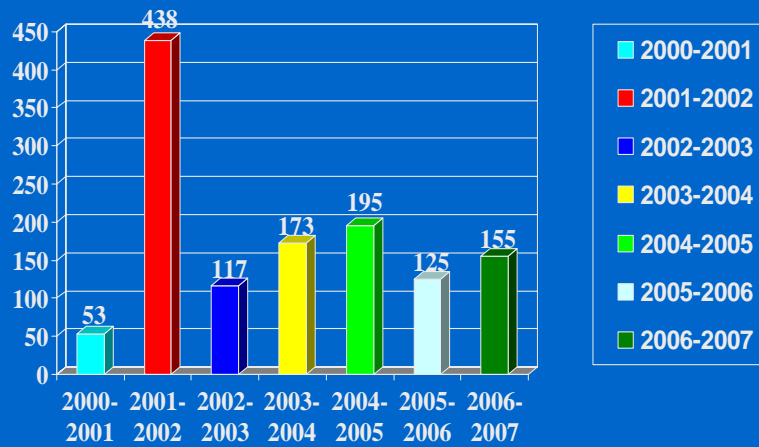
General District Court Mediations Under Contracts



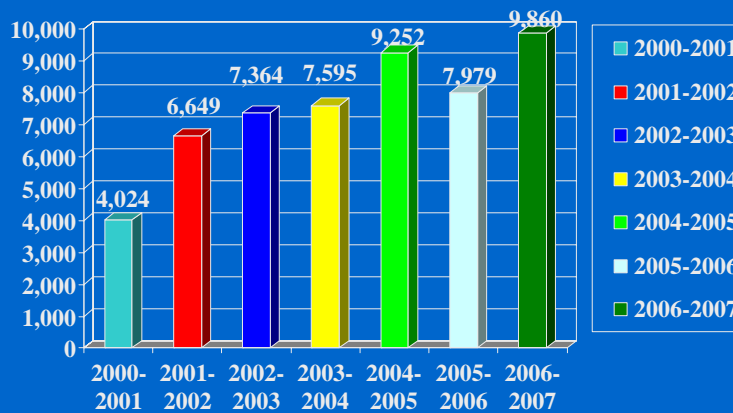
Circuit Court Mediations



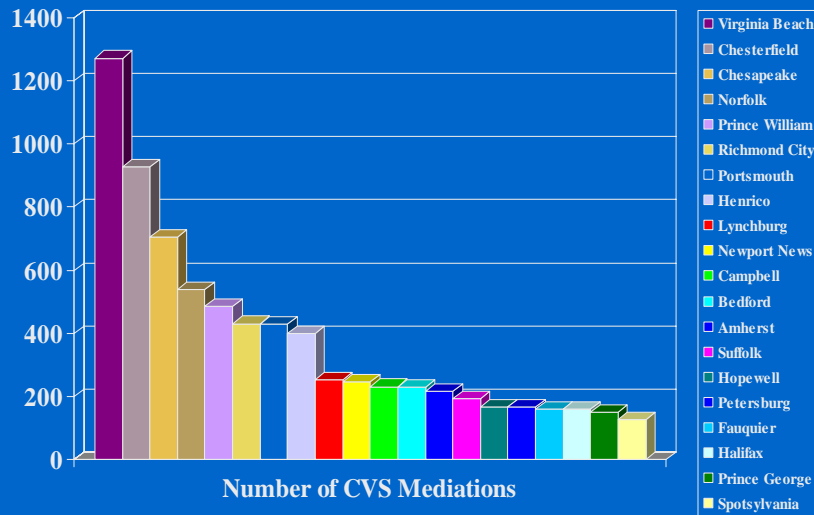
J&DR Non-CVS Mediations



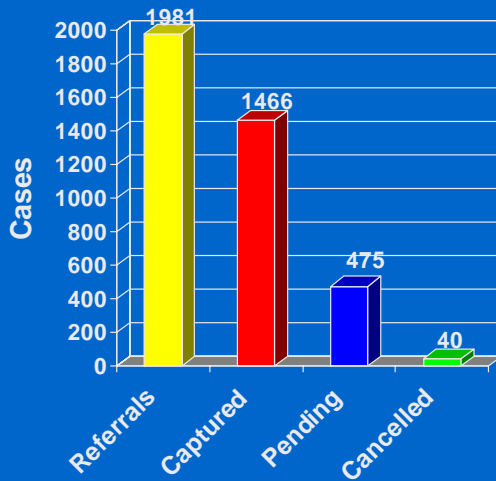
Custody, Visitation & Support Mediations Conducted



Top 20 Juvenile Courts – 2006-07 Fiscal Year Custody, Visitation & Support Mediation



Judicial Settlement Conference Referrals



1,981 cases have been referred to settlement conferences.

40 cases were cancelled before reaching conference.

1,466 cases have been captured and detailed. These cases constitute the following data.

475 cases are pending receipt of reports or actual conference.

Settlement Conference Expenditures

