

*Office of Dispute Resolution
2010-2011 Annual Report
and
20th Anniversary Compendium Report: 1991-2011
Nebraska Dispute Resolution Act*

ODR

NEBRASKA OFFICE OF DISPUTE RESOLUTION



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ODR Statutory Authority:
 Nebraska Dispute Resolution Act, N.R.S. §25-2901, et seq. (1991)
See also Related Statutes
 Nebraska Uniform Mediation Act, N.R.S. §25-2930, et seq. (2003)
 Nebraska Parenting Act, N.R.S. §43-2920, et seq. (2007, 2008)

Dear Nebraska Citizens:

It is an honor to be a part of the Nebraska mediation system. I am happy to provide this combined 2010-2011 Annual Report and a 20th Anniversary Compendium of the Dispute Resolution Act. As a special note, I want to publicly thank my colleague, Rachel Lempka for her positive, effective, and thorough work as ODR Administrative Secretary. I couldn't do this without her good-humored and constant effort.

First and foremost, the directors of the ODR-approved mediation centers deserve the highest regard and recognition for their dedication and commitment to serve the public, the courts, and Nebraska businesses and communities. These individuals, their staff, and affiliated mediators have given countless hours and energy to assist people in conflict to solve problems, make future constructive plans, and work toward reconciling relationships. Thank you each and every one.

Mediation case volume during 2010-2011 continues to trend upward, surpassing the 3,000 mark for the first time. The total case volume, 3,161 is a 13% increase over the year before. Family, domestic relations cases, accounted for 65% of the case volume. Facilitation of child welfare cases for juvenile court amounted to 17% of the case volume.

This office is responsible for approving mediators who are appointed by judges to mediate between parents in Parenting Act cases. Katie Welsh, ODR's first Parenting Act Administrative Assistant, excelled in implementing an online approval process for mediators from across the state, developed in partnership between ODR and Nebraska.Gov. After Katie left to attend Creighton Law School, Jay Wilson assumed the post in Nov. 2011. Jay is a fine colleague: he is a parenting mediator himself, and also works part-time with Concord Mediation Center. Jay, among many other duties, continues to work to support applicants and approved mediators. ODR is pleased to note that there are over 120 qualified Parenting Act mediators approved by this office. An up-to-date list is maintained on the Supreme Court website at www.supremecourt.ne.gov/mediation.

The Office of Dispute Resolution is proud to have been a part of a successful pilot project between the juvenile courts, mediation centers, and Health and Human Services. This pilot project's focus was to improve children's permanency in child welfare and termination of parental rights cases. In the midst of a confusing privatization within the child welfare system, the mediation centers' permanency facilitators were often the key to bringing the right people to the table, including parents, to make serious decisions for the abused or neglected child.

2011-2012 marks the 20th Anniversary of the Dispute Resolution Act. It is a significant landmark for the accomplishments made since the Nebraska Legislature passed and the Governor enacted the law. The third branch, the Judicial Branch, is the home of the Office of Dispute Resolution, and aptly so. The vision of a public / private partnership to provide an opportunity to be heard and solve conflicts is embedded within the Act. All in all, staff and affiliated mediators with the ODR-approved mediation centers has made a difference to thousands of Nebraskans involved in the 30,000 cases handled since 1992 (see Cumulative Cases, page 11).

ODR's offices moved to the 12th floor of the State Capitol in 2011, and we are enjoying the beauty of the Nebraska Capitol's art and architecture. The photo of the iconic mural on the front page is *Spirit of the Prairie*, by Elizabeth Dolan, State Law Library, 3rd Floor Capitol. I invite you visit ODR, and to read the 20th Annual Report to learn more of the activities and progress of mediation in Nebraska.

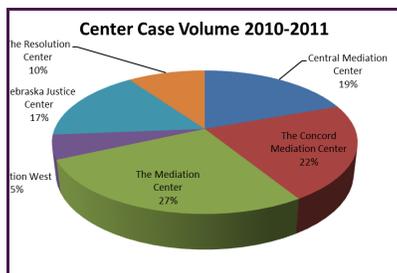


Debora Brownyard, J.D.
Director, Dispute Resolution &
Special Court Programs
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402-471-2766; fax: 402-471-3071
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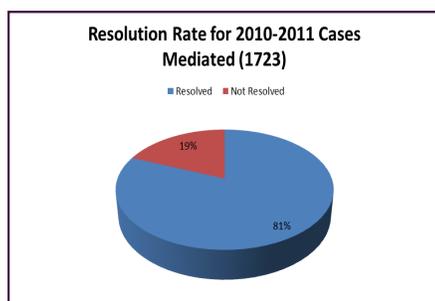


Mission:

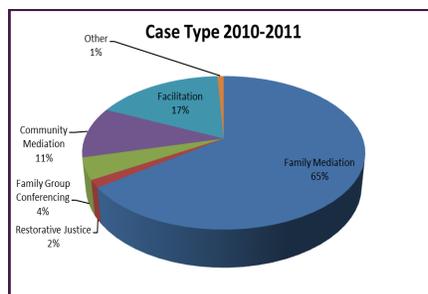
The mission of the Nebraska Office of Dispute Resolution is to enhance and to advance the use of mediation and ADR (alternative dispute resolution) in courts and communities by partnering with ODR-approved mediation centers and others involved with ADR.



Center Case Volume reflects the distribution of the 3,161 cases among the six (6) mediation centers. Highest is The Mediation Center, serving Lancaster county, with 856 cases. Concord Mediation Center serving Douglas and Sarpy is next with 686 cases. Central Mediation Center serves 35 counties with 615 cases. The other three rural centers serving large geographical areas are Nebraska Justice Center with 521 cases; The Resolution Center, with 310 cases; and Mediation West, with 173 cases.



Mediation Case Types shows that in 2010-2011 the highest percentage of cases mediated were family cases, comprising 65% or 2053 cases overall. This continues a long-standing trend of increasing numbers of mediation of parenting plans, divorces, and family disputes. Court-based facilitation of pre-hearing conferences (PHC) in juvenile neglect and abuse cases is the second highest case type at 19% or

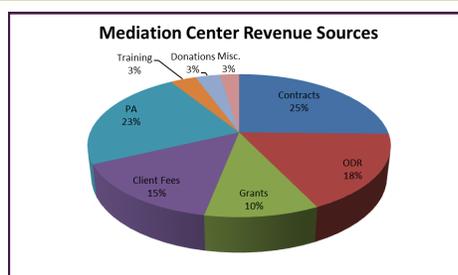
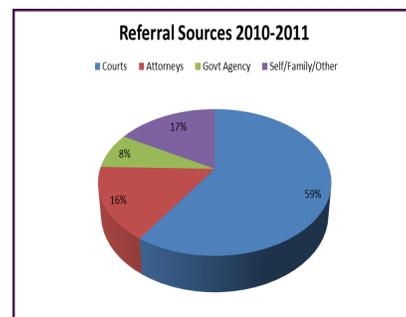


463 cases. Family Group Conferencing (FGC) amounted to 202 cases. In both FGC and PHC, primary goals include achieving permanency, increasing connections between the child and safe, extended family members and decreasing the time the child is in the foster care system. Restorative justice and small claims cases round out community mediation cases.

Resolution Rate: 83% of all mediated cases were partially or fully resolved,

continuing to demonstrate the benefits to parties to meet in mediation to resolve conflicts and reconcile relationships.

Referral Sources shows the percentages from the primary referral sources. Following the trend over the past years, referrals from courts continue to grow. During the 2010-11 program year, nearly 60%, 1,666 cases, were court referred. This is an increase of over 500 from the previous year. Parties themselves represent the second highest sources of cases referred at 17%. This shows a continuing interest of people wanting to informally resolve problems themselves. Included as referral sources are family members, friends, and returning mediation clients. The remaining referrals come from attorneys and government agencies.



Each of the six ODR-approved mediation centers serve a specific region of the state, and serve those counties' residents, businesses, communities, and courts. Each of the mediation centers are Nebraska nonprofit organizations, with local boards of directors, staff, and affiliated mediators, many of whom volunteer their time and expertise. As nonprofit organizations, they balance their budget through a variety of revenue sources and efficiencies in controlling expenses. During the 2010-2011 program year, their combined revenues amounted to over 1.5 million dollars: \$1,544,055.04. Contracts with private and public agencies amount for the highest percentage of average revenue: 25%. Grants and case fees also comprise on average 25% of the mediation centers' revenues. The Nebraska Supreme Court, through the Parenting Act Fund and the Dispute Resolution Fund, is the source for 23% and 18% of revenues, respectively. A small percentage of revenue (3%) is from training, donations, and miscellaneous sources. Cumulative volunteer mediator time amounted to over 6,500 hours which conservatively amounts to nearly \$100,000.



Lynne Favinger
*Central Mediation Center,
Kearney*



Cindy Tierney
*Concord Mediation Center,
Omaha*



Casey Karges,
*The Mediation Center,
Lincoln*

The success and worth of any public service is due to the leadership and innovation of those who are committed to the vision and mission of the endeavor. Helping people engage in constructive conflict and solve problems effectively, peaceably, and locally is what these six leaders are all about. Each of these individuals are themselves experienced mediators who also have the focused expertise as non-profit leaders, working with administration, funding, volunteer and affiliated mediators, community outreach and education. They work long hours for modest pay, all in the effort to make a difference for Nebraska's citizens, communities, and courts. These Executive Directors of the six ODR-approved mediation centers make a difference every day for many people throughout Nebraska. ODR and the Dispute Resolution Advisory Council thank them for their time and devotion to facilitation, mediation, public education, and alternative dispute resolution.



Jane Martin-Hoffman
*Nebraska Justice Center,
Fremont*



Rae Ann Schmitz
*Mediation West,
Scottsbluff*



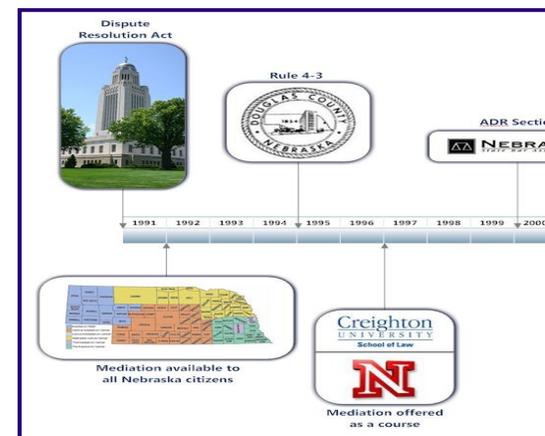
Gale Jungemann-Schultz
*The Resolution Center,
Beatrice*

NOTE: Gale took this post following long-time director, Judy Pingel's retirement in 2011.

Since the Dispute Resolution Act was enacted into law in 1991, there have been many milestones

1991-1996

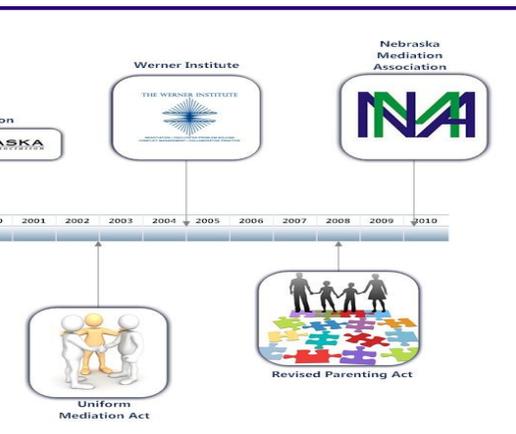
- Creation of the Office of Dispute Resolution (1991); ODR Advisory Council under NE Supreme Court formed
- Kathleen Severens hired to serve as first director of ODR, January 1, 1992
- Non-profit mediation centers formed and receive ODR grants to serve six regions of Nebraska citizens (1992): Southeast Nebraska Mediation Center; Nebraska Justice Center; Metro Mediation Center; Panhandle Mediation Center; Lincoln/Lancaster Mediation Center; and Central Mediation Center
- National Institute for Dispute Resolution (NIDR) funds ODR for mediation system development (1992)
- Nebraska Mediation Handbook for Judges written (1992)
- Uniform Data Management system is implemented to track statewide statistics (1992)
- Supreme Court Rules relating to Dispute Resolution Act adopted (1992)
- ODR Policy Manual; Manual for Standards and Ethics; Field Guide to Forms and Procedures for Nebraska Mediation Centers; Basic Mediation Training Manual adopted (1993)
- The first Parenting Act promotes the importance of parents' decision-making about children (1993); sets training requirements for mediators
- Advanced mediation training includes school mediation; community facilitation; family violence; multicultural; Parenting Act; advanced finance
- ODR and mediation centers increase revenue from grants, contracts, and fees to leverage state grant funds
- Referral systems through state trial courts, small claims mediation, parenting mediation; federal court mediation; Nebraska Equal Opportunity Commission; school/peer; tribal; juvenile; migrant farm worker; victim of-fender reconciliation
- Special education mediation begins statewide through partnership with NE Dept. of Education, ODR, and mediation centers (1994)
- US Federal District Court for Nebraska partners with ODR, mediation centers, and Nebraska lawyers to create Mediation Rule (1995); training and mediation of federal cases commence



1996-2001

- Five year “Celebrate Excellence” Mediation Conference -Kearney Oct.1996
- Douglas County District Court Rule 4.3 adopted for parenting mediation and education (1996)
- HHS Employment First Mediation begins (1996)
- Public policy training provided by Bill Potapchuk, Washington, DC (1997)
- ODR Training Institute continues to be essential to dispute resolution system; partners with NSBA’s Continuing Legal Education; AmeriCorps; Creighton School of Law; UN College of Law
- Data shows that nearly 50% of clients are at poverty level; grant funding, including ODR and Commission on Public Advocacy provides clients access to justice through mediation
- New DTA data management system adopted to provide statewide mediation data (1998)
- Family Group Conferencing to improve child welfare outcomes is piloted in three locations; soon adopted statewide as part of the NCCFL Court Improvement Program (1997-2001)
- Kathleen Severens named first director of Office of Community Dispute Resolution, USDOJ, June 1999
- Wendy Hind, Lincoln mediator and attorney, becomes director of ODR, December 1999
- Over 7,000 volunteer hours with the mediation centers logged per year serving the public
- 87% of mediation participants indicate “satisfied” or “extremely satisfied” with the process
- Negotiated rule making and study circles introduced as a facilitated dialogue process 1999
- Nebraska’s ODR and regional mediation center system recognized as national model by National Association for Community Mediation (2001); two NE executive directors serve NAFCM’s board
- “2001: A Peace Odyssey,” Heartland Mediators’ Conference held at Lied Conference Center, Nebraska City, April 2001

- Ten year anniversary of the Dispute Resolution Act was celebrated with the Governor's Proclamation of Mediation Day on March 20, 2001.
- As the catastrophic events of September 11, 2001 unfolded, the mediation centers offered support to people in crisis by volunteering facilitators for discussions of the tragedy and its aftermath
- Family group conferencing continues to grow and support children and families in crisis (2001-06)
- NMCA Training Institute incorporated and carries forward the ODR Training Institute mission to provide basic, family, and specialized mediation and facilitation training for Nebraskans (2001)
- Mediation centers suffered an 8% loss of state funding as a result of the economic distress (2002)
- Contracts with Departments of Education, Health and Human Services, Administrative Office of the Courts/Probation continue to serve Nebraska residents through mediation (2001-06)



- Dodge County District Court adopts Standard Domestic Progression Order requiring parenting education and parenting plans and recommending mediation (2003)
- Data showing that disputes cost less when resolved through mediation instead of litigation offered to policy makers
- LB 760 is passed which shifted the funding to a 75-cent court filing fee, enhancing sustainability and continuity of operations (2003). Centers are awarded a \$45,000 per year infrastructure grant
- Nebraska the 1st state to enact the Uniform Mediation Act to provide for mediation privilege, confidentiality, and conflict of interest ethics (2003)
- Direct referrals to mediation centers from state trial courts are 33-35% per year, including small claims, domestic relations, and child welfare matters
- Wendy Hind leaves ODR to pursue her Ph.D.; Debora Brownyard is named third director of the Office of Dispute Resolution in March 2005

- Creighton University's Werner Institute for Negotiation and Dispute Resolution is endowed; ODR Advisory Council meets with its first director, Arthur Pearlstein in 2005
- Domestic relations cases comprise 35-40% annually; FGC and child welfare cases average 20% (2006)

- Fifteen year anniversary of the Dispute Resolution Act noted at the March 2006 Governor's Proclamation of "March as Mediation Month"
- Mediation centers participate in the first Children's Summit which was the kick-off of Nebraska's Through the Eyes of the Child court teams; family group conferencing and mediation highlighted (2006)
- Facilitated prehearing conferences (PHCs) are piloted in Douglas County Juvenile Court to reduce a child's time in the system and increase permanency; PHCs go statewide 2007-08
- The revised Parenting Act requires parenting education, parenting plans, and in contested custody cases, requires parents to try mediation or specialized alternative dispute resolution (2008)
- Parenting Act Fund created from filing fees to support mediation centers' and Douglas County Conciliation Office's provision of mediation to indigent and low income parents (2008-2011)
- Specialized ADR facilitators receive 3-day advanced education in domestic violence, substance abuse, mental health, child neglect and abuse, and SADR facilitation process skills (2009-2011)
- NMCA becomes Nebraska Mediation Association to serve all Nebraska mediators (2010)
- Mediation centers' case numbers show a huge leap because of the parenting act and child welfare court referrals: from 1,765 in 2008 to 3,161 in 2011, nearly an 80% increase (2011)
- Facilitated conferences ordered by juvenile courts for 12-month permanency review and termination of parental rights hearings piloted and become statewide; partnership between ODR, HHS, courts, and mediation centers (2009-2011)
- 20th Anniversary of the Dispute Resolution Act statewide commemorative events (2011)



Carol Dart, Lynne Favinger, Chief Justice Mike Heavican, Central Mediation Center, Kearney



Debora Brownyard, Director ODR



Jane Martin-Hoffman, Chief Justice Mike Heavican; Janice Walker, Judge Mike Pirtle, Judge Geoff Hall, Nebraska Justice Center, Fremont

Nebraska Mediation Centers host Chief Justice Mike Heavican and colleagues for 20th Anniversary Celebration of the Dispute Resolution Act, August 2011 in Fremont, Omaha, Lincoln, Kearney, Beatrice and Scottsbluff.



Mediation Center 20th Anniversary Lincoln

Jim Gordon, Chief Justice Heavican, Casey Karges, The Mediation Center, Lincoln



Debora Brownyard, Ron Volkmer, Cindy Tierney, Chief Justice Heavican, Concord Mediation Center Staff, Omaha



Rae Ann Schmitz, Judge Travis O'Gorman, Judge Bob Hippe, Judge Randall Lippstreu, Mediation West, Scottsbluff



Chief Justice Mike Heavican, Gale Jungemann-Schulz, Judy Pingel, Debora Brownyard, Sheryl Connolly, Judge Paul Korslund, The Resolution Center, Beatrice

Deep gratitude for the inestimable vision and focused effort and professionalism of Kathleen Severens and Wendy Hind, in their position of Director of the Office of Dispute Resolution, which helped to bring the state of Nebraska forward to where it is today in making mediation a peaceable process to assist individuals in conflict to work toward resolution.

Kathleen Severens, Director of ODR, 1992-1999

Wendy Hind, Director of ODR, 2000-2004

Without the hard work and dedication by the Members of the Dispute Resolution Council over the past twenty years, the accomplishments achieved under the Dispute Resolution Act may not have been possible. ODR would like to thank those who have served and continue to serve on the Advisory Council for their efforts and willingness to navigate through the many issues and system design efforts in order to achieve the purpose for which the Act was established.

**Former and Current* Members of the
Dispute Resolution Council**

Sunny Andrews
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Stephen M Batty
Michael Baumfalk
Hon. Daniel J. Beckwith
Marian Beethe
Prof. Kristen Blankley*
Riko Bishop*
Mary Lee Brock
Deb Brockman
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Keith Chamberlain
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Gale Jungemann-Schulz*
Carrie Sheldon*
John Slowiaczek*
Rick Thomas
Danene Tushar
Jorge Vargas
Prof. Ron Volkmer
Joe Wright

Education and training is a necessary part of the Office of Dispute Resolution. Providing individuals the understanding and skills to resolve problems in constructive fashion is at the heart of mediation. An essential partner with ODR in the education arena, not only for mediators but many professionals in the state, is the Nebraska Mediation Association.

Mediator education is an integral component to mediator professionalism and ethical practice by Nebraska's mediators.

The Nebraska Mediation Association had its origin in April 2009 when a group of mediators gathered at the end of the Heartland Regional Conference held in Omaha. From that beginning, a group of six individuals: Alan Frank, Mary Lee Brock, Kelly Riley, Lynne Timmerman Fees, Debora Brownyard, and Katie Welsh became the steering committee to get this new group off the ground. Debora Brownyard acted as chair of the steering committee.

With Nebraska Mediation Association now nearing full stride, it offers on average one webinar a month to its members on a variety of relevant mediator topics, such as Mediator Ethics, Public Policy Facilitation, Family Systems in Parenting Mediation, all which qualify for Continuing Mediation Education Units. This comes as a major asset to those trained in Family Mediation as CME's are required as part of a Biennial Report that all family mediators who have been approved by the Office of Dispute Resolution must complete.

As well as providing valuable monthly mediation webinars and CME's, NMA is the primary educator for Nebraska's Basic Mediation, Family Mediation, Specialized Alternative Dispute Resolution, and Child Support Workshop. Additional trainings include Family Group Conferencing and Pre-Hearing Conferencing Trainings and Seminars for individuals looking to broaden their horizons of education in the alternative dispute resolution field.

NMA sponsors an annual Nebraska Mediator Conference in April of each year. NMA also partners with the 4-state Heartland Mediators Association (Kansas, Iowa, Missouri, and Nebraska) to convene a biennial mediation conference.

Kelly Riley, Coordinator
Nebraska Mediation Association (NMA)
www.nemediation.org



Summary of NMA/ ODR-approved Mediator Training and Continuing Education

July 1, 2010 through June 30, 2011

Basic Mediation Training—30 hour course: *52 participants completed the course*

- September 21-24, 2010—Kearney
- February 7, 14, 21, 28, 2011—Lincoln
- June 7-10, 2011—Omaha

Family Mediation Training—30 hour course: *38 participants completed the course*

- August 2-5, 2010—Omaha
- November 8-11, 2010—Kearney
- March 22, 29, April 5, 12, 2011—Lincoln

Advanced Skills Child Support Mediation Workshop—6.5 hour course

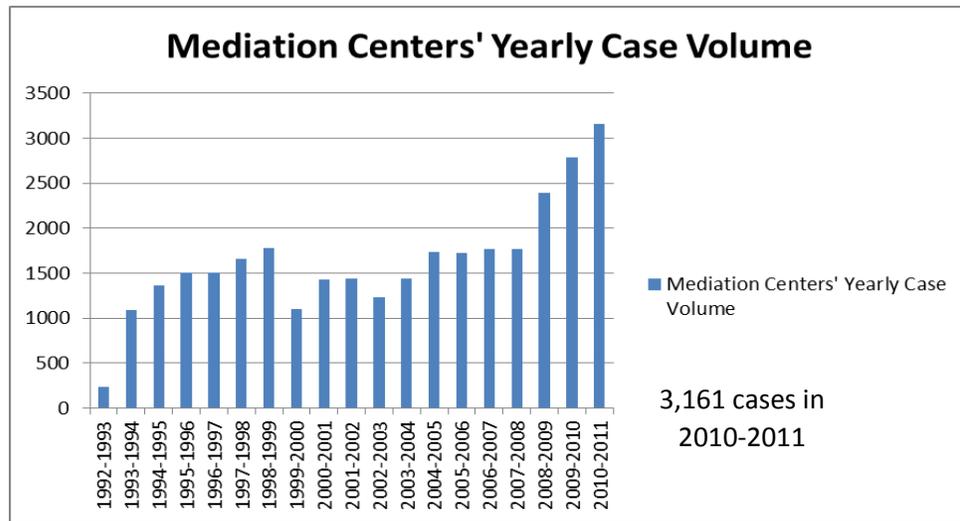
- August 6, 2010—Omaha
- November 12, 2010—Kearney

Other Trainings and Continuing Education Opportunities included—

- Conflict Coaching and the Transformative Mediation Model
- Mindfulness in Mediation
- Ethics for Parenting Act Mediation and SADR Facilitators
- Advocacy in Mediation
- A SADR Practitioner Workshop for Best Practices and Success

NMA provided more than 15 Training and Continuing Education Opportunities

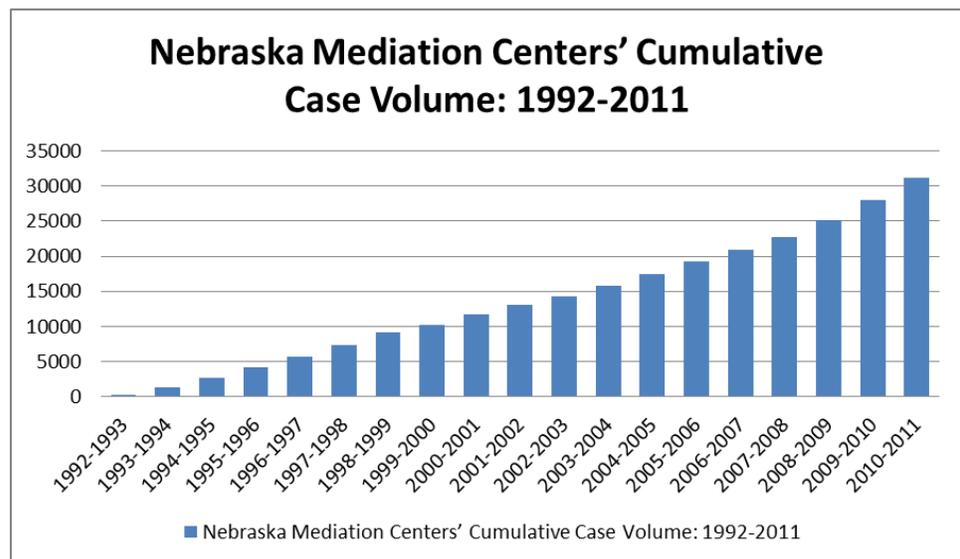




Nebraska Supreme Court Chief Justice Mike Heavican (center), Justice Mike McCormack (left of center) and mediation colleagues at March 9, 2011 Proclamation Signing celebrating 20 years of the Nebraska Dispute Resolution Act.

Mediation center directors include (L-R): Casey Karges, The Mediation Center, Lincoln; Jane Martin-Hoffman, Nebraska Justice Center, Fremont; Debora Brownyard, Office of Dispute Resolution, Lincoln; Judy Pingel, The Resolution Center, Beatrice; Cindy Tierney, Concord Mediation Center, Omaha.

NOTEWORTHY: Since 1992, the mediation centers' combined cumulative case volume is 31,086. During the past program year annual case volume was 3,161 cases.



Nebraska's Court-Connected Mediation Resources

A. Douglas County District Court

Douglas County Conciliation and Mediation Office*:

www.dc4dc.com/conciliation/

402-444-7168

Lorin Galvin, Director

B. Nebraska Office of Dispute Resolution-approved Mediation Centers

Central Mediation Center, Kearney*

800.203.3452

info@centralmediationcenter.com

308.237.4692

Lynne Favinger, Executive Director

Adams, Blaine, Buffalo, Chase, Clay, Custer, Dawson, Dundy, Franklin, Frontier, Furnas, Garfield, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Kearney, Lincoln, Logan, Loup, McPherson, Merrick, Nuckolls, Perkins, Phelps, Red Willow, Sherman, Thomas, Valley, Webster, Wheeler

Concord Mediation Center, Omaha*

402.345.1131

contact@concord-center.com

Cindy Tierney, Executive Director

Douglas and Sarpy Counties

Mediation West, Scottsbluff

800.967.2115

info@mediationwest.org

308.635.2002

Rae Ann Schmitz, Executive Director

Arthur, Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Grant, Hooker, Keith, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux

Nebraska Justice Center, Fremont

866.846.5576

jmarhof@qwestoffice.net

402.753.9415

Jane Martin-Hoffman, Executive Director

Antelope, Boone, Boyd, Brown, Burt, Cedar, Cherry, Colfax, Cuming, Dakota, Dixon, Dodge, Holt, Keya Paha, Knox, Madison, Nance, Pierce, Platte, Rock, Stanton, Thurston, Washington, Wayne

The Mediation Center, Lincoln

402.441.5740

info@themediationcenter.org

Casey Karges, Executive Director

Lancaster County

The Resolution Center, Beatrice

800.837.7826

trc@bvca.net

402.223.6061

Gale Jungemann-Schulz, Executive Director

Butler, Cass, Fillmore, Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Saunders, Seward, Thayer, York

* In English and En Español

ODR Advisory Council Members (2011)

Members:	Term Expires
Carl Eskridge, Chair, Lincoln	12-11
Michael Baumfalk, Lincoln	12-11
Timothy Engler, Lincoln	12-13
Prof. Alan Frank, Lincoln	12-11
Michael Mullin, Omaha	12-12
Hon. Michael Offner, Hastings	12-11
Prof. Arthur Pearlstein, Omaha	12-12
Hon. Michael Pirtle, Omaha	12-13
Hon. John Samson, Fremont	12-12
Carrie Sheldon, Grand Island	12-11
John Slowiaczek, Omaha	12-13

Ex Officio Members:

Casey Karges, Lincoln	12-11
Judy Pingel, Beatrice	12-12

Nebraska Supreme Court Liaison:

Justice Mike McCormack

Nebraska Office of Dispute Resolution

Administrative Office of the Courts

Nebraska State Capitol Building

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Lincoln, NE 68509



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www.supremecourt.ne.gov/mediation

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