Office of Dispute Resolution
Annual Report

Fiscal Year 2020 – July 1, 2019 to June 30, 2020

Mediation and Restorative Justice in Nebraska – An Overview

With the Dispute Resolution Act, Neb. Rev. Stat. § 29-2901 et seq., the State of Nebraska affirmed “there is a compelling need in a complex society for dispute resolution and restorative justice whereby people can participate in creating comprehensive, lasting, and realistic resolutions to conflicts and offenses.” This is accomplished through the Office of Dispute Resolution (ODR) approved centers that make dispute resolution and restorative justice services available statewide. This annual report summarizes the number and types of disputes received by the approved centers, the disposition of those disputes, and the problems encountered and recommendations made to address the problems.

Services Provided by Approved Centers

Nebraskans in every county are served by a private nonprofit center that is approved annually by the State Court Administrator. These centers (Appendix A) provide a variety of services, including mediation and restorative justice. Mediation is available for a variety of disputes ranging from:

- Basic Mediation (e.g., small claims disputes, neighbor issues, employment matters, landlord/tenant conflicts, business/consumer concerns)
- Parenting Act Mediation (e.g., parenting plans, full divorce, modifications, child financial plans)
- Child Welfare Conferences (e.g., pre-hearing conferences, pre-hearing permanency review conferences, pre-hearing termination of parental rights conferences, family group conferences, child welfare mediation, child welfare facilitation)
- Juvenile Restorative Justice Facilitation (e.g., victim youth conferences, expedited family group conferences, truancy mediation/conference, juvenile justice mediation/facilitation, circles)

Case Summary Statistics

For the 2019-2020 fiscal year, the following graphics highlight case statistics. Of the overall case volume (4,558 cases), there were 2,237 cases mediated, meaning that these cases “came to the table.” Of the other 2,321 cases, 3.7% resolved prior to the mediation/facilitation; in 35.9% of cases one of the parties withdrew, declined participation, was non-responsive, or chose not to participate; 1.0% of cases were not appropriate for mediation; and 5.6% of cases were still open. The outcomes of these mediated/facilitated cases were full agreement, partial agreement, no agreement, or facilitated only (applies to child welfare and juvenile restorative justice facilitations).

Restorative Justice – An Inspirational Story

In a small Nebraska community, a youth who had stolen from a local business and participating in Diversion was referred to an approved center to participate in a Victim Youth Conference, a restorative justice process. The center reached out to the small business and asked if the owner would like to participate in the process; the owner did. After talking with the youth and the owner individually, the center brought both of them together to talk about the impacts that this youth’s actions had on everyone – each other and on the youth’s family. After the youth shared the difficulties he caused his family because everyone in the small community knew about what happened, the store owner shared about his own troubled past. The youth was surprised to learn this about the respected community member. A heartfelt discussion ensued between the two about learning from your mistakes. The youth apologized and the store owner thanked the youth for his sincerity and genuine remorse.
**Total Case Volume – 4,558 Cases**

- **Parenting Plan (2564)**
- **Family (non-parenting plan) (112)**
- **General/Community (840)**
- **Child Welfare (583)**
- **Juv. Restorative Justice (436)**
- **Child Criminal (16)**
- **Undefined (7)**

**Parenting Plan Cases (2,564)**

Parenting plan cases are assessed to determine the appropriate process – mediation or specialized alternative dispute resolution (ADR), or if neither process is appropriate. The specialized ADR process is used when a mediator has determined that it is needed for a parent to be able to negotiate freely and make informed decisions, and be able to address safety measures.
Challenges and Recommendations

With the COVID-19 pandemic, the 2019-2020 fiscal year was one that challenged the centers as they mostly conducted in-person mediations and facilitations. Mediators/facilitators had a steep learning curve creating new options for their service delivery. With six approved centers providing service to 93 counties, each center had to customize their services based on local Directive Health Measures. For the centers that continued to offer some in-person services, social distancing and sanitation procedures were put in place. Additionally, each center expanded the use of online meeting platforms. There were unexpected benefits to using online platforms, including reduced travel for the parties. Transportation can be a barrier for some due lack of reliable transportation, cost, and/or travel time.

With the shift to online services, the centers were also concerned that people may not be able to access their online services because they did not have reliable internet service, or were uncomfortable using technology. However, this was not the case, and, overwhelmingly, the parties provided positive feedback to participating in an online dispute resolution process.

With the learning that went into ensuring a successful expansion of service delivery, the recommendation is for the approved centers and approved Parenting Act mediators to continue offering this type of service delivery. Anecdotally, it has been determined that online alternative dispute resolution options can improve access to justice.

Overall Case Disposition of Closed Cases

<table>
<thead>
<tr>
<th>Case Type</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases Mediated (“came to the table”)</td>
<td>1472</td>
</tr>
<tr>
<td>Cases Facilitated</td>
<td>773</td>
</tr>
<tr>
<td>Agreement Reached (full or partial)</td>
<td>78%</td>
</tr>
</tbody>
</table>

Referral Sources

<table>
<thead>
<tr>
<th>Source</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court</td>
<td>49%</td>
</tr>
<tr>
<td>Attorney</td>
<td>23%</td>
</tr>
<tr>
<td>Self/Family/Friend</td>
<td>17%</td>
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<tr>
<td>Gov’t Agency / Organization</td>
<td>8%</td>
</tr>
<tr>
<td>School</td>
<td>3%</td>
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</tbody>
</table>
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