

RES LUTION

The Ohio Commission on Dispute Resolution and Conflict Management

Spring 2007

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Welcome to ***Resolution*** the Commission's electronic newsletter. ***Resolution*** is published semi-annually by the Commission on Dispute Resolution & Conflict Management, 77 South High Street, 24th Floor, Columbus, Ohio 43215-6108. It is available online through the Commission's Web site at: www.DisputeResolution.Ohio.gov.

The Commission welcomes your comments, news, calendar events, and suggestions for future issues.

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Articles

Join Us in Observing Conflict Management Week 2007

Ohio will observe Conflict Management Week 2007 during the week of May 6th – 12th.

Conflict Management Week is a statewide annual event to promote the field of dispute resolution and conflict management across Ohio. During this week, schools, courts, communities, and government organizations spread the word about effective approaches, The Commission and its program partners will host a number of special events to highlight this important week and in Columbus and other Ohio cities. To learn more about Conflict Management Week 2007 events please visit: <http://disputeresolution.ohio.gov/update.htm>

The 3rd National Conference of Minority Professionals in ADR

Registrations are still being accepted for the 3rd National Conference of Minority Professionals in ADR. The Conference, presented by the Capital University Law School, is scheduled for May 16-18, 2007, at the Columbus Convention Center in Columbus, Ohio, with a pre-conference training on May 15.

The conference is primarily designed to expand the skills of minority ADR professionals at all levels, help to identify obstacles and challenges faced in becoming an active ADR professional, and provide networking opportunities and information about various ADR rosters and panels. However, the program is open to any one interested in learning more about ADR and expanding their opportunities in the field.

According to Floyd Weatherspoon, Professor of Law and Director of Minority ADR Initiatives at Capital University Law School and founder of the conference, in the article *Eliminating Barriers for Minority ADR Neutrals*, “As the use of ADR has grown, so has the need for competent ADR professionals, e.g., mediators, arbitrators, facilitators, etc...ADR organizations, including state and federal governments and corporations have created and expanded ADR rosters and panels to provide arbitration, mediation and facilitation services” (ACRESOLUTION, Spring 2006).

The Minority Professionals in ADR conference, the only one of its kind, brings together public and private sector individuals representing a variety of professional backgrounds. The goal is to equip and provide access for negotiators, mediators and arbitrators in numerous arenas, as well as promote ADR services within minority communities.

Twelve pre-conference trainings include several mediation trainings (Basic, Advanced, Family, Elder, Faith Based, Law Enforcement/Community and Transformative), Spanish for Mediators, Online Dispute Resolution, Civil Arbitration and National Association of Securities Dealers (NASD) Arbitration. The pre-conference trainings range from four to 20 hours (\$50-\$200) Completion of the Securities Arbitration, Civil Arbitration, and Transformative trainings may qualify the participants to be placed on the sponsors’ rosters.

Additionally, over 60 conference workshops will address Skill Building, Gaining Access and Opportunities in ADR, Labor and Employment, Multiculturalism, and the Impact of ADR on Minority Clients and Communities.

For more information, call Floyd Weatherspoon, Professor of Law and Director of Minority ADR Initiatives at (614) 236-6531 or Shelley Clark, ADR Project Assistant at (614) 235-7313. To register, please visit: www.law.capital.edu/adr.

Schools and Higher Education

May 8th School Safety and Bullying Prevention Symposium

The Ohio Commission on Dispute Resolution and Conflict Management will be hosting a daylong symposium this spring that will focus on bullying prevention in schools. "Promoting Safe Schools: Bullying Prevention and Beyond" will take place on Tuesday, May 8th, 2007, from 10:00 AM to 4:15 PM and will bring together a wide variety of professionals committed to school safety. The program will include afternoon workshops by state and national experts on school bullying and a keynote address by Dr. Alan McEvoy, professor of sociology at Wittenberg University and co-founder and former president of the Safe Schools Coalition. Dr. McEvoy has written several books on child safety and violence prevention and has also appeared on ABC's Nightline, 20/20, Oprah and many other national broadcasts.

The afternoon workshops will cover a wide variety of topics inside the field of bullying prevention, including cyber-bullying and bullying between girls. State government partners such as the Ohio Department of Education, the Ohio Resource Network, and the Ohio Departments of Health and Mental Health will also participate and will provide information and resource materials for parents, educators, and students. For a registration form and to view the program please visit:

For other inquiries, please contact Sarah Wallis, Director of Education Programs, at (614) 644-9275 or via e-mail at: sarah.wallis@cdr.state.oh.us.

Commission Joins Ohio Department of Education Bullying Prevention Taskforce

The Ohio Department of Education (ODE) has established a taskforce to develop guidance for Ohio schools to address bullying prevention. House Bill 276, which was signed into law in January 2007, sets out new requirements for schools to address student bullying. The Commission's Director of Education Programs Sarah Wallis was recently invited to join this taskforce. The taskforce is working on creating sample policies and protocol templates to aid school administrators in crafting an anti-bullying policy. The Commission's work with the taskforce has led to further collaboration with ODE and the Ohio Attorney General's Office to develop bullying prevention programming specifically for school principals. For more information, please contact Sarah Wallis, Director of Education Programs, at (614) 644-9275 or via e-mail at: sarah.wallis@cdr.state.oh.us.

Pre-Service Teacher Education Project Receives Gund Foundation Extension Grant

The Conflict Resolution Education in Teacher Education (CRETE) project is a collaboration between the Ohio Commission on Dispute Resolution and Conflict Management, Temple University, and Cleveland State University. The goal of the project is to educate pre-service teachers in conflict education and social and emotional learning to increase teacher satisfaction and teacher retention. University faculty, pre-service teachers, and mentor teachers are being trained in the following topics: the skills of conflict management; classroom management techniques; mediation; cultural competency; bullying prevention; and curriculum integration. Recently the CRETE project was awarded a \$120,000 two-year extension grant from the Cleveland-based Gund Foundation. This grant will be used to support the institutionalization of CRETE curriculum into the practicum coursework at Cleveland State University. This integration will ensure that all teacher education candidates at Cleveland State University will have conflict management skills and theory before they graduate. The second area that the Gund extension grant will support is a continuation of the evaluation to determine the impact of the CRETE program on teacher attrition, teacher preparedness and satisfaction, and development of constructive learning environments. For more information, please contact Sarah Wallis, Director of Education Programs, at (614) 644-9275 or via e-mail at: sarah.wallis@cdr.state.oh.us.

Tuancy Prevention Through Mediation: An Update Plus Stories

Tuancy Prevention Through Mediation, commonly called truancy mediation, is managed by the Ohio Commission on Dispute Resolution and Conflict Management, with training support from the Supreme Court of Ohio Dispute Resolution Section. The program is financially supported at the local level by several county offices of the Ohio Department of Job and Family Services, numerous county courts, even a local chapter of Rotary International. Partners include, in many counties, mediation centers and other non-profit organizations, Family and Children First Councils, children's services agencies, educational service centers, and of course about 120 school districts. Thousands of truancy mediations take place every year.

By the middle of the 2007-2008 school year the Tuancy Prevention Through Mediation Program will be in about 475 schools in 31 counties, although both numbers could be higher as many communities look at this successful model for reducing truancy.

A key element to this success is the positive, problem-solving attitude brought to the process by the mediators. Those mediators are trained by the Commission, with funding provided by the Supreme Court of Ohio Dispute Resolution Section, and a repeated point of emphasis in the training sessions is to help the family and school reach a mutually-acceptable solution that addresses the concerns causing, or at least contributing, to the attendance problems.

One of the most successful programs takes place in Stark County, where about 45 schools in Canton City, Canton Local, Plain Local and Alliance City School Districts receive mediation services through the Community Mediation Services of Stark County. Following are four true stories from this program.

Four Mediation Stories

(1) A public school student was missing days. In the mediation the student stated that, because of physical limitations, it was difficult to use the standard school busses. Present at the mediation, along with the student and student's mother, were the teacher, a community worker and intervention specialist. After discussion of the problems the intervention specialist said that the student would qualify for the services of a bus designated for students with disabilities, and that arrangements could be made for the bus to pick up and drop off the student door-to-door. That was acceptable. The student has not missed one day since the mediation took place.

(2) Present at the mediation were: a mother and her mother; a community worker; the school's principal; counselor; a family involvement coordinator; and a case worker for one of the mother's two children who attended that school. This supporting team was assembled to help resolve the ongoing attendance concerns of both children.

The mother, a fast food worker, has mental limitations which – along with her erratic work schedule – make it difficult to maintain consistency and structure at home. However, she stated that she understands the importance of her children attending school on a regular basis and doing well, although these have proved to be elusive goals. Mom and grandmother both stated that mom has worked at the same place for a long time and had a strong work ethic.

The grandmother shared that for years she and other family members have provided support to her daughter and more recently she has been trying to get help for her daughter, but couldn't successfully connect to the right agencies or services. It became clear that mom needed help in order for her children to be successful in school.

One solution was offered by the family involvement coordinator who offered to go with mom to talk with her employer about getting a more consistent work schedule, the key being a schedule that would allow mom to be home in the morning to get her children off to school. The case manager offered to arrange for mom to receive parenting help – someone to help her put more structure and consistent rules in place at home. The teacher arranged for the children to attend after-school tutoring to have a consistent time, place and help in getting their

homework done.

Toward the end of the meeting mom reluctantly shared that she just learned that she was going to be evicted from her current residence. After sharing of information and discussion of options with those at the table, grandmother offered to have mom and children move in with her temporarily until more suitable living arrangements could be found. Mom, grandmother and the caseworker all agreed that this was for the best because the present location was not a good place for the family to be.

A second meeting was to be scheduled to see if all had followed through on what they agreed to do. Although this was a follow-up meeting, not a mediation, the mediation center did learn that the assignments were completed as promised, greatly helping the family.

(3) A student was missing school, reporting illness as the reason. In the mediation, the student's mother was at first defensive, but relaxed and become more comfortable with the process when she realized that this was not about punishment, but about trying to solve the problems that were causing the missed days.

Mother shared that the place where they live is often without heat and hot water, which contributed to poor health for the entire family. The school community worker offered to go to the home, meet with the parent where she currently lives (as a way to show the worker's concrete support) and to build trust that the worker truly wants to offer this family help, and will assist the family in finding a new place to live.

(4) A student was showing a dramatic change, for the worse, in attitude, schoolwork effort, and attendance. In the mediation mom stated that she believes that these negative changes, including the truancy, are due to a recent incarceration of his older brother. In response, a community worker referred mom to an after-school program at a nearby church where adult male mentoring was available.

The above four stories are examples of the neutral, facilitated problem solving that is at the core of the Truancy Prevention Through Mediation Program. These are fine demonstrations of the mutual agreements and healing that often takes place in the thousands of truancy mediations held in Ohio every year.

Mahoning County Launches Mediation Program to Reduce Truancy

Mahoning County is now one of 30 Ohio counties with an active Truancy Prevention Through Mediation Program, based on the model of the Ohio Commission on Dispute Resolution and Conflict Management. State wide the program has over 460 participating schools. To launch the program, in September 2006 a two-day training in basic truancy mediation training session was funded by a grant from the Commission. The training was conducted by Kenzi Bisbing, Townhall II, Kent, and Teresa Cusma, Community Mediation of Stark County, Canton.

The attendees were staff of several Mahoning County School Districts, the Mahoning County Juvenile Justice Center, Mahoning County Dispute Resolution Center and the Mahoning County Educational Service Center (MCESC), among other government and private parties. This training resulted in a collaborative effort between MCESC, the Mahoning County Dispute Resolution Center, Boardman Local, and Springfield Local and Youngstown City School districts.

The Boardman Rotary Club of Rotary International is providing additional support. As supporters of Maumee Valley Dispute Resolution Services (MVDRS), Rotary funded an opportunity for MVDRS to work in schools promoting peer mediation. Seeing the need for a reduction of truancy rates, MVDRS took a broader view of peer mediation to include adult peers - parent/teacher. The staff of MVDRS thanks The Boardman Rotary Club for their support and for acknowledging the value of mediation in resolving in-school disputes and conflicts.

Under the agreement, the first of its kind in Ohio, Boardman Rotary Club provides funding, MCECSC program coordination, and Mahoning Valley Dispute Resolution the truancy mediators. The schools maintain the attendance records and provide referrals to mediation and necessary staff support to initiate truancy mediation in the three participating buildings: Springfield Intermediate School, Boardman High School and Boardman Market Street Elementary School.

So far this school year there have been ten mediations at Boardman's Market Street Elementary School with the others planning to initiate the process as soon as possible. This cooperative effort has created a system that is cost effective and has the potential to assist families of young children to solve problems and pursue positive approaches to their child's school attendance.

Truancy Prevention Expands in Cuyahoga County

The Truancy Prevention Through Mediation Program has been well established for over five years in Cuyahoga County. Started under Jillian Driscoll, now lead by Wendy Boerger (Program Officer, Cuyahoga County Department of Children and Family Services) the program continues to grow, with 43 schools now participating.

One of the major partners in the county is the Parma City School District, Mary Wise Program Coordinator. The district has begun providing evening mediations to help alleviate no-shows for mediations scheduled during the school day. A school counselor is present with information from the teacher instead of the teacher attending, as is the model for school-hour mediations. The mediators are provided by the Conflict Resolution Center of the West Shore, Maureen Mizerak Director. Since the building is closed in the evening, the mediation is held at a local neighborhood collaborative instead of the school. Results so far indicate that evening mediations are a great alternative for some working families.

At present, Wendy is looking at expanding truancy mediation into an additional district beyond the present six - Bedford City, Cleveland Municipal, Cleveland Heights/University Heights, East Cleveland City, Garfield Heights, and Parma. Also under consideration is expanding the number of schools in the Cleveland District.

As an indication of the satisfaction with truancy mediation as a way of resolving attendance issues, the program was given additional funding this school year, and is now at a funding level of \$100,000 in county dollars and \$90,000 in TANF grant dollars. To assure as effective a use of the funds as possible, Wendy formed a subcommittee to talk about the program budget. Such groups, sometimes referred to as task forces or advisory committees, make valuable contributions in monitoring and guiding the program. The subcommittee's recent recommendations indicate using the funds to strengthen the operation and evaluation of the current program. However, final decisions have not yet been made.

Ohio Department of Youth Services Partners with Commission on Dispute Resolution on Statewide Project

"...before he had this training in conflict management he would have had the kid restrained and on the floor. I would not have believed it if I hadn't seen it with my own eyes."

The quote above is from someone in an Ohio juvenile detention facility that had seen his boss verbally de-escalate a situation with a youth. The training that is referred to is the Conflict Management Training for Staff in Juvenile Detention Facilities that began just over a year ago and has grown into a statewide partnership with the Ohio Department of Youth Services (DYS).

During a school conflict management training in 2005, the Ohio Commission on Dispute Resolution and Conflict Management was approached by a social worker with the idea of conducting a similar skills based program for juvenile detention staff. In spring 2006 the Commission conducted a pilot program for county and

state employees of juvenile corrections and detention centers. The participants were enthusiastic in their support for the need to expand the program and for building capacity throughout the profession.

In late 2006 the DYS requested that the Commission prepare and deliver conflict management training to staff in all eight DYS facilities. The program that has evolved consists of two classes made up of labor and management representatives from each facility. The two classes will be trained in a train-the-trainer model in order to build internal capacity to most effectively and efficiently deliver training to the rest of the staff throughout Ohio. The Commission is responsible for helping to coordinate this effort and for developing and conducting the training. The initial train-the-trainer sessions are being conducted by a trainer from the Columbus-based Interfaith Center for Peace.

This project is a challenge as it is a personal shift for many youth and staff in DYS facilities. Most of the youth in DYS facilities or detention situations respond to conflict in “fight or flight” mode, which is more reactive than proactive. When in conflict with youth, or each other, staff may react in a similar manner, “meeting aggressiveness with aggressiveness”. This training will help provide both youth and staff with more tools, such as communication and problem solving skills, and how to deal with anger. These tools can help youth and staff to become aware of how to deescalate conflict situations. DYS has also decided to integrate the Commission’s youth curriculum (Conflict Management Resource Guides) with the existing DYS educational and social work curriculum. This integration will help to ensure that both staff and youth share a language and an approach to conflict, which will help prevent escalation.

The goal of the program is to provide tools that will prevent youth from being unnecessarily restrained, enable staff to have a safer and less stressful shift, and to help youth make better choices. By reaching all eight DYS facilities, the Commission and the DYS are demonstrating a commitment to making these facilities better places for youth to reside and staff to work.

Community & Court-Connected Dispute Resolution

Court-Connected Mediation Grows In Southern Ohio: *Adams, Scioto, and Pike Counties*

Sharon Travis Bell, who is the Mediation Coordinator for the Adams, Scioto, and Pike Mediation Program (ASAP) is excited about and pleased to announce the expansion of the truancy mediation program which she began in Adams County early in the 2005-06 school year.

Sharon, who received a Master of Conflict Resolution from Antioch University, came to the area after starting and developing mediation programs in Clark and Ross Counties.

To assist Sharon with the expansion of the Truancy Prevention Through Mediation Program and other demands for mediation services, Mr. G.R. Hamm was recently hired as an ASAP Mediator. G.R. is a graduate of the University of Akron School of Law and prior to accepting this position had a private practice in Scioto County.

ASAP is currently conducting school mediations in the Adams County/Ohio Valley and the Manchester School Districts in Adams County, serving a total of nine schools. The truancy program is a cooperative structure between the schools and the Adams County court of Common Pleas, under the supervisions Judge Brett Spencer and Magistrate David Wilson. With the addition of the new mediator, the program will be able to allot more mediation days per month to the schools, and eventually to expand in Adams County. It is possible that the Truancy Prevention Through Mediation Program will be expanded into Scioto and Pike Counties in the next school year.

This spring, for the first time, ASAP will offer custody mediations to the Scioto County Juvenile Court under the direction of Judge James W. Kirsch and Magistrate Shane Tieman. For more information please contact

Sharon or G.R. at: 740-355-8368, or e-mail Sharon at: cricket544@earthlink.net or G.R. at: grhamm@sciotocounty.net

Court-Connected Mediation Grows In Southern Ohio: *Athens and Meigs Counties*

Mediation can save litigants time and money while giving them a strong voice in the proceedings. Now a grant from the Supreme Court of Ohio has made it possible for Athens and Meigs Counties to have a full-time mediator available to settle disputes pending on the courts' docket.

Five Common Pleas Judges, Hon. Robert W. Stewart, Hon. L. Alan Goldsberry, Hon. Michael Ward, Hon. Fredrick W. Crow, III, and Hon. L. Scott Powell, all worked together to secure the grant for this community. Judge Stewart, who has taken primary responsibility for procurement and oversight of the Mediation Services program, said, "We are pleased to be able to offer mediation as an additional resource in Common Pleas cases. Initially this grant will fully fund the program and give us an opportunity to develop sustainability."

The program was initiated with a grant from the Supreme Court, coordinated through the Supreme Court of Ohio Dispute Resolution Section. "Dispute resolution offers citizens the opportunity to resolve their disputes quickly and economically," said Jacqueline Hagerott, manager of the Dispute Resolution Section. "More than 90 percent of Ohio's counties have at least one mediation program. We are pleased to have Athens and Meigs counties join a growing number of courts who are offering mediation as a viable alternative for dispute resolution." Local cases are currently being sent for mediation.

Martha Camp has been hired to serve as Mediation Coordinator. She will be mediating cases filed in the General Division and the Probate/Juvenile Division of each court. Typical cases might include personal injury, business, malpractice, worker's compensation, guardianship, child protection, and custody cases. Ms. Camp is a resident of Pomeroy, Ohio and has been mediating cases for 20 years. She was one of the founders of Main Street Mediation Service in Perry County and more recently staff mediator for the Richland County Court of Common Pleas. She has been the recipient of the Ohio Mediation Association's Better World Award for her contributions to the mediation profession. For additional information contact:

Martha Camp, Mediation Coordinator
Athens County Court of Common Pleas
Mediation Services
1 South Court Street, 4th Floor
Athens, OH 45701
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COMMUNITY MEDIATION IN PRACTICE: *Community Mediators Share Their Stories*

Ohio's community mediation centers, which share membership in the Ohio Community Mediation Association (OCMA), provide a valuable service, day after day, to their cities and towns. They help people solve their problems quickly and effectively, assisting those who come to them to design their own solutions rather than have decisions imposed by a court or administrative body. Fee schedules that reflect the income levels of the parties are common, thus increasing accessibility.

The Community Mediation Center of Stark County, Teresa Cusma, Executive Director, is one of the OCMA members. Following is a true story, a mediation conducted by one of the Center's volunteers.

Recently a homeowner, a single woman, and a remodeling contractor came to the Mediation Center. They asked for mediation because the homeowner was concerned that she had paid the contractor for work that he did not complete. As we talked about their points of view, it became apparent that: (1) The homeowner was feeling

cheated and hurt (2) The homeowner had made continuing requests for changes in the type and scope of the work to be done as the project was under way (3) The homeowner was not familiar with the business aspects of home remodeling, contracts, and the impact of multiple change requests (4) The contractor was very frustrated in attempting to work with the homeowner due to the many change requests.

As the conversation continued, the contractor realized how naïve (from his perspective as a professional) the homeowner was about the above issues, and how vulnerable the homeowner felt about making a wrong financial decision.

The contractor revealed that during the project his wife had died, and that he was dealing with many personal issues resulting from that loss. That fact, and his frustration in trying to deal with the homeowner caused him to back away from the job. The homeowner offered sincere sympathy for his loss, and the contractor apologized for just having left things hanging, and told her how it had made him feel crummy.

The increased knowledge that each gained of the other's situation allowed them to reach a satisfactory agreement. The contractor agreed to return to her home and to finish the phase of the work he had left uncompleted, at no additional cost to the homeowner (even though the changes she had required during the initial phase had cost him additional time and expense). In addition he would review with her the additional changes that she had requested and they would set up a price schedule that would help her decide what she wished to have done in the future.

In addition to reaching an agreement, the parties parted with a higher regard for one another----appreciating the position that each was in and extending good will toward the other.

Another member of OCMA is Community Mediation Services of Central Ohio, Shelley Whalen Executive Director. Here are two mediation stories from CMS. (All names have been changed)

Housing – Tenant/Landlord Dispute

Carrie, a single working mother, called CMS, exasperated after her apartment complex towed her car. Carrie explained that her lot was being repaved, and that she had complied with management's request that she park in an adjacent lot. When Carrie called CMS, she did not know where her car was, did not have the money to retrieve it, the apartment complex had not returned her calls, and she was missing work due to the lack of transportation. Carrie stated that, as upset as she was, if she did get someone on the phone from the apartment complex office she would say something she might regret. CMS contacted the property manager, who explained that the repaving had created a bit of an uproar at the complex. The conciliator helped the parties work out an agreement where the complex would cover all of the towing fees, and Carrie's transportation was restored that day without any yelling, finger-pointing, or additional stress on either the landlord or the tenant.

Neighborhood Dispute

Jack, a carpenter, was referred to CMS by the Columbus police after multiple complaints about his neighbors, three law students. On weekends and school breaks, the students regularly had noisy parties where their guests would smoke cigarettes on the porch, and their voices carried into Jack's bedroom window, causing him to lose sleep and feel drowsy and irritable at work. The law students were nervous about the police calls and the potential effects on their reputations and professional licenses. In mediation, the parties were able to vent their frustrations in a respectful environment, came to understand each other's perspectives, and reached a voluntary agreement. That agreement placed limits on the partying and laid out how the parties would communicate about their concerns in the future, without resorting to complaints to the police. As a result, Jack was able to get the sleep he needed, and all parties' frustrations decreased as a result of the improved neighbor relations.

From the Athens Area Mediation Service, John Schmieding, Director. This center is also a member of OCMA.

An Unusual Mediation Situation

One of the more involved mediations for our community mediation service came at the request of a group of fifteen people who owned a small business together. The business was based on a large piece of property they owned together. The group included couples and individuals who had built their own homes on the property as well as others who lived as far as 175 miles away. There were many issues about how decisions were made. Some felt strongly that those who actually lived on the property were exercising too much power and excluding others from important decisions, while some of those who lived on the property believed that they were being unfairly expected to shoulder most of the work of keeping the business alive and growing. Those living on the property also felt they were forced to make decisions because others had abdicated their responsibilities. Further complicating the situation is that the two groups were not in internal agreement; within each group there were differences and sometimes animosities. These various disputes had different histories, with some conflicts brewing for ten years or more. Communication was often strained and ineffective. There was very little trust. The issues affected each of the owners and their families, as well as their hundreds of customers.

We agreed to meet with them after several conversations. It became clear that despite the complexity of their difficulties that they did have a strong commitment to making things better. They were able to meet, at best, only once a month because of the logistics of bringing everyone together; the result was five very lively sessions over a period of eight months, each lasting three to five hours, plus three caucuses scheduled separately with one or two individuals. We had three mediators present for each session so that we could work with small groups when needed. The sheer size of the group and variety and number of issues and tense relationships meant that it didn't always look like a classic mediation; some elements of facilitated discussion and even communication training were woven in as requested and needed by the group.

After the first session, as the breadth and depth of some of their struggles as a group became clear, the mediators wondered if there was much hope for this group. As we continued to meet, they surprised us as they were able to talk more openly without attacking and began to understand each other. They began to consider the possibility of trusting each other's good intentions. As communication improved, they were able to revisit some of the decisions that had been made and to think about how they wanted to make decisions in the future. They were able to reaffirm their caring for each other and their commitment to their project.

The owner who had originally contacted us recently left a message on our answering machine. "I imagine you probably get a lot of calls from people in distress so I thought I'd call because we are not in distress. We recently had an incident that brought up some conflict for our group. We came together around the issues, armed with the new skills we learned in our mediation sessions. It ended up being a bonding experience, rather than a divisive one. No one walked out, no one got mad, and we were able to talk it through together. Everything seems to be better. It seems we've really turned a corner and I just wanted to thank all of you for the good work you have done with us."

Directory of Community and Court-Connected Dispute Resolution Programs

The Commission's Directory of Court and Community Dispute Resolution Programs has been updated on the Commission's Web Page. To access the directory please visit:

<http://www.disputeresolution.ohio.gov/nfpmap.htm> Changes and updates should be sent to Ed Krauss at <mailto:ed.krauss@cdr.state.oh.us> or by fax to 614 752 9682.

State and Local Government Programs

Commission Offers Program for General Assembly

Improving Public Policy Through Collaboration was the theme of a workshop sponsored by The Ohio Commission for Dispute Resolution for all members of the Ohio General Assembly on March 6-7, 2007. The program featured Rep. Chris Rector (R-Maine), Rep. Ted Koffman (D-Maine) and former Minnesota Senate Majority Leader Roger Moe who shared their experiences as legislative leaders and champions of the consensus building process. Prominent themes included the role of the convener in community collaboration efforts, and partnering across the partisan divide.

The speakers offered a number of ways that legislative leaders can be effective conveners:

1. **Be inclusive.** Engage a wide variety of people from different perspectives. If important players are left out, any solutions the group develops will be suspect.
2. **Meet in a neutral place.** The place needs to ensure an impartial process. When the issue is complex and divisive, it will be helpful to get assistance from an experienced facilitator in planning and conducting the process.
3. **Be impartial.** To keep people participating, they have to believe the leader is not going to favor one side or another, rather that they are trying to find a solution that all sides can embrace. If people think a leader is taking one side or another, they won't stay with the process.
4. **Establish the purpose for the process.** Let participants help frame the issues to open the way for discussion and problem solving.
5. **Direct, rather than dominate, the discussions.** Bring people together to find agreement. Enable them to talk with each other, rather than talk only to you. It is often useful to get someone else to facilitate the discussions so you can listen and ask questions. Besides, busy leaders may not have time to run all the meetings.
6. **Keep people moving.** Help keep participants focused and working together when their differences threaten to drive them apart.
7. **Demonstrate visible commitment.** Even if a leader can't be present at every meeting, send signals demonstrating on-going interest and provide feedback to the group on their progress.
8. **Finally, make sure there's an outcome.** The best outcomes involve written agreements that spell out different people's responsibilities. Leaders can ensure that the agreements they reach get formally adopted.

Organizations that support collaboration and consensus building efforts include the Policy Consensus Initiative (PCI), a national nonprofit program which works with state leaders to establish and strengthen the use of collaborative practices to create more effective governance. For more information about PCI, please see www.policyconsensus.org.

For more information about this program or about the Commission's services please contact Maggie Lewis, Associate Director Ohio Commission on Dispute Resolution by calling 614/752-9598.



Left to Right, State Representative Chris Rector, (R-Maine), (former) Senate Majority Leader Senator Roger Moe, (DFL-Minnesota) and State Representative Ted Koffman, (D-Maine).

Workplace Mediation Available to State Employees: The Ohio Workplace Mediation Program

The Ohio Workplace Mediation Program (WMP) is continuing in the effort to meet the needs of state employees throughout Ohio, as an effective tool for better managing conflict in the workplace. The Program, which provides mediation services to address non-contract workplace disputes for all state employees, operates in central, northeast and southwest Ohio.

Employees of the Departments of Job and Family Services, the Ohio Environmental Protection Agency and the Bureau of Workers Compensation serve as workplace mediators. Employees representing both labor and management interests are stationed throughout central Ohio, the Cincinnati, Hamilton, Dayton and Jackson areas, and the Twinsburg, Cleveland and Akron-Canton areas. Workplace mediators receive training provided by the Capital University Law School and the Ohio Commission on Dispute Resolution.

The WMP is designed to provide state employees with a fast, free and confidential way to address non-contract workplace disputes. The WMP is not intended to replace or to modify the current dispute resolution procedures established through collective bargaining agreements and/or other employee plans. Over 150 disputes have been referred to the Program, and 85% of cases referred to the Program are resolved. Disputes commonly referred include issues such as poor communication, work style conflicts and inter-personal behavior problems. Mediation services through the WMP are available to all state employees in any agency throughout the state.

A seven-step mediation format is used. The mediator guides parties through a process in which the parties discuss the issues, generate options for resolution of the dispute, and design an agreement which meets their respective interests. The mediator does not give legal advice or decide how a dispute should be resolved. Participation in mediation is strictly voluntary. Information shared during a mediation session is confidential.

The Program is administered by the Workplace Mediation Advisory Group, which is comprised of representatives of four state agencies, the State's Office of Collective Bargaining, and employee unions O.C.S.E.A. and S.E.I.U. 1199. The Ohio Commission on Dispute Resolution serves as the program administrator. In this role, the Commission provides training and coordination of the mediator pool, referral of mediators and program evaluation services.

To refer a case to mediation, please contact the Ohio Commission on Dispute Resolution at 614/752-9595. For more information about the program, please see the Commission's web site, www.disputeresolution.ohio.gov.

Contributions

What Happens In Mediation Stays In Mediation: UMA Survives A First Attack

By Shirley A. Cochran

It all started when a corporation contacted a mediation center in Ohio to mediate between two employees. Before the mediation could be scheduled one of the employees was terminated. The company, concerned about future personnel conflicts, asked the mediation center to help resolve other simmering disputes in the department of the former employee. The center's director sent out confidential questionnaires to the department's employees asking for issues to be discussed, met with groups of employees, facilitated the discussion of problem areas and assisted in resolving conflicts and disputes listed on the returned questionnaires and brought to light in the group meetings.

Following the discussions, the employees (not the mediation center) submitted to their board a plan of action to avoid issues of conflict, including those raised by the situation with the former employee. Meanwhile, litigation filed in Common Pleas Court pitted the former employee as a Plaintiff against the corporation. Counsel for the Plaintiff issued a subpoena *duces tecum* for the mediation center's records and sought testimony by the center's director regarding contacts with the defendant corporation.

That is when I received an email request for assistance. When I, along with several others, conducted training in the Uniform Mediation Act (UMA) in 2005, I encouraged anyone subpoenaed to contact me to track such incidents and offer help in quashing subpoenas if the mediation privilege was attacked.

The Uniform Mediation Act (UMA) was enacted by Ohio's legislature as Chapter 2710 of the Ohio Revised Code and became effective October 29, 2005. It repealed Ohio's former mediation privilege statute, replacing it with a broad protection of the confidentiality of the mediation process that is a cornerstone of why mediation works. In a mediation, if people believe that what goes on in the session will stay in that room, will be kept confidential, they are more likely to open up the discussion to what is really behind the dispute and be more willing to brainstorm solutions that may end the problem. To protect that confidentiality and keep the parties, mediator and nonparty participants from having to testify, the UMA provides a privilege personal to each person's position in the mediation. The mediator is able to refuse to testify about anything that happened at the mediation, with certain exceptions, and to keep others from testifying about what the mediator said during the process. Specifically, it provides: O.R.C. Section 2710.01 (A) "Mediation" means any process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.

2710.02 (A) Except as otherwise provided in division (B) or (C) of this section, sections 2710.01 to 2710.10 of the Revised Code apply to a mediation under any of the following circumstances: *** (3) The mediation parties use as a mediator an individual who holds himself or herself out as a mediator, or the mediation is provided by a person who holds himself out as providing mediation.

2710.03 (A) Except as otherwise provided in section 2710.05 of the Revised Code, a mediation communication is privileged as provided in division (B) of this section and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided in section 2710.04 of the Revised Code. *** (B) In a proceeding, the following privileges apply: *** (2) A mediator may refuse to disclose a mediation communication. A mediator may prevent any other person from disclosing a mediation communication of the mediator.

In other words, if a person facilitates communication and negotiation between parties in dispute, assisting them in reaching a voluntary agreement about the dispute, and holds himself out to be a mediator, the privilege is theirs to assert to keep them from having to testify in discovery or in a proceeding.

It appeared fairly obvious that although there were two different instances involved, the center's staff attempted to facilitate the communication and negotiation between parties in dispute (originally plaintiff employee and a member of defendant's staff; secondly between members of defendant's staff in the department), assisted them in reaching voluntary agreement about the dispute (no agreement in the first instance as the session was never held; voluntary agreement in the second instance); the mediation center staff held themselves out as mediators, and the mediation center staff believed confidentiality is essential to the mediation process.

Plaintiff's counsel did not see it that way. He asserted the director acted as a consultant, and although he never explained what that meant, he felt if this privilege was permitted to stand all sorts of consultants could go into businesses and, by using "magic words" (such as mediation), keep from having to testify about anything that went on. A copy of testimony in a deposition of one of defendant corporation's employees was provided as proof that there was no mediation when the meetings with the departmental staff took place, but it was not clear why he thought that it was proof there was no mediation. A heated telephone conversation took place after the filing of the motion for a protection order where plaintiff's counsel made accusations of perverting the true meaning of the UMA, but in the end he withdrew the subpoena in a formal court filing making the motion moot while reiterating his accusation of frivolousness and perversion of the UMA. It was not a pretty win; but a win nonetheless.

Should anyone be aware of subpoenas issued for testimony about a mediation communication, please contact me or Maria Mone, Executive Director Ohio Commission on Conflict Management and Dispute Resolution, so we can be consistent in responses to attacks on Ohio's mediation privilege statute.

Shirley Cochran is a well-known attorney and mediator who has taught courses on the Uniform Mediation Act. She is Immediate Past President of the Ohio Mediation Association. Reprinted from the *Columbus Bar Lawyers Quarterly*, supplement of *The Daily Reporter*.

Mediating In Rwanda

By Ed Krauss

Many of us in the mediation community know George Brose as a mediator of family and juvenile issues on behalf of the Clark County Court of Common Pleas, and as a mediator of truancy issues throughout Clark as part of the Truancy Prevention Through Mediation Program. He regularly participates in mediation roundtables and has made presentations and conducted training on truancy mediation and other issues.

What you may not know is that a significant part of his life, both in terms of time and heart-felt devotion, has been spent teaching, for six years, in African Countries - Tanzania, Kenya and Zimbabwe. As you know, these areas have been beset by wars that have led to famine, destruction of villages, even genocide.

Later this year George plans to return to Africa, this time Rwanda, to participate with organizations that were instrumental in getting him involved in this critical peacemaking effort, the Alternatives to Violence Project (AVP) and their sister association, the African Great Lakes Initiative (AGLI). (More information about AGLI, which also serves Burundi, The Congo, and Uganda, is available at www.aglionline.org.) Friends of George, both inside and outside the mediation community, have helped with the costs of travel and lodging. He will serve as a trainer in at least two courses and, if able to raise sufficient funds, will be able to provide additional courses before he returns to us. If you are interested in learning more about mediation training in Africa you can contact George at: georgebrose@yahoo.com .

In addition to this outstanding volunteer effort in Africa, George Brose has worked and volunteered for 14 years in Ohio prisons and in the Juvenile Court system in Springfield, Ohio. He states “Through this work I’ve gained some insight into what goes into the peace making process between individuals, families, victims and offenders, and other groups in conflict.”

[Training Opportunities](#)

To view statewide training opportunities in dispute resolution and conflict management, please visit the Commission's Web site at: <http://disputeresolution.ohio.gov/trainings.htm>.

Supreme Court of Ohio Training opportunities are available under “Important Dates” on the Court’s Web site: http://www.sconet.state.oh.us/dispute_resolution/

[Commissioners and Staff](#)

www.disputeresolution.ohio.gov/commissn.htm#commissioners

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