Tippecanoe County Family Court Project 2005
Circuit Court Mediation

Basic Information

2004 Population:	59,753
County Seat:	Lafayette
Judicial Officers:	Judge Donald Daniel
Project Implementation:	February 2004
Family Court Judges:	Judge Donald L. Daniel, Judge Thomas H. Busch, Judge Donald C. Johnson, Judge Loretta H. Rush

Family Court Personnel

Project was implemented with a family law attorney and a clinical psychologist as project coordinators. In addition, one administrative assistant was hired to manage the scheduling of intakes, the collection of basic information, and the maintenance of files and statistics. A therapist conducts the screening portion of the mediation intakes.

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Mission Statement:

The primary mission of Tippecanoe County's Family Court Project of the Circuit Court has been to provide ready and affordable alternative dispute resolution services to families working through divorce, post-dissolution, paternity, and guardianship issues. The Project maintains an updated listing of community resources to provide to individuals and families with needs in addition to ADR services. Families referred to the Project are monitored for multiple case involvement to determine whether there is a need for case-coordination within the Tippecanoe County Courts.

Mediation Services:

Referrals: Referrals to the program are made though the Courts, via a standard Court Order. Referrals are not automatic, but instead are made on a case-by-case basis at the discretion of the Judges.

Intake: Upon receiving the court order to participate in the Program, parties are given five days in which to make contact with the Program and schedule an intake appointment. The court order includes the Program contact information and details the financial documents that must be

provided by the parties at the intake, i.e., W-2 documents, pay stubs with year-to-date information, income tax forms.

Intakes are conducted at The Counseling Center, a local agency that provides services to children and families on a sliding fee basis. The Family Court Project and The Counseling Center have established a collaborative relationship with regard to the intake process. Through this collaboration, The Counseling Center is able to provide a therapist with the experience of conducting mediation screenings, and the Project is able to reduce the expense of this service. (The Counseling Center charges $40.00 per hour to the Family Court Project for services provided by the Master's Degree-level therapist, versus the $75.00 per hour charged if intakes are conducted by an attorney or psychologist.) Intake appointments generally take thirty minutes, and there is no fee for the parties associated with the intake.

The intake has two parts. The administrative assistant (who is located in the same building as The Counseling Center) oversees the first portion of the intake and gathers contact, income, and scheduling information. If the parties are represented but choose not to have counsel present during the mediation session, the parties and their attorneys are asked to sign a waiver stating this. The administrative assistant oversees obtaining the signatures for the waiver. The Administrative Assistant asks parties if they have other legal cases pending, and follows up by a record search through Court View and Quest. The parties are informed of the intended record search. The record search provides the Project with information regarding multiple-case families and the need for case-coordination, as well as information regarding the appropriateness for mediation.

The second phase of the intake is conducted by the therapist, who educates the parties regarding the mediation process, determines the general issues to be addressed in the mediation session, and screens for appropriateness of mediation (e.g., history of domestic violence, history of mental illness). Information regarding community resources may be provided during this phase of the intake, depending on the needs and desires of the family.

At the conclusion of the intake, appropriate parties are informed that they will receive a letter providing them with the mediator's contact information, the mediation date and time, their hourly fee obligation, and the anticipated fee to be paid at the mediation session.

Co-Pays: Based upon a sliding fee income scale, the parties are required to make a co-pay for the mediation services received. The hourly rate ranges from $100 per hour to $150 per hour, based on the combined incomes of the two parties. For individuals with a combined annual income below $55,000, the hourly rate is $100 per hour and a sliding scale subsidy is provided. The remainder of the co-pay is divided between the parties, proportionally to their respective incomes. The minimum co-pay to be paid by any individual is $10 per hour. The Project Coordinators believe that making a financial commitment to the process encourages participants to actively engage and value the process. For individuals with a combined annual income of between $55,000 and $75,000, the rate is $100 per hour and there is no subsidy. The co-pay is split proportionally to their respective incomes. For individuals with a combined annual income

of $75,000 or greater, the rate is $150 per hour, and the co-pay is split proportionally to their respective incomes. Parties are advised in the confirmation letter as to the anticipated costs based on the hourly rate and the time scheduled.

Mediation Session: The philosophy of the Project Mediators is that the parties should be empowered to work together and make decisions in the best interests of their family. The role of the mediator is to facilitate constructive communication. To this end, the mediator prefers to work with the parties simultaneously and to use private caucuses sparingly. When issues involving children arise, the mediator believes that the children's needs take precedence and should be the focus of attention. The parties are encouraged to work together, generate their own options and develop the problem-solving skills necessary to move forward and manage the future of their family.

Mediation sessions are generally scheduled in two or three hour blocks, depending on the individual mediator's preference. Some cases require more than one mediation session, depending on the complexity of the case and/or the preparedness of the parties. As part of the mediation process, community resource and referral information may be provided informally. The parties also may choose to formalize their intention to seek additional services, such as individual or family therapy.

At the conclusion of a mediation in which the issues have been fully or partially resolved, the mediator prepares an agreement, and asks the parties to review it for accuracy and sign it. The parties are informed that in signing the agreement, they are committing themselves to abide by the agreement and that the agreement is legally binding. The agreement is not in the form of a court order, but rather a document reflecting the intentions and wishes of the parties. This agreement may be filed directly with the court by the mediator, and the court, if willing, will approve the agreement. This practice is commonly used when both parties are pro se. If the parties are represented, the attorneys may choose to prepare and submit the Mediation Agreement to the Court. If the parties reach an impasse, the mediator will forward that information to the Court through use of a standard Mediation Report form. The Mediation Report form simply indicates, by a checked box, whether there was full settlement, partial settlement, impasse, or failure to appear.

At the mediation session, the parties are expected to pay the mediator the co-pay amount due. The mediator also asks each party to provide written feedback via an Evaluation form.

Submitting Claims: If the mediator's fee is not covered in full by the parties' co-pay, then the mediator will prepare a Claim form and submit that to the Court for payment through the Family Court Project Fund.

2005 Statistics:

A total of 79 cases have been referred to the Family Court Project thus far in 2005. Sixty-four of

these cases have complete data regarding representation and multiple case involvement. Sixty-six cases have complete data with regard to the types of cases. Only cases with complete data were used to generate the statistics outlined below. The remaining cases have incomplete data, either because one or both parties have yet to complete the intake process, or the parties resolved their dispute independently prior to intake.

Representation Rates: Both parties represented (66%); One party represented (18%); Neither party represented (16%).

Types of Cases: Post-dissolution (41%); Paternity (29%); Dissolutions (24%); Guardianships (6%).

Multiple Case Involvement: Sixty-one percent (61%) of these cases have family members who have been involved with other court cases in the last 5 years. This statistic does not address the types of cases involved, or the percentage of cases in which there is multiple case involvement at the time of mediation. These statistics are being calculated.