


Building Effective Dispute Resolution Processes in Juvenile Courts


David A. Hajmanowski, Judge
Delaware County Juvenile Court

April Nelson, Mediator
Delaware County Juvenile Court




Session Objectives

- Mediation programs in Juvenile Court setting
- Building an effective mediation program
- Benefits of mediation



DELAWARE COUNTY OVERVIEW (2016)

- Population: 196,400+
 - 27% population under the age of 18
 - 86% white non-Hispanic
 - Median household income: \$94,200+
- Delinquency filings: 858
- Attendance Filings: 76 (26 adult/50 juvenile)
- Abuse/Neglect/Dependency Filings: 70 cases (42 families)



Dispute Resolution Overview

- Delinquency Mediation, including with Victim/Offender
- School Attendance Mediation
- Child Protection Mediation
- School Behaviors Mediation
- Support Mediation for Intake and Probation
- Family Support Services Mediation
- Child Custody: Mediation, ENE, parenting coordination



Court Mediation: The Big Four

- School Attendance
- Delinquency
- Child Protection (Abuse/Neglect/Dependency)
- Child Custody (Parenting/Support)



SCHOOL ATTENDANCE

- 2016: 383 scheduled mediations (pre HB 410)
- HB 410 requires schools to make **meaningful attempts** to engage family and address absenteeism
- Mediate K through 12
- Mediation goal: Student Absence Intervention Plan (required by HB 410)
- Held at schools
- Will mediate with student only from grade 6 up



DELINQUENCY MEDIATIONS

- 2017: 15 referred 7 mediated 6 completed successfully
- Referrals come from Intake during triage
- First time offenders; typically unruly charge or low-level misdemeanor
- May involve victim (typically will if victim is family member)
- Parent must attend with juvenile
- Upon completion of contract, case is closed without further court action
- Held at Courthouse



CHILD PROTECTION MEDIATION

- 2016: 9 referred/ 9 mediated
- Mediation may be utilized at any point in case, including termination of parental rights
- Any party, including Children's Services, may request; Court may refer on own
- Often involve multiple parties, counsel, GALs, agency personnel, others
- Not for novice mediator: extensive training and experience




CUSTODY MEDIATION

- Delaware County Juvenile Court no longer has jurisdiction over child custody cases (unmarried parents, grandparents, for example) or related cases for support and/or paternity.
- Goal in custody mediation is to allow families to determine best parenting plans for their children.
- When that is not possible, other ADR programs may be appropriate: Early Neutral Evaluation (ENE) to provide party direction; assignment of parenting coordinator (PC) for the most obstinate cases.




Other Mediations Offered Through Our Court

- School Behaviors
- Intake/Probation Support
- Family Support Services




SCHOOL BEHAVIORS

- At request of school staff or School Resource Officer (SRO)
- School staff or SRO participates
- Parents must participate if middle school or younger
- Held at school or Courthouse as appropriate



INTAKE/PROBATION MEDIATION

- Officers may request mediation as they see fit
- Typical situations: parent/juvenile boundaries, house rules
- Referring officer always attends
- Always held at courthouse
- Parent/Guardian must attend



FAMILY SUPPORT SERVICES

- 2016: 4 referred 7 mediations
- FSS program diverts youth from detention and further involvement in the court system by providing in-home support services to strengthen family relationships.
- Mediation helps families negotiate boundaries, house rules, communication
- FSS Worker coordinates and attends



BUILDING AN EFFECTIVE MEDIATION PROGRAM

- Talk with and visit other Courts using mediation
- Start small: What is your court's most pressing need? What is your community's most pressing need?
- Evaluate current court staff before filling position
- Training available through Supreme Court ADR Section
- Send new mediator to shadow other mediation programs
- Bring your local bar into the discussion




BENEFITS OF MEDIATION

- Quicker
- Decreases caseload/time in Court
- Allows parties to have a voice in resolution(often for the first time)
- Preserves relationships (especially important in AND cases)
- Great satisfaction with outcomes and greater compliance




COURT FORMS

- Attendance Mediation Forms
 - Student Attendance Intervention Plan (SAIP)
 - Sample Letter to Parent
 - FAQs for Parent Letter
 - Attendance Agreement to Mediate/Outcome
 - HB 410 Summary




COURT FORMS

- Child Protection Mediation Forms
 - Child Protection Referral Form
 - Request For Mediation
 - Agreement to Mediate (Standard)
 - Outcome (Standard)
- Note: Mediation agreement is case specific.




COURT FORMS

- Delinquency Mediation Forms
 - Notice of Mediation
 - Agreement to Mediate
 - Contract
 - Outcome Completed
 - Outcome Unsuccessful



QUESTIONS?

THANK YOU!



INTERNATIONAL FIRE SERVICE
CONFERENCE 2018

**IN THE COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO
JUVENILE DIVISION
Agreement to Mediate**

Mediation Party: _____ **Mediation Party:** _____

Mediation Party: _____ **Mediation Party:** _____

We understand and agree to the following:

- Mediation is a process. The role of the mediator is that of a neutral facilitator and not that of a judge, magistrate, arbitrator, lawyer or therapist.
- The parties have the right to consult an attorney at any time during the process. The mediator is not authorized to give the parties legal advice.
- The mediator has no authority to force the parties to reach an agreement.
- An agreement is reached only if the parties believe that the agreement is fair and in their children's best interest.
- The mediation process is confidential and privileged to the extent allowed by law, which means that in most cases, no new information shared in the mediation may be used against any party in any court proceeding. Exceptions to that are: (1) any threats of harm made against one's self or others; (2) any unreported allegations of child abuse or neglect, and (3) any admission to committing or planning to commit a felony. The mediator is required to report any allegation of abuse or neglect of a child to Delaware County Department of Job and Family Services.
- If a settlement is reached, it is written up in a Mediation Agreement. Each party shall receive a copy of the Mediation Agreement and a copy is provided to the Court in a sealed envelope. In the event that the parties' hearing is immediately following the mediation, the Mediator will read the Agreement into the court record. The Mediation Agreement is not read or heard by the Magistrate or Judge until each party waives confidentiality in open Court. No other record of the proceedings shall be kept by the mediators, the mediation staff, or the participants.

Signature:

Date:

IN THE COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO

JUVENILE DIVISION

Agreement to Mediate School Attendance

Student: _____ **School:** _____ **Grade:** _____

We understand and agree to the following:

- Mediation is a problem-solving process. The mediator is neutral and does not represent school staff, the family, the student, or court staff. The mediator is not a judge.
- A mediation is not a court proceeding.
- The mediation process is confidential and privileged to the extent allowed by law. In most cases, that means that nothing said in the mediation other than the school records can be used in any court proceeding. The mediator is required to report any allegation of abuse or neglect of a child to Delaware County Department of Job and Family Services and will report any felonies to law enforcement. Additionally, the mediator will stop the mediation if there are any threats of harm made.
- The goal in this mediation is to identify barriers to attendance and strategies to improve attendance that everyone at the mediation is able to agree to. The plan will be written in a separate Student Attendance Improvement Plan and everyone will sign it. Everyone will receive a copy of signed Student Attendance Improvement Plan when the mediation is over.

Signature:

Role:

Date:

Date Student Becomes Habitually Truant: _____

Date Parent Notified of Excessive Absences: _____

Date of Absence Intervention Plan: _____

Unexcused Hours Missed: _____ Total Hours Missed: _____

OUTCOME

- _____ Attendance Plan signed
- _____ Attendance Plan not signed; discussion held
- _____ Family/student declined to mediate
- _____ Family/student failed to appear for scheduled mediation
- _____ Other: _____

Date prepared: _____

Mediator: _____

April Nelson

Attendance Mediation Information

Ohio has recently changed its law on school attendance in House Bill 410 in an effort to improve school attendance. We want to work with you and your child to ensure good attendance for the school year.

Why is attendance important? As early as elementary school, students who miss just 2 days a month, regardless of the reason for the absence, are more likely to fall behind academically and less likely to graduate. This is true regardless of race, ethnicity, language, family income, and other variables.

How does the new law treat absences? The new law focuses on habitual truancy. **Habitual truancy** is when a student is absent without a legitimate excuse 30 or more consecutive hours, 42 or more hours in one month, or 72 or more hours in one school year. **A school must create a Student Absence Intervention Plan when a student is habitually truant.**

What is a Student Absence Intervention Plan? A Student Absence Intervention Plan is a student-centered, personalized plan developed to address barriers to attendance when a student becomes habitually truant. The plan is developed collaboratively in mediation by the school, the family, the student, and the staff. The plan lists resources and agreed-upon strategies for getting the student to school every day.

What is an attendance mediation? An attendance mediation is a confidential discussion focused on your child's attendance.

Who participates? A family member (usually a parent), students who are at least in 6th grade, a Juvenile Court School Liaison (who works on attendance issues with the school), two members of school administrative/counseling staff, and a mediator from Juvenile Court. We will mediate with students in middle school (7th and 8th grade) and high school without a parent present.

Why is Juvenile Court involved? The Delaware County Juvenile Court partners with every school district in Delaware County, as well as the Delaware Area Career Center, to improve attendance at all grade levels and to find ways to support families in improving student attendance.

When is it held? At the time and date listed in the letter.

Where is it held? Almost always at the school your child attends. The location is listed in the letter.

How long does it take? Mediations usually last between 15 and 30 minutes.

What is the goal of this mediation? The goal of mediation is to come up with a Student Absence Intervention Plan to help the student and family get attendance back on track.

What is the district policy on absences? Delaware City School District allows a parent or guardian to excuse a child for any reason up to 60 hours with a personal note. One school day equals 6 hours. After that, the parent or guardian must provide a medical note (from a doctor/dentist/counselor/Urgent Care, for example) for the absence to be excused.

What if I think the school has made a mistake and my child does not have attendance issues? You may call Stacy Blair, School Liaison, at 740-833-2677 and ask her about attendance. You may attend the mediation and discuss this too. We will still proceed with the mediation in most cases.

What if I want to attend and cannot be there on the day scheduled? You may call April Nelson, mediator, at 740-833-2610; she will try to arrange a new time and date. This may not always be possible because of the requirements of the law.

What if school is canceled or delayed on the day of mediations? If school is canceled for any reason, we will reschedule the mediation. If the school is on a delay and the mediation is scheduled for a time before school will open for that day, we will reschedule the mediation.

House Bill 410: Ohio's Attendance Law

Ohio has recently changed its law on school attendance in House Bill 410 in an effort to improve school attendance. Here are some important points to know about the new law.

- **Attendance is important.** As early as elementary school, students who miss just 2 days a month, regardless of the reason for the absence, are more likely to fall behind academically and less likely to graduate. This is true regardless of race, ethnicity, language, family income, and other variables.
- The new law focuses on habitual truancy. **Habitual truancy** is when a student is absent without a legitimate excuse 30 or more consecutive hours, 42 or more hours in one month, or 72 or more hours in one school year.
- **A school must create a Student Absence Intervention Plan when a student is habitually truant.**
- **A Student Absence Intervention Plan** is a student-centered, personalized plan that addresses barriers to attendance when a student becomes habitually truant. The plan is developed collaboratively by the school, the family, and the student. The plan spells out agreed-upon strategies for improving attendance.
- The new law also addresses excessive absences. **Excessive absences** occur when a student is absent with or without a legitimate excuse for 38 or more hours in one month or 65 or more hours in the school year.
- **The goal of House Bill 410 is to decriminalize truancy. However, there is still the potential for court involvement even with a Student Absence Intervention Plan.** Once a plan is in place, a complaint against the student will be filed in Juvenile Court 61 calendar days after the plan has failed **or** if the student has been absent without legitimate excuse for 30 or more consecutive hours or 42 or more hours in a school month during the plan's implementation.
- At the elementary level, **contributing charges may be filed against a parent** when the student has 72 unexcused hours.

DELAWARE COUNTY JUVENILE COURT

DAVID A. HEJMANOWSKI, JUDGE

Juvenile Court
(740) 833-2600
FAX 833-2599

Probate Court
(740) 833-2680
FAX 833-2599

January 23, 2018

Joe and Susie Smith
1100 Anywhere Street
Delaware, Ohio 43015

Re: School Attendance of Betsy Smith

Dear Mr. and Mrs. Smith:

Betsy has had an excessive number of unexcused hours since the start of school.

There will be an attendance mediation at 8:00 a.m. on Monday, January 1, 2018 at Hayes High School. Please make sure Betsy is in school that day.

On the back of this letter is information about Ohio attendance law, the school district's responsibility regarding attendance, and information about the mediation.

Sincerely yours,

April Nelson
Mediator, Delaware County Juvenile Court
140 N. Sandusky Street
Delaware, Ohio 43015
(740) 833-2610

Copies: S. Blair, Delaware City Schools Court Liaison [School staff as appropriate; who from the school attending the mediation]

Delaware County Courthouse

Delaware Ohio

**IN THE COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO
JUVENILE DIVISION
Agreement to Mediate**

Party: _____ **Party:** _____

We understand and agree to the following:

- The parties understand that mediation is a process and that the role of the mediator is that of a neutral facilitator and not that of a judge, magistrate, arbitrator, lawyer or therapist.
- The parties have the right to consult an attorney at any time during the process. The mediator is not authorized to give the parties legal advice.
- The mediator has no authority to force the parties to reach an agreement. An agreement is reached only if the parties believe that the agreement is fair and in everyone's best interest.
- The mediation process is privileged to the extent allowed by law, which means that in most cases, no new information shared in the mediation can be used against any party in any court proceeding. Exceptions to that are: (1) any threats of harm made against one's self or others; (2) any unreported allegations of child abuse or neglect, and (3) any admission to committing or planning to commit a felony. The mediator is required to report any allegation of abuse or neglect of a child to Delaware County Department of Job and Family Services.
- If a settlement is reached, it shall be set out in writing in a Mediation Contract and signed by everyone. Everyone will receive a copy of the Mediation Contract; the mediator will keep the original of the Contract until it is completed or broken. No other record of the proceedings shall be kept by the mediators, the mediation staff, or the participants. Once signed, the terms of the Mediation Agreement are not confidential and may be shared in a court proceeding. However, no other information from the mediation may be shared in any court proceeding.
- A \$50 fee payable to the Delaware Juvenile Court is assessed to the juvenile being cited.

Signature:

Date:

**IN THE COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO
JUVENILE DIVISION**

NOTICE OF MEDIATION

Date:

Case #:

Juvenile: Betsy Smith

Parents: Joe and Susan Smith

A complaint has been filed involving the above named juvenile. This case has been referred to the Mediation Department by the Juvenile Intake/Diversion Department.

There will be a \$50.00 mediation fee assessed to the above juvenile. This will be discussed at mediation.

Mediation is a process by which an impartial third party helps people solve conflict through talking about the issues. The mediator will not decide the outcome of your dispute, but will conduct negotiations that may help you resolve the underlying offense in an appropriate way.

IF AN AGREEMENT IS REACHED, you may avoid further court procedures.

IF AN AGREEMENT IS NOT REACHED, procedures may be initiated in Delaware County Juvenile Court on the underlying charges.

This case is scheduled for mediation **at 1:00 p.m. on Monday, February 5, 2018 at the Delaware County Juvenile Court.** The Court is located on the ground floor of the County Hayes Building at 140 N. Sandusky Street, Delaware, Ohio 43015. Parking and the public entrance are on the ground floor on the Union Street side of the building. Please check in with the Juvenile Court receptionist on the ground floor when you arrive.

A parent or guardian must accompany the juvenile and attend the mediation.

Please call the mediator upon receipt of this letter if you have any questions.

April Nelson
Mediator, Delaware Juvenile Court
140 N. Sandusky Street
Delaware, Ohio 43015
740-833-2610

IN THE COURT OF COMMON PLEAS, DELAWARE COUNTY, OHIO
JUVENILE DIVISION
Juvenile Mediation Contract

JUVENILE'S NAME: _____

Mediator: _____

Mediation was held on _____ based upon an alleged violation(s) of _____.

The following terms and conditions have been agreed upon. The Juvenile agrees to:

_____ Pay a Mediation fee in the amount of \$50.00 due _____.

_____ Complete _____ hours of unpaid work as directed by _____ in lieu of paying a Mediation fee. Work to be completed by _____. Juvenile must deliver a written note, signed by Juvenile and parent, describing work and that hours were met, to Mediator on or before _____.

_____ Successfully complete the Victim Awareness Program.

_____ Complete _____ hours of community service by _____.

_____ Pay restitution in the amount of \$ _____ no later than _____.

_____ Other: _____

It is understood that if Juvenile completes the conditions of the above agreement by _____, the Intake file will be closed. If Juvenile fails to complete the conditions of the above agreement by _____, the underlying charges may be formally filed in the Delaware County Juvenile Court.

Juvenile

Parent/Guardian

Victim

Mediator

Child Protection Mediation Referral Form

Date: _____ Case No: _____

Child's Name: _____ D.O.B: _____

#2 _____ D.O.B: _____

#3 _____ D.O.B: _____

#4 _____ D.O.B: _____

#5 _____ D.O.B: _____

Caseworker: _____ Ext: _____

GAL: _____

CASA: _____

Mother: _____ Phone #: _____

Address: _____

Attorney for Mother: _____

Father: _____ Phone #: _____

Address: _____

Attorney for Father: _____

Custodian: _____ Phone #: _____

Address: _____

Attorney for Custodian: _____

Additional Parties: _____

Briefly description of abuse: Physical Sexual Emotional

Safety Concerns: (weapons, drugs, domestic violence of history of violence):

Is there a Civil Protection Order or Temporary Protection Order currently in place? If yes, issued by? _____

Any current court orders or guidelines restriction in place?

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO
JUVENILE DIVISION**

In the matter of:

Case No:

JUDGE DAVID A. HEJMANOWSKI

REQUEST FOR MEDIATION

The Delaware County Department of Job and Family Services hereby requests mediation in the above captioned case(s).

Date: _____

DCDJFS Caseworker _____

Date: _____

DCDJFS Supervisor: _____

Orders

Request for Mediation is approved. Parties are ordered to contact Dodie Davenport, Court Mediator, at (740) 833-2640 to schedule mediation conference.

Request for Mediation is denied.

Date: _____

JUDGE/MAGISTRATE

pc: DCDJFS
Assistant Prosecuting Attorney
Party 1 and address
Attorney for Party 1
Party 2 and address
Attorney for Party 2
Guardian ad Litem
CASA
Court Mediator
(Other Parties add here)