

Supreme Court of New Mexico

STATEWIDE ADR COMMISSION



Meeting Notes
3.10.17 10:00am – 12:30pm
Metro Ct., ABQ

Attendees: Elizabeth Jeffreys, Staff & Statewide ADR Coordinator

Judge Jeff McElroy, Vice Chair	Mary Jo Lujan (P)
Laura Bassein	Jessie Lawrence
Torri Jacobus	Kevin Spears (P)
Sara Stevens	Mari Gish (P)
Judge Sánchez (P) @ 10:55am	

Guests: Shannon Driscoll, AOC Magistrate Court Mediation Program (MCMP) Manager

Absent:	Phil Dabney	Judge Castleberry
	Cynthia Olson	Jennifer Foote (excused)
	David Smoak	Sharon Ortiz
	Susan Barnes Anderson (travelling)	
	Justice Nakamura, N.M. Supreme Court Liaison	

I. Welcome & Introductions

Judge McElroy is acting as Chair, following the resignation of David Levin. A new roster and order should be forthcoming from the Supreme Court.

II. Announcements & Updates

A. District Court ADR Sliding Fee Scale Bill (HB131)

Passed the House 67-0. A new amendment was added by Senate Judiciary Committee. The amendment restricts the application of the bill only to parties “who agree” to participate in an ADR program. The plan is for a new amendment to be presented in Senate Finance Committee (SFC) to return bill to original intent (to apply to all participants). House Bill 131 is scheduled in SFC today at 1:30pm, so Commission meeting may need to end early in order for Judge McElroy and Elizabeth to be present as expert witnesses. The next big push for calls to Senators will occur before the bill is up for vote on the Senate floor.

B. Data Cmte (Shannon Driscoll)

Next meeting is after the Legislative session (late April) to compile the use of Odyssey codes in each court and each program. Shannon met with Judge Mitchell, Chair of JIFFY. Judge McElroy complimented Shannon on her Magistrate data and the usefulness of the data in promoting HB131, and for setting the bar for District Cts. When District Court data was pulled for HB131, it was flawed and not useful. Jessie asked what the problems are with Odyssey. The problems are layered, and perhaps the first for the cmte to address is that

there are too many codes. There has not been a concerted effort sufficient to unravel the issues. The cmte will attempt some level of uniformity and also would like to run reports from Odyssey. These efforts to empirically demonstrate the value of ADR will hopefully support future requests for ADR funding.

- C. Guidelines Governing Court-Connected Mediation
Still waiting on approval from the Supreme Court, but expect to see something soon.
- D. Spring FY17 JEC Scholarship Recipients
 - a. Basic: Judge McElroy (8th JD) & Judge Kea Riggs (5th JD)
 - b. Family: Sara Script, Ct. Clinician (2nd JD) & Lisa Betancourt, Mediation Program Mngr. (3rd JD)

JEC is waiting on funding for FY18, and then will review whether the scholarship is still the best use of those funds. Laura reports that there is support at JEC for ADR, but it's always a good idea to review efforts and consider the best use of funds.

Judge McElroy expressed his appreciation for the training, and gave an example of how the training has already impacted his court. He also tied his recent court ADR experience to the need for HB131, and the value of ADR (in his example, mediation saved a case 5 scheduled days of jury trial and expense).

- E. ADR in 2016 Sup.Ct. Annual Report
ADR is becoming more present in the Annual Report, largely because of the ADR awards. Elizabeth circulated the report for review with the ADR references flagged.
- F. Proposed Court Rules: Appellate Mediation & Domestic Relations Mediation Act. Comment period closes April 5th. Elizabeth will send a link to the proposed rules. A response from the Commission requires coordination and a concerted effort. Cmte formed to review and consider comments: Jessie, Laura, Judge McElroy & Elizabeth. Contact Judge McElroy or Elizabeth with comments or to join efforts.
- G. Robert Rambo to Retire (Oct. 2017?). The mediation community will celebrate Robert Rambo's contributions to court mediation. Elizabeth contacted various organizations and the Court of Appeals Chief Clerk to assist in the coordinated effort.

III. Existing Committees

- A. Data Cmte (Chair: Shannon Driscoll, MCMP) is active with established membership:
 - a. District court & Ct. Ap. ADR program representatives
 - b. Susan Barnes Anderson, Metro Ct. Mediation
 - c. Elizabeth Jeffreys, Comm. Staff & CCMP
 - d. Mary Jo Lujan, ADR Bureau (assisting)
- B. JEC Scholarship Cmte (Acting Chair: Judge McElroy) is active with established membership (pursuant to earlier Commission vote):
 - a. Laura Bassein, JEC representative
 - b. Up to 3 Comms: Torri Jacobus & Jennifer Foote
- C. Marketing/Education Cmte (Chair: David Smoak)
Chair Smoak is absent, so discussion regarding cmte is tabled for May 19th meeting. Elizabeth suggests a change to the name of the cmte, since it largely is responsible for the October Mediation Week activities and the ADR awards. Torri requests that there be some direction from the Commission regarding the cmte's activities.

IV. **FY19 Budget and Legislation**

A. Statewide ADR Commission

- a. \$3,300 recurring (subject to budget cuts) & reverts
- b. [+ \$50,000 in FY18 request = \$53,300]

Elizabeth explained that the Commission's budget (\$3,300 at the start of FY17) is recurring state general funds that will revert if not expended. The funds were requested for per diem, administrative needs and training of the staff. However, the funds were based on the Commission meeting quarterly, and the meetings have since doubled, so additional funds are needed to cover the increased activity. In addition, the funds can be used to cover the per diem related to the cmte work, and the committees are active. Laura expressed concern that the funds were used to cover the staff, and said that the staff's expenses should come from the AOC's administrative budget. Elizabeth explained that the budget was not designated in that way, and that the budget structure was not within the scope of the Commission's review. Judge Sánchez proposed to add an additional \$3,300 to the budget to cover the per diem. Elizabeth responded that she could calculate an amount based on current usage, and present to the Commission at the next meeting.

Motion (J.Sánchez): To raise the Commission's administrative budget in accordance with the needs, based on anticipated per diem expenses and other costs. Second Mari Gish.

Discussion. Laura concerned with Commission's staff use of funds for travel and administrative needs, says the funds for those should come from AOC general admin. Budget. Elizabeth said that issue is outside of the Commission's authority.

Vote: 1 opposed (Torri Jacobus). **Motion passes.**

Elizabeth will also submit an FY19 request that her position be made full-time for Commission.

B. Endorsements of court ADR requests: MCMP Legislation (Shannon Driscoll) – 3 handouts

The MCMP will cease to exist for lack of funds before the end of FY19, so this is the last effort to preserve the program by requesting FY19 funds. The plan is to do more than preserve the 6-court program, but to expand to a statewide program. The fees are insufficient to sustain Shannon's position (revenue about \$85k/yr).

Requests endorsement of two efforts:

1. **Move Shannon's position from fee-based to state general funds.**
2. **\$150,000 state general funds for MCMP, primarily to staff with contracted regional coordinators.**

Regional coordinators would train, schedule, monitor and maintain quality assurance, provide some direct services as needed and other duties.

Motion: (Jessie Lawrence) **Support the requests of the MCMP to expand statewide** (Second: J. Sánchez)

VOTE: Motion passes.

Judge McElroy comment on expansion map. He has considered combining efforts between courts, including between Magistrate and District courts, especially regarding ADR training and maybe personnel. Shannon would also like to collaborate with Mary Jo Lujan's ADR Bureau in ADR training efforts.

V. Strategic Plans

A. 2017 (calendar year) Strategic Plan

- a. Continue current work (Handout: Activities)
- b. New: District Court ADR Development Cmte

Judge McElroy would like to form a cmte to assist with improvement of District Court ADR programs and services (rules, funding, collaboration, help for rural areas, etc.) Judge Sánchez offered to assist in this effort.

Motion: (J.Sánchez) **That the 2017 Strategic Plan will consist of the current activities and the District Court Improvement initiative.** Second by Sara Stevens.

Discussion. Torri Jacobus asked what the strategic plan would look like in terms of form. Action items? More detail? Laura Bassein would like to have input on the language and phrasing. Judge McElroy offered to draft a plan format. Torri will assist. Torri would like to know what each entity is seeking to accomplish, and how it is accomplishing the duties. Would like the strategic plan to clearly relate to the mission of the Commission.

Vote: All in favor. **Motion Passed.**

B. 3- and 5- year plans (Handout – questions posed by J.McElroy)

Judge McElroy would like to see a Commission meeting devoted to long-term planning. Discussion regarding employing a facilitator. Currently there are no funds available for this – but there may be funds in July if we get the \$50k (FY18). Could devote a half-day (4 hours). If a Commissioner facilitates the session, their own participation in the planning may be limited.

May meeting – need to finalize the 2017 Strategic Plan.

July meeting – devote to long-term planning.

Torri Jacobus proposes that we create an annual plan at the end of the year prior.

VI. Meeting Dates 2017

May 19, July 14, September 22, November 16