**Greacen Associates, LLC**

**North Dakota Supreme Court**

**Family Mediation Pilot Project**

 **Evaluation**

**Third Interim Report**

**January 9, 2012**

# Executive Summary

During its initial three and a half years, the North Dakota Family Law Mediation Pilot Project has been very successful in meeting its objectives.

Data for the first two years of the project showed that it was succeeding in almost every measure. The addition of data for the eighteen months of the third reporting period, which now includes information on completed mediations for every district in the state, shows even better results for:

* The percentage of mediations that result in agreements on both parenting time (up from 70% to 76% from the second to the third reporting period) and non-parenting issues (up from 65% to 70%) and the percentage of mediation participants who agree to mediate the non-parenting issues in their cases (up from 59% to 81%)
* The percentage of those agreements that are rescinded by the parties (down to 9% for the third reporting period)
* The average satisfaction ratings from mediation participants, with overall satisfaction with the mediation process now reported by 87% of participants completing post-mediation surveys
* The average time required to complete mediations

The pilot project continues to reach persons from rural areas of the state, persons of limited means who could not afford private mediation, and members of minority groups.

This report contains the first assessment of the extent to which mediators perceive a power imbalance between the mediation participants and information on the steps that they take to deal with such imbalances when they arise. A power imbalance was perceived in only 7% of the mediations for which this question was addressed. The detailed comments of mediators – set forth verbatim in this report – demonstrate that the mediators consistently take steps to ensure that no miscarriage of justice arises from these situations.

The most dramatic findings from this third interim report, however, are that the mandatory mediation program is reducing the average time required for the courts to resolve contested parenting time cases (by roughly 35%) and is reducing dramatically the percentage of these cases that are returning to court (by roughly 60%).

There are two ongoing issues that the project has not resolved. Mediators are still not consistently conducting mediations in a timely manner – within the 90 day time requirement established by the North Dakota Supreme Court. And the response rate for participant surveys has fallen to 65% (down from 90% during the first ten months of the pilot project and from 73% during the first two years). The falling response rate calls into question the validity of the participant satisfaction information collected for the evaluation. Both of these problems result from lack of discipline on the part of the mediators. Both the time required for completion of mediations and the response rate for participant surveys vary significantly from mediator to mediator. The performance of individual mediators demonstrates that it is possible to complete all mediations within the Supreme Court’s time requirement and to obtain completed surveys from all mediation participants. Our recommendations urge the Office of State Court Administrator to take firm action to remedy these two deficiencies so that they do not remain as issues for the final evaluation report due at the close of 2012.

The factual findings of the study are summarized in the following statements:

* Of the 1375 cases referred to the Project Administrator, 38% were rejected due to the existence of a current domestic violence restraining order or other disqualifying characteristic. Mediations have been completed in 698 of the 857 mediations accepted into the program. At the close of the third data collection period, the pilot project had completed mediations in 81% of the cases accepted for mediation.
* Mediations have been completed in all seven judicial districts and in 30 of the state’s 53 counties. During the third reporting period, fewer than 50% of the mediations came from the first two pilot districts, demonstrating that the pilot project has successfully completed the transition to a statewide project.
* For the third reporting period, the average time for orientation of the participants was roughly 1 ½ hours. The average time required for the mediation itself was 3 ¼ hours; the shortest was 15 minutes and the longest was 12 hours.
* Over half of the mediations arise from initial divorce proceedings.
* Participants completing post-mediation surveys are half women, half men. Three quarters of them are between the ages of 25 and 44. Almost half of the cases involve a single child; only 6% involve more than 3 children. Sixty-two percent of the mediation participants report monthly before tax incomes of $3,000 or below. Seventy-five percent of participants report educational attainment of high school, some college, or an associate’s degree. Only four percent have less education; 26% have a bachelor’s or graduate degree.
* Mediation participants reflect the racial and ethnic composition of the state of North Dakota. Except for Hispanics, minority group representation among mediation participants is slightly below their representation in the 2010 North Dakota census (1.1% fewer American Indians; less than 1% fewer for any other group).
* Only three of over six hundred mediation participants reported a primary language other than English.
* Over the first three and half years of the pilot project, 84% of mediation participants are represented by counsel. That proportion has not changed perceptibly during the life of the project.
* During the third reporting period, 81% of mediation participants voluntarily agreed to mediate their non-parenting time issues. This represented a substantial increase from the rate of 59% during the first and second reporting periods.
* Despite the North Dakota Supreme Court’s de-emphasis of the importance of reaching agreement during mediation, mediators report that they have obtained full agreement on parenting time issues in 50% of the cases completed during the third reporting period (down from 54% and 56% during the first and second reporting periods) and partial agreement in an additional 26% of the cases (up from 25% and 14% for the first and second reporting periods). The total agreement rate rose from 70% during the second reporting period to 76% during the third reporting period. For the three and a half years of the pilot project, the total full and partial agreement rate for parenting time issues is 75%.
* If the project were to be given credit for cases that do not reach full agreement during the mediation, but settle very soon thereafter, the full agreement rate would be 68% for the first three and a half years of the pilot project.
* Although North Dakota de-emphasizes agreement as the objective of its mediation project, the project’s agreement rate compares very favorably with that from similar efforts in other states.
* The full agreement rate for non-parenting time issues rose from 43% during the second reporting period to 44% during the third reporting period. The partial agreement rate rose from 22% to 26%. The total full and partial agreement rate for non-parenting time issues rose from 65% to 70% for the third reporting period and now stands at 69% for the first three and a half years of the pilot project.
* The rate of rescission of agreements reached during mediation dropped from 15% during the first two reporting periods to 9% for the third reporting period. It stands at 10% for the first three and a half years of the pilot project.
* Agreement rates for parenting time issues are highest for paternity cases, followed by post judgment modifications, initial divorce proceedings, and parenting time disputes not arising out of a pending case. Agreement rates for non-parenting time issues do not vary substantially by case type.
* Mediation continues to be less successful in Burleigh County than in Grand Forks County or the other counties combined. Rescission rates are higher in both Burleigh and Grand Forks counties than in the rest of the state.
* Agreement rates vary substantially from mediator to mediator. Six mediators have full parenting time agreement rates of 67% or above; five have full agreement rates of 35% or lower. Total full and partial agreement rates for parenting time mediation range from 44% to 100%. Total full and partial agreement rates for non-parenting issues range from 21% to 100% for particular mediators.
* Younger participants are more likely to reach agreement and less likely to rescind an agreement than participants in other age groups; older participants are the opposite. Agreement is less likely for persons with graduate degrees than for persons with lesser educational attainment. Agreement rates do not vary substantially by income, except for persons with reported incomes from $7,000 to $8,000 per month. Ironically, this group is the most likely to agree to mediate non-parenting time issues even though it is the least likely to reach agreement when the issues are mediated.
* Mediators tend to report fewer instances of power imbalances in cases at the extremes of age, education and income. The most frequently reported groups were participants between the ages of 25 and 34, persons with a high school education, and persons with reported monthly incomes between $501 and $2000.
* Participants reported an increase in overall satisfaction with the mediation process from the second data collection period to the third – with average scores rising from 80% to 86%. The three and a half year average score for overall satisfaction with the mediation process is now at 87%.

* Satisfaction scores are reported in two formats – “average score” and “percentage satisfied.” The latter disregards “neutral” responses. The average scores for every question were higher for the third reporting period than they had been for the second reporting period. The percentage satisfied scores rose for sixteen of the nineteen survey questions from the second to the third reporting periods. Satisfaction ratings for the life of the project as a whole rose for fifteen of the nineteen questions. For participants over the three and a half years of the pilot project:

* + 99% agreed that the mediator treated them with respect
	+ 97% agreed that the mediator cared about their case
	+ 96% agreed that they felt safe and that the mediator treated both parties equally
	+ 94% agreed that they were able to say what they needed to say during the mediation
	+ 92% agreed that the process was fair to them
	+ 91% agreed that they were well prepared and that they did a good job representing their point of view
	+ 90% agreed that mediation is better than going to court; only 11% felt they would have gotten a better outcome in court, and
	+ 88% agreed that they understood the process they were to follow
* On the more ambitious objectives of the pilot program, for participants over the three and a half years of the pilot project:
	+ 80% agreed that they were able to put the needs of the children first in their negotiations
	+ 73% agreed that mediation introduced new ideas into their discussions
	+ 42% agreed that they had learned how to negotiate more successfully with their former spouse, and
	+ 29% reported that they learned something new about their former spouse.
* Unrepresented litigants are more satisfied with the mandatory mediation process than represented litigants (94% compared to 86%).

* The highest overall satisfaction rates are in the Southwest (96%) and East Central (94%) and lowest in the Northeast District (78%).
* Although the overall satisfaction rates are very high, they vary for the different mediators. A chart in the report notes a few scores that should be of concern to individual mediators and may warrant corrective action. On the other hand, a few mediators do exceptionally well on some of the most ambitious objectives of the project – such as focusing on the needs of the children, introducing new ideas into the negotiations, and equipping the parties with improved negotiation skills.
* There are no significant differences in satisfaction with the mediation process based on sex or race. Satisfaction was highest for persons at either end of the age spectrum and for persons in the second and third highest income groups. It was lowest for persons with the lowest educational attainment. Reported understanding of the process is consistently high except for persons with education from grades 5 through 11 where there are significant drops in reported understanding. Perception of ability to represent one’s point of view declines with educational attainment. And perceived ability to represent one’s point of view is very high for those groups who report poor understanding of the process.
* The most consistent positive comments provided by mediation participants are the value of discussing the issues on which they disagree with a neutral third party, the mediator’s ability to create an environment in which the parties were comfortable expressing their views and feelings, the helpfulness of the mediator’s restatement of the parties’ views in ways that allowed the other party to understand and appreciate them, the mediator’s ability to interject new options and ideas into the negotiations, and the parties’ appreciation of having the autonomy to reach their own decisions.
* Mediations are completed within the time frame set by the North Dakota Supreme Court’s Administrative Order 17 in 60% of cases without extensions of time (up from 58% of all cases as of the second interim report). The average time to completion (again for cases without extensions of time) was 101 days (down from 108 days for all cases as of the last report) compared with the standard we have adopted of completion within 100 days, to include time for communication of her or his appointment to the mediator. When cases in which extensions of time have been granted by the court in which the underlying case is pending, the percentage of cases completed timely dropped during the third reporting period to 46% and the average time required to complete mediations rose to 110 days. The longest case took 404 days and the shortest took 5 days.
* Timeliness of mediations varies by district. The East Central District is most timely – completing 70% of cases without extensions within 100 days and achieving an average time to completion of 91 days in those cases. The South Central District is the least timely – completing only 48% of cases without extensions within 100 days and averaging 113 days for mediation completion. With the exception of the South Central District, the three most rural districts – Northeast, Northwest and Southeast – have the lowest percentages of cases without extensions completed within 100 days.
* Timeliness of mediations appears to depend primarily on the mediator. Mediator performance in completing all mediations without extensions of time varies from 0% to 100%. Of the sixteen mediators with cases in both the second and third reporting periods, four improved their percentage of mediations completed timely and six reduced their average time for completion.
* Despite the above finding, data shows conclusively that the average time from filing to court disposition of family cases with parenting time disputes is shorter by 25% to 35% since implementation of the mandatory mediation pilot project. This finding is based on both “before” and “after” data from three of the early pilot districts and from “experimental” and “control” data comparing the performance of the first two pilot districts with that of two districts in which mandatory mediation had not been implemented. The “before” and “after” comparisons show that time to disposition decreased in the Northeast Central District by 80 days (a 25% improvement), in the South Central District by 120 days (a 30% improvement), and in the Northwest District by 150 days (a 34% improvement). The “experimental” and “control” comparison shows a reduction of 35% in time from filing to disposition.
* The mandatory mediation pilot project has reduced the percentage of reopenings by roughly 60% since the mediation project has been implemented. Comparison of the percentage of reopenings of the first two pilot courts with the “control” courts shows a reduction of 67%. There is no reason to expect that number to change since the data are for cases filed during the same year. Comparison of reopenings in cases in three early pilot districts “before” and “after” implementation of mandatory mediation shows a reduction of 91% for the South Central District, 71% for the Northeast Central District, and 14% for the Northwest District. This data is subject to change because the cases filed during the “before” period have had one year more than the “after” cases during which they can have been reopened.

The report that follows provides detailed support for these conclusions and makes several recommendations for strengthening the project for the remaining eight months of its pilot period.Table of Contents

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# Pilot Project Background

After several years of discussion with the North Dakota bench and bar, in 2007 the North Dakota Supreme Court made plans for and obtained a legislative appropriation to support a Family Mediation Pilot Project.

The court believes that the traditional adversarial process does not necessarily produce the best long term outcomes for contested child parenting time[[1]](#footnote-1) disputes. The parties to these disputes must maintain ongoing relationships for many years as they continue to co-parent their children. Mediation – a process in which a non-judicial neutral mediator facilitates communication between the parties to assist them in reaching voluntary decisions related to their dispute – may produce better short and long term outcomes in contested child parenting time disputes. In the short term, voluntary agreements are more likely to be implemented by the parties than agreements forced upon them by a judge; in the long term, the parents may learn from the mediation process skills that will enable them to resolve future disputes amicably.

Mediation has long been an available alternative for North Dakotans with child parenting time disputes – if they can afford and choose to use the services of private mediators. North Dakota courts incorporate agreements arising from private mediation sessions in court orders. But the courts have not previously had the means to provide mediation services to litigants in lieu of the traditional litigation process.

The mission, purpose and structure of the pilot project are set forth in North Dakota Supreme Court Administrative Order 17, amended effective March 1, 2008 – the start date for the pilot project.

The pilot project’s mission is “to explore a procedure to provide a high quality, impartial, and efficient forum for resolving disputed custody and visitation matters through mediation.” The pilot project’s goal is “to improve the lives of families and children who appear before the court by trying to resolve custody and visitation disputes through mediation in order to minimize family conflict, encourage shared decision-making, and support healthy relationships and communication among family members.”

With funds appropriated by the legislature, the North Dakota Supreme Court funds the cost of mediations in family law cases with contested parenting time issues.

Any divorce, separation, paternity, or guardianship case filed in one of the pilot districts in which legal custody, physical custody, or visitation of a child is an issue must be referred by the clerk of court to the pilot project administrator at the Supreme Court within ten days of filing. A judge may refer a post-judgment motion for parenting time modification to the administrator if the judge finds that a prima facie case for relief has been established under N.D.C.C. 14-09-06.6 and determines that mediation may be useful to the parties and the children in the case.

The mediation process is mandatory for cases falling within its scope. Lawyers for represented parties may participate in the mediation process. The pendency of a mediation does not bar a party from obtaining temporary parenting time orders from the court. The parties are expected to continue with the traditional court process if mediation does not succeed.

The following cases are not referred for mediation: cases in which the parties started mediation on their own prior to the commencement of the pilot project, cases in which the parties stipulate to all parenting time matters, and cases in which there is a current domestic violence protection order or other order for protection between the parties. Under limited circumstances, a victim of domestic violence may request that her or his case be included in the mandatory mediation process. The project administrator also excludes cases in which one or more of the parties live outside of North Dakota on the theory that it would be a hardship to require a party to travel from out-of-state to attend a mediation session.

Under Administrative Order 17, the project administrator is to administer the protocol developed for the pilot project, select mediators, assign them to particular cases, obtain information from the mediators on case outcomes, and arrange for an evaluation of the pilot project.

Administrative Order 17 sets forth the following process: The clerk of court notifies the administrator of a case falling within the program parameters. The administrator appoints a mediator, prepares an order for the judge’s signature requiring the parties to participate in the mediation process, and sends the signed order when she gets it back from the judge to the parties and mediators. The order requires the parties to contact the mediator and participate in an orientation within 20 days. The mediation is to take place within 90 days, unless the mediator obtains an extension of time from the court. The pilot project pays for six hours of mediation; the parties may pay the mediator for further services if they desire to spend more time trying to reach an agreement. A fee waiver or sliding scale reimbursement for such additional mediation fees may be available from the Supreme Court upon application by the parties and a showing of financial hardship.

The parties must mediate their parenting time issues. They may mediate other outstanding issues – such as property division – if they wish to do so.

The project administrator has stressed with the mediators that the North Dakota Supreme Court does not consider reaching agreement to be the highest purpose of the pilot project. The Supreme Court instructs the mediators not to pressure the parties into agreements; the Court prefers no agreement to one that will not persist because it was not fully voluntary on the part of the participants.

If the parties reach an agreement during mediation, the mediator puts it in writing – using the parties’ own words. Within five business days following the reaching of agreement as a result of mediation, either party may notify the mediator in writing of her or his request to reconsider the decisions made in mediation. Unless the mediator receives such a request, s/he sends a copy of the written summary and conclusion of mediation form to the parties and their attorneys.

The project has been implemented in three stages.

The first phase began on March 1, 2008 with two initial pilot districts – the South Central and Northeast Central Judicial Districts of North Dakota. These two districts include Bismarck and Grand Forks respectively.

The evaluator requested that mediations not begin until baseline attitudinal data had been collected from lawyers and mediators. The project administrator therefore held all mediation orders until that data was collected. The result was that no mediations actually took place until May 2008.

The first interim evaluation report analyzed the experience with the program in the first two pilot districts during the first ten months of the project’s life. During that time, the project appointed mediators in 98 cases; 49 of those cases were completed at the time of the first interim evaluation report.

The second phase of the project began on August 1, 2009, when three additional pilot districts were added – the Northeast, Northwest, and Southwest Judicial Districts.

The third phase of the project began on September 1, 2010, when the project was extended statewide to include all Judicial Districts. The Supreme Court concluded that the funding provided for the project would be sufficient to support statewide implementation. In expanding the project to a statewide scope, the Court nonetheless decided that it would maintain its status as a “pilot project” for at least the first two years of statewide program activities. The “pilot project” designation will ensure continuing evaluation of the mandatory mediation project.

The second interim report analyzed the experience of the first and second phase courts – the courts of the South Central, Northeast Central, Northeast, Northwest, and Southwest Judicial Districts between January 1, 2009 and February 28, 2010. It also presented the cumulative results for the period March 1, 2008 through February 28, 2010.

This third interim evaluation report covers cases mediated during the period from March 1, 2010 through August 31, 2011 – including the first full year of results from the statewide project scope. It also presents the cumulative results for the project through August 31, 2011.

The final evaluation report will cover the period from September 1, 2011 through August 31, 2012. As with the second and third interim reports, the final report will provide the cumulative project results from March 1, 2008 through August 31, 2012. The final report will be prepared in time for its presentation to the 2013 biennial session of the North Dakota Legislature.

# Evaluation Design

As noted above, this is the third interim report. It analyzes data for cases in which mediations were completed for the period March 1, 2010 through August 31, 2011 and aggregates that data with the date presented in the first and second interim reports. This third interim report is intended to serve five purposes:

* To provide a progress report for the North Dakota judicial branch on the project’s accomplishments to date;
* To make an overall assessment of the project’s effectiveness to date;
* To compare operations over the course of the project’s three and a half years of operation;
* To assess the operation of the first year of statewide implementation, and
* To identify recommended midcourse corrections in the project’s operations.

The evaluation does not include any review of project costs; it focuses exclusively on project effectiveness.

The project administrator and the evaluator agreed upon the following set of pilot project objectives for purposes of the evaluation:

**Objectives for child parenting time** **mediation services**

1. To promote resolution of parenting time disputes by agreement between the parties rather than through litigation
2. To improve parental decision making as it affects their children, i.e., getting the parents to internalize the “best interests of the child” standard for making such decisions
3. To improve the ability of divorced parents with children to communicate with each other
4. To reduce post-final decree litigation in the courts
5. To have litigants leave mediation sessions satisfied with the process
6. To have judges, lawyers and court staff believe that the mediation program has been a worthwhile investment of judicial branch resources
7. To avoid unintended negative consequences of the mandatory mediation program, such as
	1. delay in issuing temporary or permanent custody and visitation orders, leaving families “in limbo” longer
	2. creating an incentive for lawyers’ strategic games, such as “mediator shopping” to obtain a mediator perceived to be more sympathetic to persons like the lawyer’s client
	3. the imposition of unnecessary “boilerplate” parenting time order provisions as a result of standard language included in mediation agreements or mediator recommendations to the judge
	4. reducing the use of private mediation because of the availability of publicly funded mediation by court contract mediators
8. To provide access to mediation for persons who cannot otherwise afford the services of private mediators, persons who live in remote areas, and to underprivileged and minority persons

**Objectives for the pilot project as a culture change intervention**

1. To increase awareness of, and promote the use of, mediation to resolve parenting time disputes - for instance, by informing family law litigants, lawyers and the community that mediation:
	1. allows litigants to maintain control over the outcome of the dispute, and
	2. gives them maximum flexibility to develop a resolution appropriate to their personal needs and circumstances

 10. To develop ethical guidelines for mediators

 11. To identify, record and publicize best practices for child custody and

 visitation mediation, including

 a. how to work effectively with the domestic violence services community,

 b. how to ensure that the mediation process is not distorted by the presence of domestic violence in the relationship between the parents,

* 1. how to ensure the personal safety of litigants during the mediation process when there has been a history of domestic violence in the relationship (for instance, by conducting the mediation by “shuttle diplomacy” so that the litigants do not come into visual or physical contact with each other), and
	2. how to ensure that the policies and approaches of the mediators are aligned with the policies and approaches of the judges and with those of court personnel who provide services to self-represented litigants.

The evaluation design uses both before and after and control group comparisons to assess the effectiveness of the pilot project in achieving these objectives. The North Dakota Supreme Court has obtained data from pre-pilot project cases in the first two pilot districts and one of the three second phase pilot districts and data from two non-pilot districts from the same time period as the first two pilot projects for comparison purposes.

This third interim report is based on the following data:

* Attitudinal and demographic data from litigants completing mediations in 693 of the initial 857 cases accepted into the pilot project. Of these cases, 49 were analyzed in the first interim report, 173 from the second interim report, and 471 from the most recent reporting period. Ideally, each case should include a “mediator’s report” containing information on the characteristics of the litigants and on the outcomes of the cases and a two page survey completed by each of the two mediating parties. In reality, 47 cases analyzed for this report lack all three of these documents; information from these cases comes exclusively from the project administrator’s log. For the second interim report there were 35 such cases. The total number of cases for the pilot project to date for which we have no data is 92.[[2]](#footnote-2) We have 80 for the current reporting period for which we have only the mediator’s report, without any surveys. For the remaining 137 cases, we have a mediator’s report and one or two completed party surveys. 268 cases have two surveys; 76 have only one. We have a total of 612 surveys for this third interim reporting period.

 The numbers of cases and surveys for the first and second interim reporting periods and the combined totals are shown in the table below:

**Data Used in This Report**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Data Type** | **First Reporting Period****March 1, 2008 to** **December 31, 2008** | **Second Reporting Period****January 1, 2009 to February 28, 2010** | **Third Reporting Period March 1, 2010 to August 31, 2011** | **Total Project Period****March 1, 2008 to August 31, 2011** |
| **Cases Accepted into Project** | **98** | **213** | **546** | **857** |
| **Mediations Completed** | **49** | **182[[3]](#footnote-3)** | **471** | **701** |
| **Mediations with 0 surveys** | **0** | **37** | **127** | **164** |
| **Mediations with 1 survey** | **10** | **23** | **76** | **109** |
| **Mediations with 2 surveys** | **39** | **113** | **268** | **420** |
| **Total number of cases included in evaluation** | **49** | **173** | **426[[4]](#footnote-4)** | **648** |
| **Total number of surveys included in evaluation** | **88** | **251** | **612** | **950[[5]](#footnote-5)** |

* A log of case information maintained by the project administrator showing the district, county, mediator name, mediation outcome, dates on which mediation information reports were provided by the courts and on which the mediations were completed, and number of elapsed days from filing to closing of the underlying family law case, and the number of times a project case has been reopened as a result of a petition to modify some term of the original court judgment. This data has proved invaluable as the source of information on cases for which the mediators provided no information and is the source of the information used in assessing the timeliness of mediation completion and the frequency of reopening of mediated cases.

This report also analyzes data collected for both “before” and “after” and “experimental” and “control” comparisons of average time to disposition and likelihood of reopening a case. The Northwest District serves both as a “control” for the first two pilot project implementations and as a “before” and “after” site when it was added as one of the three second tier pilot project districts.

The “after” data consists of data for all cases referred to mandatory mediation for three of the pilot districts during the first year of the project’s operation (March 1, 2008 to February 28, 2009 for the Northeast Central and South Central Districts and August 1, 2009 to July 31, 2010 for the Northwest District). The “before” data consists of all family cases involving contested parenting time issues filed during a full year prior to the beginning of the pilot project in those same three districts (between March 1, 2007 and February 29, 2008 in the first two districts and between March 1, 2008 and February 28, 2009 in the Northwest District).

The “experimental” data is the same data for the first year of operation of the Northeast Central and South Central pilot programs. The “control” data consists of all family cases involving a contested parenting time issue filed in the East Central and Northwest Districts during the first year of operation of the pilot project (March 1, 2008 to February 28, 2009) – a time period in which neither district participated in the mandatory mediation process. It appears that family law attorneys in Fargo (the major city in the East Central District) typically do not file their divorce cases until all matters have been resolved by the parties. This practice is not the norm in the rest of the state. The existence of this practice means that average time from filing to disposition of family cases in Fargo should be much shorter than in the original pilot districts. The analysis of the “experimental” and “control” district comparison shows that – despite the existence of this different attorney practice – the average time to disposition for the pilot project cases is substantially shorter than in the East Central District during the same time period.

It has proved necessary to add data entry fields and codes to the North Dakota UCIS case management information system to support this data collection effort. It has also proved necessary for the project administrator to retroactively enter data for pilot project cases from March 1, 2008 to the date the new fields and codes were added to UCIS and to enter that data for all pre-pilot cases in the pilot districts. All three of these tasks have been completed and the data provided for this report.

This report does not include any survey data from judges, lawyers, court staff, or mediators concerning attitudes toward mediation. Data from surveys completed prior to project start up was included in the first interim report. This report also does not include reports from the mediators concerning the impact of the state-supported mandatory mediation project on their private mediation practices.

In addition, this report does not include data from telephone interviews with mediation participants six months after their mediation sessions. The evaluation design included such telephone interviews. Parties to divorces are a highly mobile population; it has proved difficult to locate and obtain telephone numbers for mediation participants six months after the completion of the mediation. North Dakota court staff have abandoned the effort to obtain this telephone follow up information.

# Project Accomplishments

After three and a half years of operation, the Family Mediation Pilot Project has accomplished a number of tasks.

## Development of protocol and program materials

The North Dakota Supreme Court Office of State Court Administrator hired a full-time project administrator who finalized a project protocol and procedures for administering the project.

## Recruitment of mediators

The project administrator, through a process involving applications and interviews, selected over two dozen mediators to provide mandatory mediation services for the five pilot districts and then recruited additional mediators to provide statewide mediation services. Several of the mediators have agreed to deliver mediation services outside of the districts where they reside or maintain their offices – at the courthouse or at some other location convenient to the parties. This flexibility on the part of the mediators has proven extremely valuable in ensuring the delivery of services in all cases accepted into the project.

## Recruitment of evaluator and development of evaluation methodology

The Office of State Court Administrator chose Greacen Associates, LLC, to perform the evaluation. The project administrator worked with the evaluator to develop survey instruments and data collection protocols for collection of survey information from lawyers, mediation providers, judges, court staff, and participants in mediation.

The project administrator and evaluator met with Office of State Court Administrator’s information technology staff and clerical staff from the pilot districts and worked out changes to the UCIS system needed to enter data needed to support the evaluation design.

The evaluation contract has been amended to incorporate the additional evaluation period produced by the decision of the North Dakota Supreme Court to maintain the project’s “pilot” status through the end of August, 2012 – including the first four and a half years of statewide implementation.

## Training of mediators

The project has provided a day long training session for all project mediators which included extensive training in domestic violence identification, techniques for dealing with likely victims who chose not to reveal the violence explicitly, and safety planning for these situations. All mediators were provided with a screening tool for use during orientation with potential mediation participants to identify domestic violence victims. The training session also covered the history of the project, project objectives and procedures, the project evaluation design, and data gathering required of the mediators.

The project administrator has provided this same training for mediators added for the expansion of the project to three additional districts in August 2009 and to the rest of the state in November 2010.

## Identification of cases and preparation of referral orders

The project administrator received 1375 case referrals from the pilot districts during the first three and a half years of the pilot project. The table below shows that 38% the cases referred were rejected because they contained disqualifying characteristics. As of the end of August 2011, 701 mediations were completed in 698[[6]](#footnote-6) of the 857 (81%) cases accepted into the project. At the time of the second interim evaluation, the project had completed mediations in 71% of the accepted cases.

**Pilot Project Cases – March 1, 2008 through August 31, 2011**

|  |  |  |
| --- | --- | --- |
| Total cases referred from pilot districts |  | 1375 |
| Cases rejected  |  |  518 |
|  Custody issues settled prior to mediation | 222 |  |
|  Existence of domestic violence restraining order in case record or domestic violence issues identified | 139 |  |
|  One party resides outside of North Dakota |  75 |  |
|  Default divorce |  56 |  |
|  One party incarcerated |  6 |  |
|  Mediation attempted prior to filing divorce action |  10 |  |
|  Miscellaneous |  10 |  |
| Cases accepted into pilot project |  | 857 |
| Evaluations completed as of August 31, 2011 |  |  701[[7]](#footnote-7) |
| Cases dropped from mediation |  |  52 |
|  One or both parties did not comply with order |  34 |  |
|  Parties reconciled |  18 |  |
| Cases open as of September 1, 2011 |  | 104 |

## Modification of UCIS case management information system to record needed data

The North Dakota Office of State Court Administrator completed the data base modifications needed to support the needed additional fields and data entry codes by the summer of 2008. The project administrator circulated a memorandum informing court staff of the changes and the procedures to be used to enter data about future cases.

## Entry of data from cases from project start date to effective date of UCIS modifications

It was necessary for the project administrator to travel to the courthouses in all fourteen counties in the two pilot districts to retroactively enter the data needed for the pre-pilot comparison for this second interim evaluation and to the courthouses in the two comparison districts for the same purpose.

## Modification of new case management information system to accommodate the needs of the mandatory mediation project

The North Dakota judiciary has procured the Odyssey case management information system supplied by Tyler Technology. The court system has required the vendor to make modifications to its basic product to support the pilot project. One significant enhancement has been the development of a daily report that the project administrator can run to identify all newly filed divorce and other cases involving parenting time disputes. Production of this report gives her the information needed to initiate the mediation process without requiring the submission of information reports from the individual courts.

The Odyssey system has now been installed throughout the state.

## Conduct of mediations

The mediators completed 701 mediations in the first three and a half years of the project’s life. Three of them have been second mediations in the same case.

## Development of a code of ethics and enforcement process

The North Dakota Supreme Court/State Bar Association’s Joint ADR Committee developed a draft code of ethics for mediators participating in the pilot project and a draft enforcement process. In December 2008, the Committee determined the codes ready for submission to the SBAND Board of Governors for review and comment, and then final submission to the Supreme Court.

The ethics code and enforcement process have been approved by the North Dakota Supreme Court.

# Data Concerning Completed Mediations

Mediations completed during the third reporting period – March 1, 2010 through August 31, 2011 – have been added to the chart below showing the location of completed mediations. Mediations have been completed in all seven judicial districts and in 30 of North Dakota’s 53 counties.

**Distribution of Completed Mediations by District and by County**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **District/County** | **Initial Reporting Period** | **Second Reporting Period[[8]](#footnote-8)** | **Third Reporting Period[[9]](#footnote-9)** | **Cumulative Pilot Project to Date[[10]](#footnote-10)** |
| **South Central** | **24** | **75** | **83** | **182** |
|  **Burleigh** | **20** | **55** | **82** | **157** |
|  **Grant** |  | **1** |  | **1** |
|  **McIntosh** |  | **1** |  | **1** |
|  **McLean** |  | **1** |  | **1** |
|  **Morton** | **3** | **14** | **1** | **18** |
|  **Oliver** |  | **2** |  | **2** |
|  **Sheridan** |  | **1** |  | **1** |
|  **Sioux** | **1** |  |  | **1** |
| **Northeast Central** | **25** | **81** | **122** | **227** |
|  **Grand Forks** | **23** | **81** | **122** | **225** |
|  **Nelson** | **2** |  |  | **2** |
| **Northeast**  |  | **12** | **31** | **43** |
|  **Benson** |  | **1** | **1** | **2** |
|  **Bottineau** |  | **2** | **2** | **4** |
|  **McHenry** |  |  | **1** | **1** |
|  **Pembina** |  | **5** | **3** | **8** |
|  **Pierce** |  |  | **1** | **1** |
|  **Ramsey** |  | **1** | **10** | **11** |
|  **Renville** |  |  | **1** | **1** |
|  **Rolette** |  | **1** | **1** | **2** |
|  **Towner** |  | **1** |  | **1** |
|  **Walsh** |  | **1** | **11** | **12** |
| **Northwest** |  | **3** | **63** | **66** |
|  **Divide** |  |  | **1** | **1** |
|  **McKenzie** |  |  | **2** | **2** |
|  **Ward** |  | **3** | **51** | **54** |
|  **Williams** |  |  | **5** | **5** |
| **Southwest** |  | **2** | **26** | **28** |
|  **Stark** |  | **2** | **25** | **27** |
| **East Central** |  |  | **65** | **65** |
|  **Cass** |  |  | **65** | **65** |
| **Southeast** |  |  | **33** | **33** |
|  **Dickey** |  |  | **1** | **1** |
|  **Foster** |  |  | **5** | **5** |
|  **Griggs** |  |  | **1** | **1** |
|  **Stutsman** |  |  | **24** | **24** |

Over the first three and a half years of the project, 63.5% of the completed mediations took place in the Northeast Central and South Central districts – the first two pilot districts. During the third reporting period, only 48.5% of the mediations were conducted in these two districts. More than half were conducted in the other five districts – showing that the project has successfully transitioned to a statewide effort.

At the time of the first interim report, there were 12 active mediators. Our current records contain entries for 27 mediators. Twenty-three of them completed cases during the third data collection period.

The completed cases were not equally distributed among the mediators during the third reporting period. The most active mediator completed 43 cases. Another completed 42 cases and a third completed 33. Nine completed between 20 and 29. Seven completed between 10 and 19. Four had fewer than 10.

At the time of the first interim report, the mediator’s report did not ask mediators to divide the time they spent on a case between the time required for orientation and the time required for mediation. The median total time was close to 4 hours and the average time was 4.3 hours.

During the second reporting period, mediators reported both the time required for orientation and the time required for mediation. The average reported orientation time was 1 hour 32 minutes. Mediations were completed in half of the cases within 2 ¾ hours or less. The most frequently reported time (14 cases) was 4 hours. The next most frequently reported times were 2 hours (12 cases) and 1 ½ hours (12 cases). Several mediations took extended periods of time. Fourteen took six hours or more; the longest took 12 hours.

For the third reporting period, the average reported time for orientation was virtually the same – an hour and thirty-one minutes. Half of the orientations were completed within an hour and a half. The minimum orientation time was 30 minutes and the maximum was three hours and forty-eight minutes. The average mediation time was three hours and sixteen minutes. Half were completed within three hours. The shortest reported mediation took fifteen minutes and the longest took twelve hours.

For the third reporting period, case type was reported for 417 of the 427 cases included in our analysis. The data for the second and third reporting periods, and for the pilot project to date, are shown in the next table. Initial divorce proceedings are now the source of over half of all mandatory custody mediations in North Dakota.

**Distribution of Mediations by Type of Case from Which They Arose**

|  |  |  |  |
| --- | --- | --- | --- |
| **Case Type** | **Second Reporting Period March 1, 2008 to February 28, 2010** | **Third Reporting Period March 1, 2010 to August 31, 2011** | **Pilot Project Total** |
| **Initial divorce proceeding** | **39%** | **56%** | **55%** |
| **Custody not arising out of pending proceeding** | **9%** | **20%** | **17%** |
| **Post judgment modification request** | **34%** | **16%** | **18%** |
| **Paternity** | **18%** | **8%** | **10%** |
| **Guardianship** | **0%** | **0.2%** | **0.2%** |

# Data Concerning Mediation Participants

During the third reporting period, the mediators obtained completed surveys from both parties in 268 cases and from one party in an additional 76 cases, for a total of 612 completed surveys.[[11]](#footnote-11) There were no completed surveys in 127 of the completed mediations. The participant scores on four surveys were incomprehensible because the mediator misprinted the survey forms. There were an average of 1.31 surveys per completed mediation. During the second reporting period the average was 1.45 surveys per completed mediation. During the first reporting period, the rate of survey completion was better – an average of 1.80 surveys per completed mediation during the first reporting period.

As the project has matured, the mediators have become less conscientious in obtaining feedback surveys from the mediation participants. Every mediator who participated in both the second and third reporting periods performed more poorly in obtaining and returning surveys during the third reporting period. We are reporting to the project administrator the performance of each mediator in obtaining and sending in the evaluation surveys. We did the same in conjunction with the second interim report; those individual mediator reports do not appear to have had any effect on mediator behavior in this regard.

The rate of return of completed participant surveys was 90% during the first reporting period, 73% during the second reporting period, and 65% for the third reporting period. Lower rates of survey return bring into question the validity of the participant satisfaction data gathered for the evaluation. There is no way to know whether the participants who did not complete post-mediation surveys were systematically less satisfied with the mediation process than those who did.

While we doubt that this is the case given our personal acquaintance with a number of the mediators, the data is subject to a more sinister interpretation – that some mediators obtain surveys only for those cases in which they perceive the participants to be satisfied with the process. Whenever the rate of return is low, the data is subject to the interpretation that mediators may have manipulated it to their advantage.

It is clear that the rate of return of completed surveys varies dramatically from mediator to mediator. Mediator 15 provided a total of 2 surveys for 7 cases – a rate of return of 14%. For 43 mediations, mediator 3 provided two surveys in 11 cases, one survey in 6 cases, and no surveys in 26 cases – a rate of return of 32%. On the other hand, several mediators provided a very high proportion of the required surveys – demonstrating that there is no structural impediment to obtaining a high survey response rate. Mediator 13 provided 95% of the required surveys for 21 completed mediations. Mediator 7 provided 92% of the required surveys for 26 completed mediations.

Returning to a high rate of return of participant surveys should be a major objective of the pilot project during its final eight months.

Each survey asked for demographic data on the participant. Most participants provided the requested information. We present the demographic data for all 612 completed litigant surveys from the third data gathering period and compare it with the data from the first two data gathering periods.

Half of the respondents from the third reporting period were female (50.4%); half were male (49.3%). Three respondents did not answer this question. For the full three and a half year data set, out of 950 useable questionnaires, 8 more were completed by women than by men. It is clear that the survey data represents a balance between the views of men and women.

The age of persons responding to the surveys is shown in the following table, for the three separate time periods and for the full three and a half year period. During the third reporting period, 39 persons did not provide this information on their surveys.

**Age of Mediation Participants**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Age Category** | **First Reporting Period (10 months)** | **Second Reporting Period (14 months)** | **Third Reporting Period (18 months)** | **Combined first three and a half years** |
| **15-24** | **15%** | **12%** | **13%** | **13%** |
| **25-34** | **37%** | **41%** | **43%** | **42%** |
| **35-44** | **34%** | **36%** | **31%** | **33%** |
| **45-54** | **13%** | **9%** | **11%** | **11%** |
| **55 and over** | **1%** | **1%** | **1%** | **1%** |

Over the life of the project, the percentage of mediation participants in the 25-34 age group has grown, while the percentage of participants in the 35-44 age group has fallen. It remains the case that ¾ of mediation participants are between the ages of 25 and 44.

Almost half of the mediated cases have involved an only child. The data is shown below. Three cases reported no children; they are likely to be grandparent visitation or guardianship cases.

**Number of Children in Mediated Cases[[12]](#footnote-12)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Number of Children** | **First Reporting Period (10 months)** | **Second Reporting Period (14 months)** | **Third Reporting Period (18 months)** | **Combined first three and a half years** |
| **1** | **55%** | **45%** | **46%** | **47%** |
| **2** | **32%** | **36%** | **34%** | **35%** |
| **3** | **6%** | **11%** | **14%** | **13%** |
| **4** | **4%** | **7%** | **4%** | **5%** |
| **5 or more** | **2%** | **-** | **1%** | **1%** |

One of the project goals is to make mediation more widely available to rural North Dakota residents. It is clear from the county-by-county distribution of completed mediations reported previously that mediation is reaching rural county residents. The pilot project now includes cases from 30 of North Dakota’s 53 counties.

Mediation participants report a wide range of total monthly household income. The survey instrument defined this term to include all income sources, including child support, before taxes. The data reported by participants completing surveys during the first three and a half years of the project is displayed on the chart below. The income distribution for the full three and a half years is very close to the distribution for the third reporting period.

The data shows that the pilot project is making mediation available to many North Dakotans of low or limited means. There is a small increase in the percentage of low income persons served during the third reporting period, perhaps reflecting the impact of the recession. Over 62% of mediation participants during the third reporting period reported making $3,000 per month or less. However, it is not surprising that there are some participants who could afford to pay for these services. It is entirely appropriate for the court to provide these services on an equal basis to all North Dakotans, regardless of income.

Educational levels of participants are shown in the next table. This data tends towards the middle values, not the extremes. Seventy-five percent of mediation participants have high school, some college, or an associate’s degree. Four percent have less than a high school diploma or GED. Twenty-six percent have a bachelor’s or graduate degrees. There has been no significant change in this data over the three reporting periods.

During the third reporting period, 94% of the participants reported their race as White, four percent as American Indian, less than one percent as African American, almost three percent as Hispanic, and two percent as “some other.”[[13]](#footnote-13) Whites and Hispanics are slightly more heavily represented among the mediation participants than they are in the North Dakota population as a whole, based on the results of the 2010 census.

The table below shows the relative percentages of minority group members among mediation participants over the full three and a half years of the pilot project and the North Dakota population in general.

Only three participants over the first three and half years of the pilot project reported a primary language other than English; only one of them was Spanish. This statistic calls into question the responses to the survey question concerning the difficulty of proceeding without an interpreter. Thirteen respondents answered that they had difficulty participating because an interpreter was not present. Yet only three persons reported a primary language other than English.

We ask the mediators to indicate whether a mediation participant is represented by counsel at the time of the mediation. During the third reporting period, mediators provided that information for 78% of the surveys (136 of 612 surveys lacked that information). For the surveys for which mediators provided the information, 85% of the mediation participants were represented by counsel. Over the first three and a half years of the pilot project, 84.3% of the participants for which we have data (639 of 758 surveys) reported that they had a lawyer. Mediators did not provide this information for the other 192 questionnaires.

In many other states more than half of persons responding to this question in family law cases would be unrepresented, with the percentage of unrepresented persons increasing over time. The data for contested custody cases in North Dakota does not follow this trend. Self-representation may be more prevalent, however, for North Dakota divorce cases without children.

# Data Concerning Success in Reaching Agreement through Mediation

Under the terms of Administrative Order 17, parties must mediate their parenting time issues. They may also agree to mediate other issues in the case. The data for the first three and a half years of the program show that the parties are agreeing to mediation of other issues in 64% (412 of 648 cases). The rate during the first two reporting periods was 59% (131 of 222); it increased dramatically to 81% (345 of 427 cases) during the third reporting period.

The project administrator has stressed with the mediators that reaching agreement is not the highest objective of the pilot project. This is a critically important principle for the North Dakota mandatory mediation program. In programs elsewhere in the country where agreement rates have been stressed as the program’s paramount objective, mediators have been reported to use what many observers would consider to be coercive tactics to obtain agreement.

Despite North Dakota’s de-emphasis on agreement, initial outcomes compare favorably with those in other jurisdictions that have evaluated family court mediation programs.

The table below shows agreement rates for the first, second, and third data gathering periods. It shows a decrease in full agreement rates from the second to the third reporting period, which was more than compensated by an increase in the rate of partial agreements. The combined full and partial agreement rate increased from 70% to 76% and is at 75% for the first three and a half years of the pilot project. Even though the proportion of cases in which the parties agreed to mediate other issues increased significantly (from 59% to 81%) the full agreement rate rose by 1% and the combined full and partial agreement rates for other mediated issues rose from 65% to 70%. It remains the case – and a very positive sign for the program – that the full agreement rates for the mandatory aspect of the program are higher than those for the voluntary component. One would suspect the opposite – that the parties would be more likely to reach agreement on the issues they volunteer to mediate than on those they are forced to mediate.

**North Dakota Mediation Agreement Rates[[14]](#footnote-14)**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **First Reporting Period****March 1, 2008 to** **December 31, 2008** | **Second Reporting Period****January 1, 2009 to February 28, 2010** | **Third Reporting Period March 1, 2010 to August 31, 2011** | **Total Project Period****March 1, 2008 to August 31, 2011** |
| **Full agreement on parenting time** | **54%** | **56%** | **50%** | **52%** |
| **Partial agreement on parenting time** | **25%** | **14%** | **26%** | **23%** |
| **No agreement on parenting time** | **21%** | **30%** | **24%** | **26%** |
| **Full agreement on other issues** | **42%** | **43%** | **44%** | **44%** |
| **Partial agreement on other issues** | **22%** | **22%** | **26%** | **25%** |
| **No agreement on other issues** | **36%** | **35%** | **30%** | **31%** |

There are instances in which the parties do not reach agreement at the time of the mediation but, based on the progress made during the mediation in resolving all but one or two issues, reach agreement soon thereafter. The project administrator has kept track of the number of such cases – 30 during the first two years of the project and an additional 73 during the third reporting period. If those cases were treated as full agreement cases, the full agreement rate for the third reporting period would be 67% and for the first three and a half years of the pilot project would be 68%.

Under the terms of Administrative Order 17, either party may rescind a mediated agreement within five days by notifying the mediator. This provision gives the parties an opportunity to obtain the advice of counsel on a mediated agreement and nullify it based on that advice or time to reconsider the agreement themselves. During the second data reporting period, we asked mediators to report the number of agreements rescinded. The data was reported for 325 of the 427 cases included in the third reporting period analysis. It showed rescissions occurred in 9% of cases in which an agreement was reached, down from 15% during the first two reporting periods. For the first three and a half years of the pilot project the rescission rate has been 10%.

We repeat below the data presented in the first two interim reports concerning comparative agreement rates which show that North Dakota’s agreement rates – despite its de-emphasis on agreement as the ultimate objective of the mediation program – are extremely high.

**Comparative Agreement Rates Following Family Case Mediation[[15]](#footnote-15)**

| **Jurisdiction** | **Date of Study** | **Mandatory/****Voluntary** | **Full Agreement** | **Partial Agreement** | **Combined Full and Partial** |
| --- | --- | --- | --- | --- | --- |
| Ventura, CA[[16]](#footnote-16) | August 2007 | Mandatory | 55% | 40% | 95% |
| District of Columbia | 1992 | Voluntary | 80% |  | 80% |
| Charlottesville, VA | 1989 | Mandatory | 77% |  | 77% |
| North Dakota Pilot Project | 2011 | Mandatory | 52% | 23% | 75% |
| North Carolina | 2000 | Not Known | 74% |  | 74% |
| James City County, VA | 2001 | Voluntary | 72.4% |  | 72.4% |
| Winnipeg, Canada | 1988 | Voluntary | 65% |  | 65% |
| Orange County, CA | February 2007 | Mandatory |  |  | 62% |
| Montreal, Canada | 1988 | Voluntary | 58% |  | 58% |
| California | 2003 | Mandatory | 44% | 8% | 52% |
| San Bernardino, CA | September 2008 | Mandatory | 33% | 15% | 48% |
| Solano County, CA | 2009-2010 | Mandatory | 43% |  | 43% |
| York County, VA | 2001 | Voluntary | 39.5% |  | 39.5% |
| Georgia | 2002 | Voluntary | 34% |  | 34% |

As explained in footnote 10, some of these comparisons may be questionable. The evaluator is very familiar with California’s mediation program. Other than the fact that mediations are done by court-employed full-time mediators in larger California courts, the California and North Dakota programs are roughly comparable in approach. Two researchers in 1995 summarized outcomes research from dozens of studies done by that date as finding that full agreement varies from 40% to 60% and that partial agreement varies from 10% to 20%. By both of those benchmarks, North Dakota’s pilot mediation project is markedly successful in obtaining agreements.

Do the details of the data on agreement outcomes for the first two years of the pilot project provide any insight into the mediation process in North Dakota?

During the first ten months of the project, agreement rates were relatively consistent among the four main case types – divorces, paternity, post-judgment modification, and custody not related to another pending proceeding. During the second data reporting period, there was more variation by case type, with full and partial agreement highest in paternity cases, followed by initial divorces, post judgment modifications and custody matters not arising from a pending proceeding.

During the third reporting period, full and partial agreement rates were highest in post judgment modification, followed by paternity, initial divorce proceeding and parenting time not arising out of a pending case.

For the first three and a half years of the pilot project, full and partial agreement rates are highest for paternity, followed by post judgment modification, initial divorce proceeding and parenting time not arising out of a pending case. We have agreement data for only one guardianship case, so that data should be taken with a grain of salt.

**Parenting Time Agreement Rates by Case Type[[17]](#footnote-17)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Case Type** | **First and Second Reporting Periods****March 1, 2008 to** **February 28, 2010** | **Third Reporting Period****March 1, 2010 to August 31, 2011** | **Total Project Period****March 1, 2008 to August 31, 2011** |
| **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** |
| **Initial divorce proceeding** | **58%** | **15%** | **74%** | **51%** | **25%** | **76%** | **53%** | **22%** | **75%** |
| **Post judgment modification** | **49%** | **20%** | **68%** | **58%** | **24%** | **82%** | **54%** | **22%** | **77%** |
| **Paternity** | **67%** | **15%** | **82%** | **53%** | **25%** | **78%** | **59%** | **20%** | **80%** |
| **Parenting time not arising out of pending case** | **41%** | **35%** | **77%** | **35%** | **32%** | **67%** | **38%** | **33%** | **72%** |
| **Guardianship** |  |  |  | **0%** | **0%** | **0%** | **0%** | **0%** | **0%** |

Full and partial agreement rates for non-parenting time issues rose dramatically for post judgment modification cases – from 54% to 84%. Agreement rates for non-parenting issues in initial divorce proceedings stayed the same – at 70%. Agreement rates for non-parenting issues in paternity and parenting time not arising out of a pending case both dropped by a few percentage points.

For the first three and a half years of the pilot program, full and partial agreement rates for non-parenting time matters were virtually the same for initial divorce, post judgment modification, and paternity, and only a few percentage points lower for parenting time issues not arising out of a pending case.

**Non Parenting Time Issues Agreement Rates by Case Type**

|  |  |  |  |
| --- | --- | --- | --- |
| **Case Type** | **First and Second Reporting Periods****March 1, 2008 to** **February 28, 2010** | **Third Reporting Period****March 1, 2010 to August 31, 2011** | **Total Project Period****March 1, 2008 to August 31, 2011** |
| **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** |
| **Initial divorce proceeding** | **51%** | **18%** | **70%** | **45%** | **25%** | **70%** | **47%** | **23%** | **70%** |
| **Post judgment modification** | **24%** | **29%** | **54%** | **57%** | **27%** | **84%** | **44%** | **28%** | **72%** |
| **Paternity** | **47%** | **27%** | **73%** | **50%** | **20%** | **70%** | **49%** | **23%** | **71%** |
| **Parenting time not arising out of pending case** | **43%** | **29%** | **71%** | **35%** | **32%** | **67%** | **36%** | **32%** | **67%** |
| **Guardianship** |  |  |  | **0%** | **0%** | **0%** | **0%** | **0%** | **0%** |

The first interim evaluation noted that mediation outcomes were more successful in Grand Forks County than in Burleigh County on every dimension. It noted the long tradition of mediation in Grand Forks County, created largely as a result of the work of the Conflict Resolution Center at the University of North Dakota which had been in existence for 22 years at the time of that report. It predicted that the agreement levels in Burleigh County would rise towards those in Grand Forks County over time as the Bismarck bar became more familiar with, and confident of, mediation.

During the third data reporting period, the Grand Forks County’s agreement rates in parenting time mediations dropped slightly because of a reduced rate of partial agreements. But Burleigh County’s full agreement rate for parenting time mediations dropped from 50% to 41%, compensated somewhat by an 11% increase in its rate of partial agreements. For the first three and a half years of the pilot project, the gap between the two counties on full and partial agreement rates is now at 17% -- one percent higher than during the first ten months of the pilot project. It now appears unlikely that Burleigh County will begin to approach the level of acceptance given mediation in Grand Forks County during the four and a half years of the pilot project.

The experience of the other counties (some of which are in the South Central and Northeast Central Districts) is more similar to that of Grand Forks County than Burleigh County in terms of the combined percentage of full and partial agreements, but is higher than either in the percentage of partial agreements reached. By this time in the pilot project there are 255 cases from other counties, suggesting that this data is reliable and significant. The overall message is that Burleigh County remains something of an outlier in the low percentage of cases reaching full or partial agreement with respect to contested parenting time issues.

**Parenting Time Agreement Rates by County[[18]](#footnote-18)**

|  |  |  |  |
| --- | --- | --- | --- |
| **County** | **First and Second Reporting Periods****March 1, 2008 to** **February 28, 2010** | **Third Reporting Period****March 1, 2010 to August 31, 2011** | **Total Project Period****March 1, 2008 to August 31, 2011** |
| **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** |
| **Burleigh County** | **50%** | **13%** | **63%** | **41%** | **24%** | **65%** | **45%** | **19%** | **64%** |
| **Grand Forks County** | **60%** | **24%** | **83%** | **61%** | **19%** | **79%** | **60%** | **21%** | **81%** |
| **All other counties** | **53%** | **7%** | **60%** | **48%** | **32%** | **80%** | **49%** | **28%** | **77%** |

The gap between the two counties’ full and partial agreement rates for non-parenting time issues has widened substantially during the course of the pilot project. Grand Forks County now has a 19% advantage in full agreement rate, a 9% advantage on partial agreement rate, and a 28% advantage in combined agreement rate for non-parenting time issues. The experience in other counties is, again, closer to that in Grand Forks County than to that in Burleigh County. For the three and a half years of the pilot project, the other counties have a partial agreement rate for non-parenting time issues nearly the same as that of Grand Forks County, but a total agreement rate 12% points below Grand Forks County’s rate. The combined agreement rate is closer to that in Grand Forks, once again suggesting that Burleigh County lags behind the rest of the state.

**Non Parenting Time Issues Agreement Rates by County[[19]](#footnote-19)**

|  |  |  |  |
| --- | --- | --- | --- |
| **County** | **First and Second Reporting Periods****March 1, 2008 to** **February 28, 2010** | **Third Reporting Period****March 1, 2010 to August 31, 2011** | **Total Project Period****March 1, 2008 to August 31, 2011** |
| **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** | **Full agree****ment** | **Partial agree****ment** | **Total** |
| **Burleigh County** | **42%** | **7%** | **49%** | **30%** | **26%** | **56%** | **35%** | **18%** | **53%** |
| **Grand Forks County** | **42%** | **38%** | **80%** | **60%** | **21%** | **81%** | **54%** | **27%** | **81%** |
| **All other counties** | **45%** | **14%** | **59%** | **42%** | **32%** | **72%** | **42%** | **28%** | **70%** |

The rescission rates for the third reporting period and for the first three and a half years of the pilot project reflect the same dynamic, with Burleigh’s rescission rate at 16% and Grand Forks’ rate at 12% for the third reporting period and their respective rates at 16% and 14% for the full pilot project period. The rescission rate in other counties (6% for the third reporting period and 7% for the full pilot project period) is less than half that in either Grand Forks or Burleigh County.

Do some mediators have higher success rates than others? Yes. As shown in the table below, their combined full and partial agreement rates for the third reporting period range from 44% to 100%. The list of mediators below is not in alphabetical order, in order to preserve the anonymity of the mediators. Greacen Associates is providing the project administrator with a report on each mediator, which can be shared with that mediator.

**Mediation Agreement Rate by Mediator[[20]](#footnote-20)**

| **Mediator** | **First and Second Reporting Periods****March 1, 2008 to** **February 28, 2010** | **Third Reporting Period** **March 1, 2010 to August 31, 2011** |
| --- | --- | --- |
| **Agreement on Parenting Issues** | **Non parent****Ing issues %** | **Rescis****sions** | **Agreement on Parenting Issues**  | **Non parent****Ing issues %** | **Rescis****sions** |
| **Full****Agreements** | **Partial****Agreements** | **Total Agreement %** | **Full****Agree****ments** | **Full****Agree****ment %** | **Partial****Agree****ments** | **Partial****Agree****ment** | **%****Total Agree****ment %** |
| Mediator 1 | 19 | 1 | 91% | 81% | 0 | 8  | 67% | 2 | 17% | 83% | 83% | 1 |
| Mediator 2 | 15 | 8 | 92% | 100% | 1 | 18 | 72% | 2 | 8% | 80% | 88% | 3 |
| Mediator 3 | 12 | 0 | 50% | 56% | 1 | 12 | 34% | 4 | 11% | 46% | 21% | 1 |
| Mediator 4 | 5 | 2 | 70% | 67% | 0 | 0 | 0% | 1 | 100% | 100% | 100% | 1 |
| Mediator 5 | 9 | 2 | 65% | 46% | 1 | 17 | 71% | 4 | 17% | 88% | 50% | 3 |
| Mediator 6 | 7 | 2 | 56% | 50% | 2 |  |  |  |  |  |  |  |
| Mediator 7 | 7 | 3 | 56% | 36% | 1 | 6 | 25% | 9 | 38% | 63% | 71% | 2 |
| Mediator 8 | 8 | 1 | 60% | 44% | 0 | 10 | 59% | 2 | 12% | 71% | 64% | 1 |
| Mediator 9 | 9 | 2 | 73% | 75% | 1 | 15 | 75% | 3 | 15% | 90% | 79% | 3 |
| Mediator 10 | 6 | 9 | 75% | 62% | 5 | 4 | 31% | 6 | 46% | 77% | 54% | 4 |
| Mediator 11 | 2 | 1 | 100% | 100% | 0 |  |  |  |  |  |  |  |
| Mediator 12 | 12 | 4 | 100% | 75% | 0 | 23 | 62% | 6 | 16% | 78% | 75% | 0 |
| Mediator 13 |  |  |  |  |  | 5 | 24% | 11 | 52% | 76% | 73% | 2 |
| Mediator 14 | 1 | - | 100% | 100% | 0 | 6 | 60% | 1 | 10% | 70% | 44% | 2 |
| Mediator 15 | 1 | - | 100% | - | 0 | 4 | 67% | 0 | 0% | 67% | 60% | 0 |
| Mediator 16 | 2 | 4 | 100% | 80% | 1 | 0 | 0% | 0 | 0% | 0% | 100% | 0 |
| Mediator 17 | 3 | 1 | 80% | 75% | 0 | 11 | 55% | 9 | 45% | 100% | 95% | 0 |
| Mediator 18 | 1 | - | 50% | 50% | 0 | 10 | 46% | 5 | 23% | 68% | 57% | 1 |
| Mediator 19 | 1 | - | 100% | - | 0 | 18 | 60% | 5 | 17% | 77% | 88% | 2 |
| Mediator 20 | 1 | - | 100% | 100% | 1 | 4 | 50% | 4 | 50% | 100% | 100% | 0 |
| Mediator 21 |  |  |  |  |  | 7 | 39% | 1 | 6% | 44% | 50% | 0 |
| Mediator 24 |  |  |  |  |  | 3 | 43% | 4 | 57% | 100% | 100% | 0 |
| Mediator 25 |  |  |  |  |  | 8 | 67% | 3 | 25% | 92% | 75% | 2 |
| Mediator 26 |  |  |  |  |  | 7 | 39% | 6 | 33% | 72% | 83% | 0 |
| Mediator 27 |  |  |  |  |  | 5 | 62% | 3 | 38% | 100% | 86% | 1 |
| Mediator 28 |  |  |  |  |  | 4 | 17% | 18 | 75% | 92% | 81% | 1 |

Six mediators have full agreement rates of 67% or higher. Five have full agreement rates below 35%. However, this information needs to be viewed with an understanding that differentiating between full and partial agreement is a judgment call and some mediators may use a more rigorous standard in assessing whether the parties have reached full agreement.

Although it is clear that some mediators are more successful than others, the narrative comments written on the participant satisfaction surveys do not express consistently negative views toward any particular mediator. In fact, the most negative comments relate not to the conduct of the mediation but to delay in scheduling and holding it. Most participants ascribe blame for the lack of success of mediation to their former spouse, not to the mediator.

As in previous reports, data for the full three and a half year period of the pilot project shows some variation in the likelihood of reaching agreement by age – showing that participants between the ages of 18 and 24 are somewhat more likely to reach agreement and less likely to rescind an agreement reached. Mediation participants above the age of 45 tend towards the opposite end of the spectrum. We have insufficient data for cases with participants under the age of 18 or over the age of 55 to include in the chart.

As data has accumulated for the pilot project, the only significant difference in the likelihood of agreement for persons with different educational attainment is for persons with graduate degrees, who have combined full and partial agreement rates of only 60% for parenting issues and 48% for non-parenting issues, with a 20% rescission rate for agreements reached. The data for the two lowest educational attainment levels is very limited – four cases and two cases respectively -- and the results are therefore of limited usefulness.

The full project period data for differences in agreement rates by income show a significant variation only for two income categories – persons making from $6,000 to $7,000 per month (who are most likely to reach agreement during mediation and least likely to rescind an agreement reached) and persons making from $7,000 to $8,000 per month (who are least likely to reach agreement during mediation and most likely to rescind an agreement reached). Persons in the highest income category are close to the study average in all three categories. There are relatively few persons within the $7,000 to $8,000 per month category, but a sufficient number (7 cases) to include the data in the chart.

There is no consistent pattern in the relationship of level of income to willingness to mediate non-parenting time (property) issues. The percentage of persons willing to mediate property matters ranges from 67% (for the $6,000 to $7,000 per month group most likely to reach agreement when these issues are mediated) to 88% (for the $7,000 to $8,000 group least likely to reach agreement).

# Perceived Imbalance of Power Between the Mediation Participants

The mediator’s report for the third reporting period contained two new questions to obtain information from mediators on the possibility of an imbalance of power between the mediation participants – in general or as a result of domestic violence. The questions are:

Did you have any concern during this mediation that the outcome was unfair because of an imbalance in the power of the participants during the process? O Yes O No If “yes,” please provide a few observations about the process.

Domestic violence issues. Please describe indicia of domestic violence identified during the orientation or mediation and steps you took to address that issue.

Mediators responded to the first question for 325 of the 427 cases included in our analysis. They reported a perception of imbalance in 7% of the cases (22 of 325 cases). Although we are missing information on age, education, and income for a third of these cases, mediators tend to identify power imbalances more in cases in the following categories: ages between 25-34, education at the high school level, and incomes between $501 and $2000 per month (there were no instances of perceived imbalance for persons with income levels above $5,000 per month).

The mediators’ narrative responses to the two questions are set forth verbatim below; we also note the location at which the mediation took place.

The comments below demonstrate a high level of sophistication among the mediators – both in identifying domestic violence or other bases for imbalance of power between the participants that could lead to unfairness and in responding in ways that minimize the likelihood that any such power imbalances will produce unfairness in the results of the mediation process. These narrative comments could serve as the basis for an article for mediators in North Dakota or elsewhere to familiarize them with the sorts of situations they may encounter and the steps they can take to deal with them appropriately.

The sophistication of the comments leads the evaluator to conclude that there is no significant likelihood in North Dakota that mandatory custody mediation will lead to a miscarriage of justice as a result of domestic violence or any other source of an imbalance of power between the mediation participants.

| **Location** | **Imbalance of power comments** | **Domestic violence comments** |
| --- | --- | --- |
| Grand Forks | Mother has a very strong personality. Father has a learning disability. |  |
| Bismarck |  | There was discussion of anger issues and one altercation early in the marriage. |
| Bismarck |  | Plaintiff and I discussed the issue of DV. She requested that she be allowed to try mediation. Physical fear was not present. I explained the power balance needed for mediation. She felt she could speak freely and openly. She came early to the mediation. We set up a safety plan and she was allowed to leave first following the mediation session.  |
| Grand Forks |  | No domestic violence reported or observed. Female requested someone to attend to support her ability to hear and talk in the first two sessions. She was alone and speaking freely in the third session.  |
| Dickinson |  | One party spoke of 1 incident of DV approximately 1 year prior. Attorney for the parties attended mediation. Discussed and utilized a safety plan with client. Client very adamant about mediating even if prior DV. |
| Grand Forks |  | Mother expressed concerns about Father's mental health and temper. The session took place at the GF courthouse and law enforcement was nearby. Much of the mediation took place with the parties individually.  |
| Minot | I felt the defendant would not stand behind her position and became emotional several times. She wrote me an email explaining her position but did not stand behind it when we met.  |  |
| Bismarck | Other party some concerns |  |
| Grand Forks | Male had all the financial power and had used threats to manipulate. Observed and reflected and allowed the parties to negotiate how to handle the situation present and future.  | None reported or observed -- except for verbal reported above. |
| Grand Forks |  | None reported or observed. High levels of anger interfered with communication and shifted in the mediation.  |
| Bismarck | Both parties had their attorney present. |  |
| Grafton |  | Each party described pushing and shoving as mutual. Neither had concerns for their safety or ability to mediate. I did seat them across the table from each other and tried to keep heated arguments at bay. I saw them out at the end of the case.  |
| Bismarck |  | Domestic violence identified by client. Client insisted on trying mediation. Mediator explained the process of mediation and the balance of power. Mediator agreed to "caucus" this mediation. Other party agreed to this process.  |
| Grand Forks | The parties went into mediation with a positive attitude and all issues were discussed and put into a document (Stipulation) by the Plaintiff, proceeding pro se. I reviewed the document with the parties in order to assure them of the appropriate format, etc. The Plaintiff dominated the process. Had to run interference for the Defendant. No attorneys involved.  |  |
| Grafton |  | There was one incident of breaking property. The perpetrator acknowledged it. The victim felt it was due to alcohol use and had no concerns for her safety in mediation as long as he was not drinking.  |
| Fargo | One party was frustrated with the passivity of the other and ended up giving in more than she should have. It was discussed appropriately.  |  |
| Fargo | The parties remained in the marital home and the husband was very resistant to looking into options to refinance the home in order for the wife to move. Both parties were extremely defensive and had a difficult time looking at issues objectively.  | There was an incident that was not reported of a physical altercation. The wife said she was slapped across the face. Safety issues were explored and she was encouraged to seek out counseling.  |
| Grand Forks |  | History of domestic violence but no current concerns other than emotional/mental abuse between both parties.  |
| Grand Forks | There was power and control issues, manipulation that eventually focused on the need to end the mediation process. | None reported or observed - with the exception of power and control. |
| Jamestown |  | This was a post-divorce proceeding. The parties have been living apart for the last 2 years. One party indicated that there was DV during the marriage but not since except for one major incident with the Jamestown police. Oddly, the criminal judgment contains a no contact provision regarding the ex-spouses even though the ex-spouse was not a victim or witness. The judge ordered mediation. The parties wanted to mediate. Both parties attended the mediation session. The parties were on different floors of the courthouse and never spoke directly to each other. I went back and forth between the two meeting rooms. One party left the mediation session early and with her attorney. Both parties indicated that they felt safe communicating during the mediation session and both believed that they would not be subject to DV as a result of the mediation. |
| Fargo | Answered "No" to question 8. But I will qualify that with the following comments -- the parties were discussing various options and when the mother said she had concerns about their ability to share custody because of some very real issues -- different school districts, etc. -- the father because very passive aggressive and would not talk it out.  | There was an order for protection in effect when this case was initially referred. I found out about it during the separate orientation session. The order was finished in mid-April. I talked with the mother several times prior to the sessions starting. There was one single incident involving the authorities and she said she felt safe and would be able to assert herself. |
| Grand Forks | Due to the history of domestic violence there were screening precautions taken before this case was taken to the table. | During the plaintiff's orientation she described past instances of domestic violence including: physical such as choking, hitting, dragging; mental/emotional such as controlling and manipulating; verbal such as calling her names and putting her down. The domestic violence screening tool was used for both parties. During mediation, the mediator paid close attention to the dynamics at the table.  |
| Minot |  | Both parties addressed concerns in this area. I felt they were evenly matched. I asked both parties if they felt comfortable engaging/continuing mediation. |
| Jamestown |  | One party described DV. I asked if that party wanted to mediate and if so would it be a safe place and was there fear of retaliation after mediation ("No"). Both parties' attorneys participated in the mediation. One party left mediation before the other. That party was told to tell the mediator if any safety issues arose during mediation and she did not raise any. |
| Fargo |  | Were some past DV issues. Mom was very concerned about the child being hurt. We mediated with the other party via phone. Dad lives in Colorado. |
| Grafton | Always power concerns with abuse. No flags went up during the session. | Past abuse was reported by one of the parties in orientation. Extra time to help her process her decision on proceeding. She decided to mediate in separate rooms with a support person. Both parties had a support person. |
| Devil's Lake |  | The Plaintiff's attorney wanted mediation in separate rooms because of possible domestic violence. The first mediation I mediated separately because of her request. The second mediation took place in the same room as the parties had been communicating directly, and neither expressed any need for separate rooms. I did not feel at either time there were domestic violence issues -- just more of an imbalance of ability to express one's desires. |
| Jamestown |  | The parties had a previous but expired protection order. I spoke extensively with the protected party about safety during and after the mediation. Both parties' attorneys were present. Both parties expressed a strong desire to mediate and settle issues amicably. The perpetrator was a sober alcoholic during/before mediation. Violence had occurred only when the perpetrator had been drinking.  |
| Dickinson | I didn’t but one of the attorneys did. |  |
| Grafton |  | Wife described pushing and grabbing by husband. She had applied for a restraining order and dropped it. She felt it was [undecipherable]. She felt comfortable talking to him and they rode to the appointment together. I asked her to tell me if she had concerns and she agreed but did not have any. I did not leave them alone.  |
| Fargo |  | No, but one party requested to be separated and of course that request was granted.  |
| Grafton |  | There was one incident of domestic violence. It was acknowledged by both as an isolated incident. I did not leave parties alone.  |
| Carrington |  | Protection order in place for a number of years. I separated the parties and went back and forth between them. |
| Fargo |  | Were some DV issues. Party requested separate rooms. We did conduct mediation in separate rooms. |
| Williston | The defendant was very loud, vocal and controlling of the situation. I stopped the mediation at one point and divided the parties to cool off. Plaintiff insisted on continuing and things went very well after the break.  | When we took a break I questioned Plaintiff about past violence, which was confirmed. But she insisted on proceeding. DCRO was recently dismissed, which probably contributed to animosity. |
| Fargo | Initially, one party brought their attorney and it was uncomfortable for the party who decided not to bring an attorney due to the attorney being very verbal/active. This was only during the first session. The attorney did not attend after this and the parties were very interactive and it seemed to be extremely helpful to them. |  |
| Jamestown |  | Several years ago there was a protection order in place. Neither party felt threatened or fearful currently. The parties have lived apart for five years. The parties' attorneys were present during mediation. The parties did the mediation in two different rooms and left at separate times.  |
| Stanley | I questioned the imbalance of power because one party was unrepresented and one had an attorney present. But that did not appear to be a factor in the outcome.  |  |
| Fargo |  | Emotional issues/abuse in relationship history. |
| Ellendale |  | Emotional abuse possible. No physical abuse. Party brought attorney to mediation to ensure his/her voice was heard and outcome was fair. |
| Grafton |  | Verbal abuse identified. Mediation conducted with attorneys present and in separate rooms.  |
| Grand Forks | Mother has had full residential responsibility without visitation. A parenting plan was not followed in the past. Father not interested (or aware) of legal rights. Referred parties to get legal advice and gave them ND (SBND) sample |  |
| Minot |  | None. There were concerns of stalking voiced by Plaintiff but she opted to proceed with mediation. Discussed safety planning and options if she became uncomfortable.  |
| Bismarck |  | Domestic violence was a concern in this case. All allegations were denied, but there was enough concern to keep the parties separate and require counsel at joint sessions.  |
| Jamestown | Lack of representation, resources. Power swings both ways. |  |
| Jamestown | No agreements were reached but had there been, they were heading into unfair territory. One party was giving in to the other's demands and I was not comfortable with it. |  |
| Dickinson |  | Yes. Pushing, slapping, blocking doorways. Both parties indicated that they would not feel threatened during mediation. Safety plan made. Attorneys required at mediation. Discussions regarding any possible feelings of power imbalance. None reported.  |

# Participant Satisfaction Ratings

We present the participant satisfaction data from a database of 612 completed participant questionnaires for the third data reporting period and from a database of 950 completed questionnaires for the first three and a half years of the project. Six of the surveys for the third reporting period (all from the same mediator) were misprinted and the scores were not discernible; we were unable to include those surveys in this data. We present participant satisfaction data for the first, second, and third reporting periods and for the first three and a half years of the project. We then look for differences in participant satisfaction level by various case and participant characteristics. As noted earlier, we are concerned that the rate of return for participant satisfaction surveys dropped to 65% during the third reporting period. As a result, we have less confidence in the results reported for the third reporting period than for previous reporting periods.

Participants reported their satisfaction by responding to various statements with Strongly Agree, Agree, Neutral, Disagree, or Strongly Disagree. For purposes of assessing this data, we have created two alternative scores.

The first is the “percentage satisfied” which compares the sum of those responding Strongly Agree and Agree with those responding Disagree and Strongly Disagree. This measure disregards “Neutral” scores. The second assigns the values 5, 4, 3, 2, and 1 to the five ratings. Although this scoring process involves assigning a strict numerical ranking to a series of qualitative statements that may not be related to each other in this strict proportion, it is nonetheless a standard research practice. This scoring practice takes into account the “Neutral” ratings. The maximum score would be 5.0; the minimum would be 1.0; and all “Neutrals” would be 3.0.

The statements were set forth in the survey instrument in both positive and negative formulations to discourage respondents from answering all questions the same way. For reporting purposes, we set forth the statements as they appeared on the survey form but have transformed the average scores as if all statements had been stated in their positive formulation. For example, “The mediator did not care about our case” is reported as 96% satisfied and a 4.32 average even though the actual scores are the converse – 4% and 1.68 respectively.

The scores are set forth in the table below.

**Participant Satisfaction Scores**

|  | **First Reporting Period****March 1, 2008 to** **December 31, 2008** | **Second Reporting Period****January 1, 2009 to February 28, 2010** | **Third Reporting Period****March 1, 2010 to August 31, 2011** | **Total Project Period****March 1, 2008 to August 31, 2011** |
| --- | --- | --- | --- | --- |
| **Statement** | **% Satisfied** | **Average** | **% Satisfied** | **Average** | **% Satisfied** | **Average** | **% Satisfied** | **Average** |
| The mediation was at a time relatively convenient for me  | 97% | 4.26 | 94% | 4.19 | 97% | 4.31 | 96% | 4.28 |
| The mediator treated me with respect  | 98% | 4.61 | 98% | 4.65 | 99% | 4.70 | 99% | 4.68 |
| I did not understand the process that we were to follow  | 84% | 3.89 | 88% | 4.00 | 88% | 4.05 | 88% | 4.03 |
| I was able to say what I needed to say during the mediation  | 94% | 4.17 | 92% | 4.04 | 95% | 4.24 | 94% | 4.18 |
| I learned something new today about my former spouse  | 33% | 2.69 | 27% | 2.51 | 29% | 2.56 | 29% | 2.56 |
|  I was not well prepared for the mediation today  | 94% | 3.95 | 89% | 3.88 | 91% | 3.96 | 91% | 3.94 |
| I was able to do a good job representing my point of view | 89% | 3.90 | 91% | 3.86 | 92% | 3.97 | 91% | 3.94 |
| The mediator treated both of us equally  | 94% | 4.31 | 96% | 4.33 | 96% | 4.41 | 96% | 4.38 |
| The mediator did not care about our case | 97% | 4.36 | 95% | 4.30 | 97% | 4.44 | 97% | 4.39 |
| We were able to put the needs of the children first | 83% | 3.87 | 73% | 3.59 | 82% | 3.86 | 80% | 3.79 |
| I learned today how to negotiate more successfully with my former spouse  | 40% | 2.78 | 38% | 2.72 | 44% | 2.86 | 42% | 2.82 |
| The mediation process was not fair to me | 93% | 4.08 | 90% | 3.94 | 93% | 4.10 | 92% | 4.06 |
| I did not feel safe here today  | 95% | 4.36 | 98% | 4.35 | 96% | 4.44 | 96% | 4.40 |
| Overall, I am satisfied with the mediation process  | 91% | 3.91 | 80% | 3.65 | 86% | 3.88 | 87% | 3.82 |
| Mediation is better than going to court | 94% | 4.08 | 86% | 3.95 | 91% | 4.07 | 90% | 4.04 |
| The outcome today was worse for me than it would have been in court  | 89% | 3.69 | 91% | 3.67 | 89% | 3.74 | 89% | 3.72 |
| The mediation included new ideas for resolving our disagreement  | 70% | 3.31 | 66% | 3.28 | 76% | 3.50 | 73% | 3.42 |
| I had difficulty participating because an interpreter was not present | 99% | 4.45 | 100% | 4.48 | 98% | 4.50 | 98% | 4.49 |
| I had difficulty participating because of physical barriers  | 97% | 4.44 | 96% | 4.40 | 97% | 4.43 | 97% | 4.43 |

Both scoring processes provide very positive support for the pilot project over its first three and a half years of operation. Most gratifying for those providing mediation services, participant satisfaction scores improved significantly from the second data gathering period. Every average score was better than its counterpart score from the second interim report. Average scores on four items improved by .2 points or more – “overall satisfaction with the mediation process,” “able to say what I needed to say,” “able to put the needs of the children first,” and “inclusion of new ideas.”

Improvements in percentage satisfied were not quite as dramatic. Scores for the third reporting period were equal to or better than the scores for all but three items compared to the scores for the second reporting period – “I felt safe,” “mediation outcome better than court would have been,” and need for an interpreter. “Overall satisfaction with the mediation process” improved by 6% (from 80% to 86%). “Learned how to negotiate more successfully with my former spouse” also improved by 6% (from 38% to 44%). “Able to put the needs of the children first” improved by 9% (from 73% to 82%). And “inclusion of new ideas” increased by 10% (from 66% to 76%).

Some of these scores remain lower than the scores for the first reporting period. Five of the average scores from the first reporting period (“overall satisfaction with the mediation process”, “learned something new about my former spouse,” “able to put the needs of children first,” “mediation better than court,” and physical barriers) and seven of the satisfaction percentages from the first reporting period (“overall satisfaction with the mediation process,” “learned something new about my former spouse,” “well prepared for the mediation,” “able to put the needs of the children first,” “mediation better than court,” “inclusion of new ideas,” and need for interpreter) were higher than their counterpart scores for the third reporting period.

The satisfaction scores for the complete life of the program improved with this evaluation. Every average score increased, with “overall satisfaction with the mediation process,” “able to say what I needed to say,” “able to put the needs of the children first,” and “inclusion of new ideas” improving by .1 point or more. Fifteen of the nineteen percentage satisfied scores improved. “Inclusion of new ideas” improved by 5%. “Overall satisfaction with the mediation process” and “able to put the needs of the children first” improved by 4%. “Learned how to negotiate more successfully with my former spouse” improved by 3%. One score remained the same and three dropped by 1% -- “I felt safe,” “the mediation outcome was worse than the outcome I would have gotten in court,” and need for an interpreter.

Satisfaction scores differ from district to district. The overall satisfaction ratings over the three and a half years of the pilot project are shown in the next table. Two of the newest districts have the highest overall satisfaction scores.

When the data is restricted to the most recent reporting period, the scores for the districts with the longest history with the pilot project improve.

Over the first three and a half years of the pilot project, overall satisfaction scores were higher for the 119 participants who were not represented by counsel (94% positive) than for the 639 who were (86% positive).[[21]](#footnote-21) The breakdown of satisfaction scores for represented and unrepresented litigants on all of the satisfaction questions is shown below. Unrepresented litigants gave the project significantly higher scores on “learning something new about my former spouse,” “ability to put the children first,” “learning how to negotiate more successfully with my former spouse,” “including new ideas for resolving our disagreement,” and preference for mediation over going to court. Represented litigants had significantly higher scores for “understanding the process we were to follow.”

One possible interpretation of the areas with the largest differences – other than overall satisfaction with the mediation process – is that litigants with attorneys would have more thoroughly explored alternative approaches to resolving their disputes before coming to mediation. One would expect that there would be fewer new ideas or perceived learnings about the former spouse and how to deal with her or him when the parties had previously negotiated with their attorneys serving as brokers.

The differences in the comparative satisfaction scores are sufficiently small that it appears that attorneys are not systematically biasing their clients against the mediation process.

**Satisfaction Ratings for Represented and Unrepresented Participants**

|  |  |
| --- | --- |
| **Statement** | **Percentage Satisfied** |
|  | **Represented** | **Unrepresented** |
| The mediation was at a time relatively convenient for me  | 98% | 96% |
| The mediator treated me with respect  | 99% | 99% |
| I did not understand the process that we were to follow  | 90% | 81% |
| I was able to say what I needed to say during the mediation  | 93% | 94% |
| I learned something new today about my former spouse  | 25% | 38% |
|  I was not well prepared for the mediation today  | 92% | 91% |
| I was able to do a good job representing my point of view | 92% | 92% |
| The mediator treated both of us equally  | 95% | 96% |
| The mediator did not care about our case | 97% | 95% |
| We were able to put the needs of the children first | 79% | 82% |
| I learned today how to negotiate more successfully with my former spouse  | 36% | 57% |
| The mediation process was not fair to me | 92% | 93% |
| I did not feel safe here today  | 96% | 95% |
| Overall, I am satisfied with the mediation process  | 86% | 94% |
| Mediation is better than going to court | 89% | 93% |
| The outcome today was worse for me than it would have been in court  | 89% | 95% |
| The mediation included new ideas for resolving our disagreement  | 70% | 84% |
| I had difficulty participating because an interpreter was not present | 98% | 99% |
| I had difficulty participating because of physical barriers | 96% | 99% |

Participant satisfaction scores for individual mediators were consistently high for the third data gathering period. There are relatively few surveys for some of the mediators. Shaded columns in the table below indicate that a mediator’s scores are based on fewer than 10 completed participant surveys.

The only scores that seem troublesome are shaded in pink. Two mediators could do a better job of ensuring that participants understand the process. Two might query their fellow mediators to find out what they do to make sure that every participant feels that s/he has said what s/he needed to say. Two mediators have lower than average scores on perceived fairness – one arose from the question about treating both participants equally and the other from a low overall “fairness” rating. One mediator had a low score on participants’ feeling of safety. Three mediators had low scores on overall satisfaction with the mediation process.

On the other side of the coin, we note several instances where mediators appear to be performing considerably above average on the most difficult aspects of the custody mediation process. These scores are highlighted in light green on the table. One mediator scores very high from participants on “learning something new about my former spouse today.” Participants for three of the mediators give themselves very high scores for being “able to put the needs of the children first” during the mediation; those mediators are undoubtedly doing something to achieve that result. Two mediators get very high scores for participants’ “learning how to negotiate more successfully with my former spouse” – a key objective of the North Dakota mediation project. Finally, six mediators score very highly on introducing new ideas into the mediation process. We urge the program administrator to ask these mediators to explain to their colleagues on one of the periodic mediator conference calls (or at some other training opportunity) the techniques they use to which they would attribute these exemplary results.

We will provide individual reports for each mediator, showing their third data gathering period scores along with the average project-wide satisfaction percentages. For mediators who participated in the project at the time of the second interim report, the individual reports also show their previous average scores.

**Average Participant Satisfaction Scores by Mediator**

| **Statement** | **Mediator Number** |
| --- | --- |
| 1 | 2 | 3 | 5 | 7 | 8 | 9 | 10 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 24 | 25 | 26 | 27 | 28 |
| The mediation was at a time relatively convenient for me  | 100 | 100 | 100 | 93 | 98 | 100 | 100 | 88 | 98 | 91 | 100 | 100 | 100 | 100 | 96 | 97 | 100 | 96 | 100 | 100 | 100 | 100 | 92 |
| The mediator treated me with respect  | 100 | 100 | 95 | 97 | 100 | 100 | 100 | 100 | 100 | 95 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |
| I did not understand the process that we were to follow  | 90 | 93 | 85 | 93 | 85 | 90 | 92 | 90 | 89 | 86 | 91 | 100 | 100 | 93 | 80 | 83 | 92 | 86 | 90 | 95 | 86 | 100 | 86 |
| I was able to say what I needed to say during the mediation  | 92 | 100 | 96 | 96 | 97 | 100 | 96 | 76 | 97 | 84 | 100 | 100 | 100 | 100 | 79 | 100 | 100 | 93 | 91 | 95 | 93 | 100 | 97 |
| I learned something new today about my former spouse  | 33 | 38 | 17 | 30 | 31 | 29 | 30 | 40 | 15 | 38 | 17 | 50 | - | 18 | 16 | 38 | 22 | 20 | 25 | 63 | 30 | 14 | 29 |
|  I was not well prepared for the mediation today  | 91 | 96 | 95 | 89 | 97 | 100 | 96 | 87 | 92 | 84 | 89 | 100 | 100 | 93 | 87 | 87 | 100 | 85 | 89 | 80 | 88 | 86 | 89 |
| I was able to do a good job representing my point of view | 100 | 92 | 78 | 96 | 97 | 93 | 100 | 72 | 95 | 82 | 91 | 100 | 100 | 100 | 88 | 87 | 100 | 88 | 88 | 100 | 86 | 100 | 97 |
| The mediator treated both of us equally  | 100 | 96 | 96 | 90 | 100 | 100 | 96 | 89 | 97 | 97 | 100 | 100 | 100 | 100 | 100 | 94 | 80 | 96 | 100 | 100 | 97 | 86 | 95 |
| The mediator did not care about our case | 92 | 96 | 100 | 97 | 100 | 100 | 97 | 100 | 98 | 88 | 100 | 100 | 100 | 100 | 96 | 94 | 100 | 96 | 91 | 100 | 96 | 86 | 100 |
| We were able to put the needs of the children first | 80 | 81 | 86 | 92 | 71 | 83 | 96 | 75 | 88 | 69 | 90 | 100 | 50 | 88 | 63 | 84 | 100 | 71 | 100 | 85 | 71 | 71 | 87 |
| I learned today how to negotiate more successfully with my former spouse  | 57 | 42 | 80 | 53 | 42 | 30 | 44 | 36 | 45 | 50 | 57 | 100 | 50 | 20 | 28 | 46 | 70 | 38 | 50 | 69 | 27 | 40 | 38 |
| The mediation process was not fair to me | 100 | 90 | 96 | 86 | 97 | 100 | 96 | 76 | 91 | 82 | 100 | 100 | 100 | 96 | 95 | 86 | 100 | 96 | 91 | 100 | 96 | 83 | 92 |
| I did not feel safe here today | 100 | 96 | 100 | 100 | 100 | 94 | 90 | 94 | 97 | 81 | 100 | 100 | 100 | 93 | 100 | 94 | 100 | 100 | 100 | 100 | 97 | 100 | 98 |
| Overall, I am satisfied with the mediation process  | 100 | 95 | 95 | 92 | 78 | 100 | 100 | 67 | 95 | 81 | 90 | 100 | 100 | 96 | 72 | 81 | 85 | 92 | 80 | 100 | 71 | 86 | 86 |
| Mediation is better than going to court | 100 | 96 | 100 | 96 | 81 | 93 | 92 | 85 | 96 | 88 | 100 | 100 | 100 | 100 | 94 | 88 | 92 | 88 | 100 | 100 | 77 | 100 | 79 |
| The outcome today was worse for me than it would have been in court  | 100 | 95 | 94 | 95 | 77 | 72 | 90 | 70 | 94 | 77 | 100 | 100 | 100 | 96 | 71 | 82 | 100 | 90 | 78 | 87 | 90 | 100 | 92 |
| The mediation included new ideas for resolving our disagreement  | 90 | 76 | 82 | 89 | 72 | 71 | 74 | 69 | 87 | 76 | 88 | 100 | 50 | 86 | 50 | 69 | 63 | 77 | 40 | 71 | 43 | 75 | 87 |
| I had difficulty participating because an interpreter was not present | 100 | 100 | 100 | 100 | 93 | 97 | 100 | 94 | 100 | 95 | 100 | 100 | 100 | 100 | 100 | 97 | 100 | 96 | 91 | 100 | 100 | 100 | 100 |
| I had difficulty participating because of physical barriers  | 100 | 100 | 100 | 100 | 89 | 97 | 96 | 94 | 100 | 94 | 100 | 100 | 100 | 96 | 100 | 97 | 100 | 92 | 100 | 100 | 93 | 100 | 100 |

The data shows no significant difference in satisfaction among whites and non-whites. Whites had an overall satisfaction score of 87%; the overall satisfaction scores for American Indians, Other races, African Americans, and Asians were 83%, 79%, 86% and 100% respectively. There were no scores reporting unfairness or unequal treatment among minority group responses. No minority group member reported the need for an interpreter.

There were five scores for minority groups that were somewhat lower than the average satisfaction scores for all mediation participants. American Indians reported lower scores for “mediation is better than going to court” (80% agreement versus 90% agreement for the study average) and “outcome today worse than it would have been in court” (76% disagreement versus 89% disagreement for the study average). Persons reporting “Other Race” reported lower scores for understanding the process to be followed (75% versus 88% for the study average), “able to say what I needed to say during the mediation” (81% versus 94% for the study average), and “mediator cared about our case” (84% versus 97% for the study average). Even though these scores are lower than the average, they are still quite high in an absolute sense. They do warrant further attention in the final evaluation report due later this calendar year.

Women and men had virtually the same overall satisfaction with the mediation process (women 86% and men 87%). Areas in which there were significant differences in the perceptions of women and men are shown below. Women are more likely to feel that they understand the process, that they are well prepared, and that the mediation outcome was better than it would have been in court. Men are more likely to feel that they have learned something new about their former spouse, that the parties were able to put the needs of the children first, that mediation is better than going to court, and that the mediation included new ideas. These differences are of no particular significance for the mandatory mediation process.

**Differences in Satisfaction Scores between Women and Men[[22]](#footnote-22)**

|  |  |  |
| --- | --- | --- |
| **Statement** | **Women** | **Men** |
| I did not understand the process that we were to follow\* | 90% | 85% |
| I learned something new today about my former spouse | 23% | 35% |
| I was not well prepared for the mediation today\* | 94% | 87% |
| We were able to put the needs of the children first | 78% | 82% |
| Mediation is better than going to court | 89% | 92% |
| The outcome today was worse for me than it would have been in court\* | 92% | 86% |
| The mediation included new ideas for resolving our disagreement | 71% | 75% |

At the time of the second interim report, persons between the ages of 45 and 54 were the least satisfied with the mandatory mediation process. The chart below shows a slightly higher satisfaction level for persons at both ends of the age spectrum. There were only ten surveys for persons in the oldest age group.

At the time of the second interim report, the data showed that more highly educated persons were somewhat less satisfied overall with the mediation process than persons with lower levels of education. The data for the first three and a half years of the program show relatively little difference in overall satisfaction by level of education, except for persons with the least education. There are only 8 surveys from persons with a 4th grade education or lower and only 5 surveys for persons with education from 5th to 8th grade, so while the very high satisfaction level for persons with the least amount of education is a real finding, it is based on relatively few surveys. Persons with education of 9th through 11th grades now show the lowest levels of overall satisfaction with the mediation process.

We separately analyzed the data pertaining to reported understanding of the mediation process and “did a good job representing my point of view.” Reported understanding of the process is consistently high except for persons with education from grades 5 through 11 where there are significant drops in reported understanding. Ironically, perception of ability to represent one’s point of view declines with educational attainment. And perceived ability to represent one’s point of view is very high for those groups who report poor understanding of the process.

Scores for persons with higher income levels are somewhat higher for overall satisfaction with the mediation process than for persons with lower income levels, although there are notable exceptions. The results are influenced by a relatively low number of surveys in the $6001-$7000 (23) and $7001-$8000 (16) income ranges. There is no consistent pattern for scores on the other satisfaction questions.

We note in passing that the $7,000 to $8,000 income range is the least likely to reach agreement during mediation, but is nonetheless one of the two highest in their overall satisfaction with the mediation process.

## Participant Comments

The survey forms gave mediation participants an opportunity to record the aspects of mediation that were most and least helpful. Here is a full list of those comments with the “most helpful” and “least helpful” comments of each participant reported side by side, along with the county in which the mediation took place.

Our first and second interim reports included similar set of comments. We have chosen not to repeat them here. Readers wishing to have all of the comments from the first three and a half years of the project’s surveys should refer to the earlier reports.

These comments provide sobering material for understanding the context within which parenting time mediation takes place. The parties are often bitter and highly conflicted. The issues separating them are of long-standing. The comments demonstrate the problems faced by North Dakota’s mediators and highlight the significance of the pilot project’s success rate in achieving agreements.

The most consistent positive comments are the value of discussing the issues on which they disagree with a neutral third party, the mediator’s ability to create an environment in which the parties were comfortable expressing their views and feelings, the helpfulness of the mediator’s restatement of the parties’ views in ways that allowed the other party to understand and appreciate them, the mediator’s ability to interject new options and ideas into the negotiations, and the parties’ appreciation of having the autonomy to reach their own decisions.

**Participant Comments from Third Data Collection Period**

| **Location** | **Female most helpful** | **Female least helpful** | **Male most helpful** | **Male least helpful** |
| --- | --- | --- | --- | --- |
| Fargo | the one on one, she wrote everything down  | didn't even discuss child support -- guess the judge will have to do that | not much happened, just went over stuff we are going to court for | the mediator was not too interested in our case when we called her more times than one she said "your guys paper work was on the bottom and I forgot about you." Really a waste of time, nothing accomplished. |
| Grand Forks | the fact that S--- and I could talk with each other and not be interrupted or have to worry about anyone else putting their two cents in |  | being able to talk in a closed setting |  |
| Fargo | having a person we didn't know and knowing the law | nothing really | putting things into words | the attorneys |
| Bismarck | I got to finally hear from J---- what he wants | he refused to come to an agreement and wants to go to court | that I now know where my former partner and I stand | nothing was wrong with the mediation I think it went as well as it could have |
| Grand Forks | not having to pay lawyers for the back and forth -- (Mediator) is a very nice person |  |  |  |
| Bismarck |  | my ex-spouse being unreasonable |  |  |
| Bismarck | we came to an agreement and hopefully won't have to go to court and let a judge decide | It was very helpful | all of it | none of it |
| Bismarck | we had to sit down and talk | nothing got better because of it | nice to be able to sit down and talk because under normal circumstances that would not happen | that it is still up to the parties to make a decision and we failed at making one |
| Bismarck | (mediator) kept discussion moving in the right way |  | trying to get point across | the other party was not open to ideas |
| Minot |  | all the yelling |  |  |
| Grand Forks | less time in court | seems she did all the talking -- would cut us off -- also seemed geared to getting only father rights | talking it all out |  |
| Fargo | it got us in the same room to discuss issues face to face and make decisions instead of the constant back and forth between our lawyers | our mediator was a little impatient at our second and final session -- I assumed he was having a bad day, but we still both felt a bit put off |  |  |
| Grafton | we made a schedule and agreed on it  | everything worked okay | being able to sit down and talk |  |
| Fargo | the fact that the mediator was unbiased | that past happenings were not taken into consideration | free time |  |
| Fargo | having the mediator's perspective | the mediator believed everything my ex said -- my ex even seemed to manipulate the mediator into thinking it is best for my son to spend all of Christmas break with him and not see me (the mom) during Christmas | having a resolution when all was said and done | at the end of it, no new level of communication was reached between the two of us -- it still took a third party to reach an agreement |
| Bismarck | nothing was resolved | other lawyer got mad and left |  |  |
| Grand Forks | understanding the process | no agreement |  |  |
| Devil's Lake | being able to talk | nothing in paper like a judge, no ruling |  |  |
| Devil's Lake | good | good mediation | was able to talk to spouse in a calm manner |  |
| Minot | someone present to sit down and not have to be alone with spouse - to help redirect | not enough time -- felt a little rushed to make major decisions | the mediator kept great control of the proceedings | the plaintiff's uncertainty -- not able to make a sound decision |
| Grand Forks | (Mediator) helped us keep on track "things from the past are not going to help resolve things today" | my spouse would not be reasonable at all -- wouldn't work things out -- very bitter | resolved some of our issues | my wife is unwilling to put the kids first -- the parenting time is not sufficient for my children |
| Garrison |  |  | the mediator's patience was amazing |  |
| Fargo | agreed on parenting plan | my ex was never prepared |  |  |
| Bismarck | resolving some of the custody issues | having former spouse disagree on most of my suggestions | it kept communication open and flowing, prevented fighting and a communication breakdown that always happened before mediation -- also saved time and court costs | nothing -- I would recommend this |
| Grand Forks |  | nothing resolved |  |  |
| Grand Forks | I got to get out some feelings I had about him that I couldn’t say for fear he would use it against me | I did not find it helpful because I knew he wouldn't side with what I thought was right for our daughter | I got a chance to try to explain why I should see my daughter more |  |
| Fargo | breaking down schedules and certain scenarios that may come up | getting my former spouse to agree on what’s best for the kids | none |  |
| Grand Forks |  |  | nothing - if we could resolve this we would not be in court |  |
| Fargo | the mediator was excellent, tried with my ex and would have had good outcome if ex would have participated  | my ex choosing to act the way he did, switch rooms and refuse to be predictable | separate rooms -- a chance to work things out in an inexpensive way |  |
| Bismarck | this process has potential if lawyers don't abuse and sabotage the concept -- the goal needs to be to actually resolve issues rather than to increase adversity -- Both my former spouse to be and I were "played" by our counsel, not the mediator. | Felt like two hours of mediation time was wasted with orientation. Provide hard copy orientation materials or use prerecorded modules via distance learning format. Lawyers were unprepared on both sides and it increased tension, anxiety and reduced potential resolution-- also heightened defensiveness. |  |  |
| Dickinson | to have the parenting plan as another outline for the needs of the child | no comment |  |  |
| Jamestown | having a third party to give ideas | all of it was helpful | new ideas on how to resolve issues | it was all helpful |
| Grand Forks | mediation beneficial but hard when my ex does not put kids first -- only wants to make things difficult | The session itself was good. The discussions that took place were ones where I was hopeful would change some things but that has not happened. | talking so my ex- spouse would understand my view on things, not just her emotions | trying to say something about a situation and being interrupted by my ex or her new husband -- although we did get through it I was frustrated at times |
| Fargo | safe environment to start process -- neutral party trying to help settle difficult decisions | not enough time -- was not able to settle on child needs and custody --- did not get through important things | got a summer schedule for kids  | too many people involved -- no or little progress |
| Carrington | being able to talk about things openly | I feel as though nothing was accomplished | keeping us talking and making it very comfortable for both of us | my ex wife |
| Fargo | just having a neutral party present |  | very helpful |  |
| Minot | (mediator) was nice and helpful due to the circumstances | (ex's) attitude and swearing | nothing  | nothing |
| Grand Forks | that we could agree on some things  | that we couldn't agree on the rest of the things |  |  |
| Grand Forks | said what I needed to say without getting too upset and was actually heard and acknowledged |  |  |  |
| Grand Forks |  |  | nothing |  |
| Carrington | being able to communicate with former spouse with (mediator) to hear things discussed unbiased to either situation |  | talk between me and my spouse |  |
| Fargo | she took her time | nothing | figuring it out ourselves |  |
| Jamestown | not having to talk with my ex-husband and coming to some agreements on certain things |  | being able to resolve issues with a no contact order |  |
| Carrington |  |  | the open table forum it was in | some "lawyer' words used I did not quite understand |
| Devil's Lake | we were able to discuss a few things but they were things we had already discussed and decided upon | mediator did not direct us effectively -- she could have directed our conversation better -- she allowed us to argue about nonproductive stuff -- had my lawyer not prepared what she did for me we would have sat there and stared at each other  | less stressful than a courtroom | I thought it was good |
| Grand Forks | having another person tell my ex-husband that he needs to be open and fair |  |  |  |
| Not reported | being able to put all the issues up front and seeing where my spouse was with them | my spouse could not make it to the mediation so it was done over the phone with me present and him teleconferenced |  |  |
| Fargo | (mediator) was very kind and knowledgeable -- helped us see things in a different light and we were able to solve some issues -- would recommend her and the process | the fact that we could not solve our biggest issue -- parenting time and custody issues -- my children's father has a skewed view of how things should go and we are now moving on to a personal investigator |  |  |
| Fargo | was able to say what I needed to him with no fear | I was unsure of making decisions in mediation - if they were best interest instead of just compromise | normal | doesn't care |
| Grand Forks | the suggestions the mediator provided |  | the most helpful things was the fact that someone in the legal system is there to point scheduling in the right direction with the kids between the two parents and that the state provides it (mediation) | nothing that I can think of because it all worked out the way I originally intended and suggested  |
| Grand Forks | getting the plan worked out in some way | not realizing my situation and fears for my kids | nothing | it was nothing but fighting and name calling -- all I received from the whole thing was verbal abuse from another party |
| Grand Forks | having the mediator break the ice or change the view of conversation | trying to figure out anything when my ex was inevitably inconceivable |  |  |
| Minot |  |  | the communication aspect within a safe environment | Too many off topic moments |
| Jamestown | the mediator | being in the room with my ex |  |  |
| Bismarck |  |  | feeling safe when talking about children and keeping on track |  |
| Bismarck | nothing was resolved | that M--- was not willing to agree to anything |  |  |
| Not reported |  |  | being able to discuss agreement for kids |  |
| Cavalier | mediator helped get points across  | time -- didn't feel it addressed everything |  |  |
| Jamestown | the ideas and examples she gave us |  | (mediator) seemed to individually take points of view and help convey them |  |
| Jamestown | sit down and talk things out |  |  |  |
| Jamestown | have a neutral party hear and reflect/restate our comments -- clarify/validate | my spouse | both sides presented  | none |
| Bismarck | being able to discuss things without feeling the pressure of attorneys and a judge -- it was more relaxed |  | we got to talk -- both of us | I wish they were more involved as far as what each other's rights are |
| Devil's Lake | knowing I could say what I needed to say | We didn't get everything resolved -- still waiting to find out about child support |  |  |
| Fargo | It brought us together and we had to talk about issues -- something he wouldn't do before  | It doesn't resolve the conflict or the reason why we're here -- it's not necessarily about the father's time with his son -- it's more about money and control |  |  |
| Grand Forks |  |  | talking about issues | I think it was all beneficial |
| Fargo |  |  | child support | custody |
| Carrington | when he shut down, mediator opened the discussion back up and my question was answered -- she also pointed out our communication styles |  |  |  |
| Grand Forks | he helped us work out a solution that was best for both of us and our daughter | nothing | we were able to work out issues | nothing |
| Grand Forks | that we came to an agreement in a calm, collective way | nothing | the ability to talk in an unstressful environment | nothing |
| Grand Forks | in this particular situation I knew mediation would not help with the other party |  | finding out T--- hasn't changed | nothing resolved |
| Fargo | Neutral environment without unneeded stress | not having enough time I felt I needed in the meeting | How he was there to listen to both parties and help us make a decision |  |
| Grand Forks |  |  | it's over | the pain |
| Grand Forks | did not help | he was not truthful | it gave me an opportunity to speak with her, without the facilitation that would not have happened |  |
| Fargo |  |  | talking openly |  |
| Bismarck | place of exchange  | impasse | the ability to know what is being requested and what is being expected from the other party | it ended with no complete resolution |
| Mandan | getting together and putting ideas on the table | sometimes I felt I wasn't prepared enough to make some decisions | being able to sit down with spouse and talk about things without fear of being judged |  |
| Grand Forks |  |  | fast, easy, understandable |  |
| Fargo |  |  | having a third party to discuss the problems | nothing went very smooth |
| Grand Forks |  |  | the atmosphere allowed for discussion; the mediators kept us focused | agreeing on something only to have my wife change her mind later |
| Bismarck | We got nowhere - mediation didn't help at all | I feel like nothing could have helped in our situation without the help of my child's father | to understand about how my daughter is acting | nothing |
| Mandan | able to express my view | nobody could say anything other than V---- or me. |  |  |
| Not reported  | nothing | I did not clearly understand the process. I felt misunderstood and was not getting a fair agreement. I'm sorry, but I didn't feel the process was explained to me and I didn't feel treated fairly |   |   |
| Bismarck | We can work together to come up with schedules | All was helpful | It let us share both our points of view without being in a courtroom | Everything was helpful |
| Bismarck | I saw it made the other party understand what he could not in normal circumstances |  | was at a convenient, central location |  |
| Bismarck | (Mediator) helped us through many situations | everything we did was helpful | worked out for my schedule, was able to span multiple weeks/meetings |  |
| Dickinson | having someone there to put us in our place and work things out -- having someone laid back and who went out for breaks with us | not having it in same town as residence |  |  |
| Grand Forks |  |  | shortened process | felt pressured to settle |
| Bismarck |  |  |  | Our papers were "lost" for one month after we filed. Scheduling was a joke; it took over 3 months. I want an explanation why it took over 5 weeks to receive our final copy from our last meeting. |
| Bismarck | (Mediator) listened carefully and was neutral -- focus was on the best interests of the children. Without this process we would have argued in court. I believe I would have benefited financially, however my children would have suffered. We are better parents together now than we have ever been. I credit the mediation process with this. M is a great mediator! | The inherent conflict in divorce; but mediation had no bearing on that. | being able to work out differences over and between multiple meeting times | by having the discussion primarily between us, former patterns of disagreement resurface leading to deadlock. |
| Dickinson | being able to talk about things without fear of fight | in the end, nothing was accomplished only because parties could not agree - mediator did her job | the mediator's explanation of what the judge will look for in our case | my ex wife |
| Fargo | having someone relaxed and calm be impartial and give clarity of options | pressure | the neutral environment of mediation and options available |  |
| Dickinson | talking things through |  |  |  |
| Fargo | greatly helpful, thank you |  | moved along quickly |  |
| Grand Forks | they were willing to try to make conversation continue even after J--- was done talking | J--- was unwilling to compromise | nothing, to be honest, guess I had my set beliefs | little uncomfortable |
| Minot | that it could help me avoid going to court and come to an agreement outside of court like it should have |  | the mediators holding the children as top priority | ex-spouse being unwilling to put children's well-being over her possession of custody -- her custody was more important than the kids' happiness |
| Bismarck | someone being able to speak with my spouse and help him understand what I need out of the disagreement with the children | my spouse | having a third party available kept tensions down and help us see things a little clearer | I felt my spouse did not take the process seriously and that mediation does not allow for evidence of such to be brought forth |
| Bismarck | We decided everything ourselves instead of having an outsider involved in decisions |  |  |  |
| Grafton | having a neutral party there to explain different ideas or ways of coming to an agreement on certain subjects | still have to deal with him when I get home |  |  |
| Fargo | I felt safe to say what I needed for the best interest of my child | The opposite party -- my former partner | very helpful | partner is still accusing |
| Minot | we didn't get anything solved at that time | that we didn't get anything solved  | understanding K--- is not easy to work with  | partner not working with me |
| Grand Forks | neutral ground |  |  |  |
| Minot |  |  | being in a neutral place to discuss the separation and the splitting of parental time and property |  |
| Grand Forks | it was informal |  | to get through this |  |
| Grand Forks |  |  | getting rid of the wishing well because it was hard on us |  |
| Grand Forks | one on one |  |  |  |
| Grand Forks | have someone who could talk in a calm voice when I couldn't | everything was great -- glad for this process | having someone keep control and keep things flowing in order |  |
| Minot | coming to an agreement without court |  | was able to sit down one on one without my ex's mother here | there wasn't anything in particular that didn't help |
| Devil's Lake | getting extra options and opinions to help come to common grounds with one another with no hard feelings |  | free discussion; unbiased questions |   |
| Minot | he had an open mind and was helpful in getting us to come to an agreement |  | professional and neutral approach taken by our mediator |  |
| Bismarck | negotiating things out even if we didn't agree entirely | didn't solve everything | that we were able to speak our minds and state what we wanted | that some decisions come to a standstill; however mediation would then end that topic |
| Bismarck | having a neutral party to help us with our decisions -- he knew what he was talking about and helped us with this difficult process |  | having a mediator who knew the system and all the guidelines of the court -- he understands where we are both coming from -- he was very neutral | mostly everything was helpful |
| Grand Forks | children's issues | the defendant was allowed to bully me |  |  |
| Grand Forks | being able to express our reasons for what I wanted without the lawyers |  |  |  |
| Minot | mediator was able to explain things to help me understand what we were discussing | nothing | being able to talk to a neutral party | figuring out who gets what |
| Minot |  |  | it was not in a nervous court setting and I was comfortable talking to the mediator | wife was there! |
| Minot |  |  | talking things out about the kids with my ex |  |
| Minot | being in the same room with ex-spouse to actually talk but felt he was unreasonable and not willing to compromise | feels like mediator should have had more input -- I felt at times she was a body in the room to keep us on track. Legal advice, more options would have been helpful. I understand she cannot do that, but it would have helped immensely. |  |  |
| Minot | nothing was helpful about mediation - it is the same as it has ever been, trying to agree with L-- |  | I figured out more ways to negotiate with my ex about picking up and dropping off our son | As soon as I brought up using my wife as my third party my ex refused it and decided to leave and would not work with me |
| Not reported | being able to talk with people present so he couldn't control me and threaten me. He had to listen to what I had to say without butting in and putting me down. The mediators had many ideas to help us figure things out. | He lied about his assets, his 401K, etc., so I agreed upon stuff without full knowledge. But afterwords we met with our lawyers together and came to a better agreement, but kept many things that we agreed about from mediation. | nice people, no lawyers |  |
| Bismarck | my favorite line by the mediator was "that's not what I'm hearing" | not going to court | you could talk in private if need to  |  |
| Grand Forks | they let me get my anger and frustration out | there really wasn't anything | able to get my point across to my ex wife | That the attorney did not take all the agreed information to court |
| Grand Forks |  |  | talking | getting plaintiff to see my side of things |
| Not reported |  |  | it was a big waste of time and tax payer money | mediator was more concerned with getting his allotted hours in for the state to get paid -- had no interest in our case |
| Grand Forks | learned what we did agree on | I do not believe mediation is necessary when both parties know they are not going to agree on things | they helped us communicate better | T--- not listening |
| Dickinson | she made me feel safe and she was equally fair |  |  |  |
| Minot | he guided us | it was the only way this would have gotten done | it broke the ice between us and got things moving |  |
| Grand Forks |  |  | I had someone to help clarify things | not having the other party present and phone disruptions |
| Bismarck | I didn't think this was a necessary avenue in my case | This agreement is very similar to my original divorce papers. In our case this mediation process was a waste of time and money | discussing and establishing a visitation plan between my kids and myself | nothing comes to mind |
| Bismarck | the fact that both me and my partner could sit and talk peacefully with an unbiased person | really don't have any complaints |  |  |
| Grand Forks | having a neutral party present to keep things on track |   | we came to no conclusion so I cannot answer this | same |
| Bismarck | being able to discuss things with a neutral party to help me understand and to suggest options | limited amount of time to reach final agreement | Mediator does a good job of getting parties talking | Difficult to make real progress without separation of the parties |
| Minot | less expensive; less lawyer's fees; impartiality | time arrangements; mediator was very good | it was free | none |
| Bismarck | everything made things a lot clearer and made it very easy for me and my spouse to come to terms -- it was great |  | reassurance that Dad doesn't always get shorted |  |
| Grand Forks | it was nice to have a neutral party so we could express ourselves without interruptions | highly recommend (our mediator) -- very positive and helpful | (Mediator's) skills and attitude, saving money, less time with lawyers | nothing |
| Bismarck | Able to talk with or through someone to come to some agreements | not being able to agree on 1 thing | finally find out what she really wanted | couldn't totally agree on some subjects |
| Minot | mediator did try to present different options but the unwillingness to come to a compromise made issues unagreeable | Pressure to be the one to make the compromises due to the other party's unwillingness | being able to come to a formal agreement on at least some items was good | dealing with former spouse being stubborn on issues |
| Bismarck | the mediator helped me get things settled amongst ourselves that we wouldn't have otherwise | everything was helpful | the mediator |  |
| Grand Forks | meeting with my lawyer first and being prepared |  | examples of prior types of mediation and settlement -- the mediation experience | overall it was very helpful |
| Minot | telling my concerns about the children | that the children would still be affected by spouse behavior even after expression of my concerns -- spouse backed out of the deal |  |  |
| Bismarck | being able to talk it out with someone else present so there was no arguing | It was all helpful |  |  |
| Bismarck | Mediator had all the decisions we had agreed to and made them less complicated and easy to remember | We still didn't agree that I would get primary custody of V--- | being able to talk and set a schedule that would work for V--- |  |
| Minot | (Mediator) was very professional |  | Having an independent third party that is knowledgeable and experienced provide guidance and insight | I can't think of anything -- Perhaps if it were somehow more "binding" |
| Bismarck | (mediator) was great at bringing us back to the issues at hand and moving forward |  | understanding the other side's position | sides too far apart to take advantage of mediation process |
| Grand Forks | being able to sit down and balance things out to ensure that the needs of our son are addressed and all involved need not worry | nothing -- I believe the entire process has helped all of us involved |  | nothing |
| Dickinson | someone there to "referee" |  |  |  |
| Grand Forks |  |  | complete divorce proceeding without representation | I couldn't spend more money (Joke) |
| Grand Forks | we got to talk it through with a neutral person |  | having an impartial person explain things |  |
| Grand Forks | to have other opinions about our case -- to have my ex-spouse listen to what is best for the boys -- (mediator) was great -- pushed when he was going the other way | I'm not sure anything was least helpful -- better than court! No one was in court | not preparing for court process, saving money | having to give when in court I may have not had to give anything |
| Grand Forks |  |  | I was optimistic that it would be. However, it was not. The most helpful thing was I could negotiate what little the system would allow without hitting more systemic barriers. | First, I had Judge --- who thought my case was someone else's and made decisions based on what she thought was causing a financial burden on me to move forward in court. When my lawyer advised her she was quoting misinformation in my affidavit, she realized her error and even stated she mixed the cases up, but still put the burden on me even though I had a doctor and educator support affidavits for my motion. Therefore, I had to rely heavily on mediation. In the mediation I learned that my ex-spouse and one of the mediators had conversations outside of mediation regarding schools and which system was better, which was a topic during my mediation and a sticking point. She informed my ex- spouse that ND schools were better with the programs we needed. I was fighting for school in MN. My ex-spouse even stated that the mediator was also a special education mediator and she knew better. Through these conversations and apparent one sided notes favoring my spouse and her friend who attended mediation, I had to withdraw my motion. I felt that I was mistreated by the system for attempting to make a better life for my family and had to potentially lose thousands of dollars to do so. My ex- spouse is not mentally stable, suffers from depression, and is attempting to seek help as she herself admitted in the mediation and that was never captured. My ex-spouse was argumentative and focused on the past, not the future of the kids. None of this appeared to be captured by the mediators. I feel that this process was gender biased and unfortunately my children may have to suffer for it. |
| Grand Forks | Able to talk  |  | talking about everything |  |
| Bismarck | The mediation process is a very good idea. I just felt that my spouse was not able to comprehend or understand my concern with finances, etc. I think the judge will understand and my spouse can interpret his rulings… | It's very hard when the mediator is to remain silent when he may be able to get my spouse to understand and listen to what I needed to have him assist me with. | the kindness and professionalism of our mediator -- he tried to get the divorce resolved -- I feel he did a great job - we both agree on that | the many disagreements between me and my wife |
| Grand Forks | having the mediator make suggestions | the lack of my spouse to bend on issues | everything but parental custody |  |
| Grand Forks | the mediators asking questions |  |  |  |
| Bismarck | gave us some options | none | talking things out | nothing |
| Grand Forks | being able to voice opinions about my child's emotional states during the reintroduction of the other parent | having to look at my ex | the whole process | the custody issue |
| Grand Forks | In our case, we realized after one meeting that we were not going to resolve our issues with mediation. We needed to set a court date. |  |  |  |
| Grand Forks | I can still see that he is a lying sack of sh--- |  | We were able to take care of the items that we agree on with no problem or cost of attorneys |  |
| Grand Forks | (Mediator) did a great job of changing direction when needed |  |  |  |
| Bismarck |  |  | The mediator was the most helpful aspect. She talked us through situations that would never otherwise have been resolved without a judge's order -- very sensible | very helpful, no quarrels |
| Dickinson | this is something I wish we could have done sooner. Instead of wasting money on attorneys our mediator helped us make mature decisions for the best of our child. I would strongly recommend this. | I wish this could have occurred before we had to go to an interim period. Everything was great. Better outcome with communication that I could have expected from this process. Thank you for caring about us and our son. | Felt like we were finally both looking for the best interest of the child and not the personal failings |  |
| Grand Forks | That there was a nonbiased person that listened to and took into account both sides of the story. | I was very pleased with every aspect of the mediation. | that I found out what my former wife wanted  | nothing |
| Grand Forks | being able to talk with mediator present |  |  |  |
| Bismarck | It kept our conversations at a civil and intellectual level | Sometimes issues were repeated | getting things done faster |  |
| Grand Forks | When we talked she listened and suggested different ways to get to an answer |  | We were able to come to terms easily |  |
| Grand Forks | redirection | my desire to be argumentative | being able to talk things out with my spouse |  |
| Fargo | (Mediator) was able to calm down my ex when he got very irritated | my ex-husband getting angry | getting things done out of court | giving in |
| Bismarck | somebody else redirecting and having new ideas |  | saying what was needed to say and also hearing each other and listen | not sure |
| Bismarck | very good at rephrasing and understanding our situation |  | resolution to what could have been a very painful, long, expensive process |  |
| Cavalier |  |  | having a neutral party to tell my spouse to relax | Don't really know -- it just helped to settle our differences |
| Grand Forks | talking to another party who understood me (the mediator) She was very wonderful to talk to and work with |  | she made me realize that I should not give up |  |
| Grafton | I was able to say something that bothered me | The mediator gave legal advice to my spouse about how he should go after alimony. The mediator was also incorrect about an agreement, I contacted the mediator to try to correct the error, but she never responded. | explaining our true feelings | disagreeing |
| Grand Forks | (Mediator) really listened to us and paraphrased back "what he thought" we were saying to ensure we were on the same page. He had good suggestions as to what he thought might work when we were in disagreement | At times I felt a little pressured to be able to make decisions so that the case could be resolved today | getting process explained so I understood what was going on | I thought it went well -- didn't find too much if anything that I didn't like. |
| Grand Forks | having someone else present |  |  |  |
| Minot | having the opportunity to solve issues outside of court | no real way of helping either side see reason due to the need to be impartial |  |  |
| Minot | we could attempt talking it out and resolving issues | We did not know who will have custody so therefore we could not make an agreement about many issues | just getting a chance to talk about the situation at hand | what happens in mediation should be recorded for future reference |
| Bismarck | discussing holidays and clinical visits | bills, taxes and how we couldn't agree on visitation | The mediator explained things well and was friendly throughout this tough process | nothing was accomplished |
| Bismarck |  |  | limited people present |  |
| Bismarck |  |  | she helped us agree on a lot | we couldn't agree on a lot of things |
| Bismarck | I thought that the best thing about mediation was that the mediator helped keep my ex and I on the same page so we didn't digress too much into our relationship issues | my ex was unable to focus on what is in the best interest of our child | seemed like it would be a good process/program but unfortunately the other party was not willing to negotiate | it was a good process and I have no complaints |
| Grand Forks | being able to discuss needs openly and objectively with spouse and reach agreement | child support issues | very helpful with the guidance or direction that we could go to resolve our case |  |
| No location | humorous at times, serious when appropriate -- she said "but J--- what I hear her saying is…". She kept a clear focus and pointed out irrational thought |  | able to talk with help to direct course | arranging schedule of mediation |
| Grand Forks | coming to agreement |  |  |  |
| Grand Forks |  |  | well, it got me one step closer to marriage closure and a half way decent custody deal for now | That I wasn't here in person so that the mediator could see my nonverbals. It wasn't her fault because I am deployed and over the phone was all we had. |
| Minot | She listened and really tried to come to a conclusion | my ex was changing his mind and was not thinking of the best interests of the children | was patient with other spouse | most of this was worked out before, but she would not sign divorce papers |
| Minot | I got to think of ideas and then got to go home and think about it. I was not rushed | That it did take a while to finally come up with a decision. | being able to talk everything through in an even manner and express my thoughts, opinions and beliefs | uncertainty of being able to back out or change everything no matter |
| Fargo | it was a neutral place and the mediator was someone neither of us knew so he was a great middle person to help us reach our decision | it was uncomfortable seeing my daughter's father at first since I haven't seen him in over 18 weeks and he hasn't seen our daughter in 18 weeks as well | just sitting in the same room with someone who could spell it out from A to Z |  |
| Grand Forks | we didn't resolve much but mediator was great and very helpful | it didn't solve our issues |  |  |
| Grand Forks | having an impartial third party to help come up with ideas and not take sides | having a stubborn ex | being able to sit down and talk without a biased third party | trying to change the other person's mind on certain subjects |
| Fargo | (mediator) was very good at helping us decide what was reasonable. Her relaxed and caring manner made both of us feel at ease | the two attorneys that we retained prior to coming -- mediator was clear and helpful | we were able to reason our way through and discuss each point | the wasted legal fees I spent prior to mediation -- I would suggest a worksheet for the two parties to fill out prior to mediation |
| Jamestown | being able to discuss my point of view |  | not much -- my ex-wife is very hard to deal with  | child support |
| Jamestown | other suggestions from third party, outsider | being in the same room | help in reaching an agreement  | nothing |
| Jamestown | being able to talk about each issue | nothing | being able to come to an agreement | nothing |
| Dickinson | learning new ways to communicate and decide things together -- always doing what is best for the child at all costs | nothing | being able to talk without a lawyer present | nothing, everything went smoothly |
| Jamestown |  |  | it gave the opportunity to discuss options for solving our problems that I hope will have positive impact on our children | I would have preferred to speak more directly with my Ex |
| Minot | the calmness of the mediator | the other side of the table | having the help to get through this | did not help with communication between us |
| Fargo | hearing both sides and how my spouse is feeling | not solving this | the understanding of what is going to be happening with the divorce | the fact that it is going to a judge in the end |
|  Hendrickson | being able to have separate rooms and to have a speaker phone in the room | I don't think there was anything least helpful | it showed me how much T--- cares | a delay to go to court |
| no location  | (Mediator) was down to earth, respectful and reminded us constantly to put our "wants" aside and to put our daughter's needs first. Having my attorney present was helpful. | trying to communicate with ex -- our attitudes got in the way of the process | Mediator was most helpful -- he did a very good job, but I could not get to what I even thought was a little fair when it came to Y--- it really is a great tool to have mediation and I feel it will help many people, possibly even us as yet | Y--- is only worrying about herself rather than our daughter. I feel she would not compromise to a reasonable extent at all |
| Fargo | setting things up |  | being able to talk and hear her side and her hear mine |  |
| Bismarck | I learned what the other parent wants and is willing to give in the case | the fact that we weren't going to move further | talking openly about our daughter and our goals | the making of proposals as to what was best for our daughter |
| Jamestown | having the mediator there to help make decisions |  | being able to express my feelings and concerns |  |
| Jamestown | being able to speak my concerns |  |  |  |
| Bismarck |  |  | getting both parties involved | getting my point across to my spouse |
| Fargo | Ex's point of no compromise | did not come to an agreement | Mediator trying to get us to think of different ways to work out our differences | We were not able to come to any sort of agreement and basically left in the same situation we came in |
| Williston |  |  |  | that nothing has to be adhered to that is addressed in mediation |
| Cooperstown |  |  | the mediator was super -- she treated both of us with respect and dignity |  |
| Fargo | she was able to help us stay focused as to why we were here -- she did an excellent job of getting us to be able to communicate | can't think of anything negative about the mediation | she was informative and very well informed about issues and was very helpful -- made the situation very comfortable | not being able to settle all the differences because of the other party |
| Fargo | communicating with the mediator about our situation |  | she provided great ideas and alternatives to make it work |  |
| Grand Forks | we worked at solutions for our child |  | being able to talk openly without argument |  |
| Bismarck | negotiation skills |  | chance to speak without interruption |  |
| Dickinson | the mediator's ideas about helping us calm down and think clearly |  | how neutral and understanding our mediator was |  |
| Jamestown | having someone in a neutral position who can give you insight on different topics |  |  |  |
| Minot | talking | talking | just trying to talk to S--- |  |
| Jamestown | she helped the other party understand better what I was trying to say | I didn't feel I could get my point across to the other party | that the mediator was neutral | that there was no agreeing on anything |
| Watford City | to know where he stands at this point because there is no communication |  |  | my ex wife |
| Minot | (Mediator) brought up different aspects that hadn't been looked at -- different situations with ways to resolve them | couldn't get an opinion on anything regarding this case |  | got nowhere |
| Grand Forks | taking in both points of view and letting us know the norm for custody/support cases |  | someone I could talk with, not against |  |
| Grand Forks | setting up holidays and visitation during the weekend | not giving me exactly the options I wanted -- ex got the options he wanted and I'm okay with the decisions we made | the cooperation of both parties and the mediator |  |
| Grafton | (mediator) put things into perspective -- helped make guidelines |  | put things into perspective for us -- if we didn't understand something she explained it for us |  |
| Fargo | the mediator was very understanding and helped a lot - I was very pleased with the outcome |  | mediator knowledge on different concerns | not having communication with my attorney |
| Fargo | discussions and variables about what would benefit the kids | not coming to a total agreement on custody |  |  |
| Fargo |  |  | Learning divorce is going to be costly |  |
| Fargo | mediator very honest and tells it like it is - I felt safe and good about my choices | it was great |  |  |
| Fargo | I was able to tell mediator the issues I wanted to resolve that I was not able to bring up with ex without him freaking out - she was able to talk with him about that for me |  |  |  |
| Fargo | having someone else there to help | nothing was accomplished | knowing what was the main issue |  |
| Fargo | it was helpful to be able to voice my own opinion and speak openly -- mediator was very helpful and conscientious | I was always scared I was missing something | my lawyer was present -- (mediator) was very good, solved a few problems | it was all good |
| Grafton | it was nice to be able to sit in the same room with my ex and not feel that we would have a break out fighting -- there was tension, but it was manageable | there are still issues it would have been nice to have my lawyer present for -- I will be meeting with him soon to hopefully resolve these | finding new ways to solve disagreements | I'm happy with the results |
| Grafton | just knowing what I need to have in the papers | having to look at my spouse | mediator's explanations  | defendant's actions |
| Williston | everything | nothing | that (mediator) took the time to go over and explain everything in detail in our parenting plan |  |
| Carrington | I was able to agree or disagree on things -- was able to come to a mutual agreement on what was best for our child -- also was able to work with my schedule | mediation very helpful -- glad I did it | my former partner had to listen to someone else's point of view other than her parents' pressure to follow her wishes  | we were unable to meet face to face because of restraining order and allowing attorneys present caused undue cost but I felt I needed to have one present because she intended to have hers present |
| Fargo |  |  | very easy to talk to  | nothing |
| Dickinson | mediator didn't get caught up in the emotional state |  | the mediator was able to keep things moving | I was not provided an appraisal sheet |
| Bismarck | being able to speak freely |  | being able to speak freely | it was helpful |
| Williston | the outcome was what I anticipated which was pointless -- no fault of the mediator |  |  |  |
| Williston | we were able to work things out without the judge | he tried to control the entire process | face to face communication, finally -- neutral mediator was helpful, had good ideas | maybe could be in a more open environment (loud debating) |
| Minot |  |  | ability to discuss options |  |
| Dickinson |  |  | the mediator there to keep discussion on track | could use a bit more time -- other party had a tendency to get off track |
| Grand Forks | the entire mediation process - what an extremely beneficial program to help assist families come to an agreement that is best for all involved - thank you | I can't think of anything | simply being able to sit down and argue without pressure from the other side to leave |  |
| Grand Forks | the mediator provided a productive atmosphere and productive discussion |  | we defined some of the terms of the judgment that we both could live with  | we were unable to agree on all issues |
| Fargo | getting issues resolved with a neutral party, gave good ideas, helped understanding the process |  | being neutral, new ideas, ways to communicate |  |
| Grand Forks | having spouse see what is the law -- how courts will look at it | Financials were not in order prior to meeting -- should be a requirement to have accurate and complete financial statement |  |  |
| Bismarck | having a neutral party to suggest ideas and stop disagreement from turning into fights |  | the ability to have a third party present to help understand everything | I would say that there wasn't anything that was not helpful |
| Bismarck | getting my husband to actually make a decision | nothing -- it was all positive on my end | simple, convenient |  |
| Fargo | available |  | it saved all the mud slinging that you would have in court -- interest wasn't me or her but always looking at my son's interest |  |
| Minot | having her talk about certain situations of previous people's experiences that helped put our decisions in better perspective and make better choices |  | understanding what the guidelines would be |  |
| Grand Forks | gave ideas, listened | helpful | got to air differences without fighting | nothing really |
| Grand Forks | I was able to express my frustrations and hopes and was able to hear the other side as well |  | the chance to talk without going to court and learn more ways to resolve this situation with the other party |  |
| Jamestown | suggesting counselor | seeing my husband |  |  |
| Dickinson | circumstances the mediator brought up from her experiences that we would never have thought of |  | the mediator was clear and concise | nothing |
| no location  |  |  | In some cases I can see this being beneficial to people to work at certain things that apply to the after effects of court, for instance -- I have a difficult situation with an order, so I simply complied with the mediation time without mediating | situations have to be a certain way for children's stability, so I don't see where, after an order from the court, where mediation is much help, simply mandatory |
| Jamestown | being able to put child first |  | a change |  |
| Jamestown | our mediator was excellent and it helped that our close proximity allowed us to make decisions quickly |  | covering conflicts, resolving issues |  |
| Fargo | setting (not courtroom) |  | avoiding court |  |
| Bismarck and phone | face to face discussion, input given by mediator | length, took several sessions, but also understand that it was exhausting |  |  |
| Minot |  |  | new ideas and unbiased perspective | time constraints |
| Bismarck | amicable -- we decided what is best for us and our children | lawyers not present, wanted to be but ex wouldn't meet if they were -- frustrating |  |  |
| Carrington | able to talk with someone else about issues that we struggle on |  | nothing | it was a waste of time |
| Ellendale | an independent/unbiased mediator |  | third party involvement and having my lawyer present |  |
| Grand Forks | someone was able to witness the immaturity of my former spouse |  |  |  |
| Grand Forks |  |  | Personal mediator helped a lot -- divorce is hard, was easier with a mediator who worked and told stories | nothing |
| Grand Forks | (mediator) was great -- very supportive and neutral, a great mediator | my ex and I just don't get along at all | I was able to express how I felt about our child and our situation | my son's mother not understanding how I felt or how her son is feeling |
| Bismarck | my ex-husband saw my point of view | he gathered information from mediation to use against me in court | (mediator) was great | the fact that this case was selected -- we had already made offers to S--- and she is unwilling to compromise. I really question the selection process for mediation. |
| Fargo | helped us resolve any issues that we had | could have used more explanation of what mediation was before the orientation class | determining child support issues and equity payment | nothing |
| Fargo | the mediator came to the table with new and different ideas -- the mediator also helped us to make informed decisions in a confidential and constructive way | time consuming, but still helpful | everything but parental custody |  |
| Minot |  |  | great process overall |  |
| Jamestown |  |  | it was helpful to have the mediator to talk to rather than talking straight to my ex | if the ex would have come to more meetings I think it would have worked better |
| Grafton | got the ball rolling for my ex to complete a drug evaluation | Basically a waste of time and money since attorneys had to be present, we had to travel a long distance and we knew from the beginning that we wouldn't get anywhere with it -- did it to comply with the process |  |  |
| Grand Forks | being able to talk without a judge present to come to a solutions about our problems | making a plan that is good for the situation without knowing more facts about each other | talking | none |
| Minot | got to figure out a good custody agreement for the children |  | all the ideas the mediator gave us -- she was very professional and hopeful | nothing |
| Minot | we are not able to usually discuss issues when we present them to each other when we are alone -- having a third party present forced us to try and communicate on a somewhat civil level |  |  |  |
| Fargo | we got to talk about our hopes for our daughters's futures | nothing | neutral party doing the mediation | had to drive from out of town |
| Grand Forks | being able to speak openly without worrying it would totally bread down into an all out fight | though our mediator was very good at her job, it would have been helpful to have someone there who could give legal answers | learning what my wife felt | unable to solve the issues due to her stance |
| Fargo |  |  | learned what she had to say about me and how I live | have to decide which way to go with the case |
| Dickinson |  |  | ideas on communicating with spouse and ideas on children handling |  |
| Fargo | mediator |  | mediator | wife |
| Dickinson | I learned how to negotiate more successfully |  | just being able to sit down and discuss our problems | could use maybe more time |
| Grand Forks | that we had someone there |  | gave out what courts would agree upon |  |
| Fargo | having a neutral party and opinion | everything was helpful | having an independent third party there  |  |
| Fargo |  |  | looking at different opinions |  |
| Jamestown | I felt more able to say what was needed without fear of his reaction | They were unable to help us compromise on some issues, knowing that this is also the fault of us as the parties | communication between the two of us | inconvenient time |
| Fargo | we were able to discuss and work out issues that we could not do on our own | emotions that came out during the process and slowed things down | kept down the yelling and got it resolved without more heartache and courts | it being in Fargo when I live in Minot |
| Minot | I got to speak my mind about the situation without being out of line |  | getting to an understanding without the courts  | nothing |
|   | that it is better than a trial and cheaper -- it is cost effective | unwilling spouse |  |  |
| Bismarck | seeing things from someone else's perspective | had to go through lawyer/court process to get there |  |  |
| Bismarck | when we had trouble coming to an agreement the mediator suggested getting more information on the topic | none | being able to hear what the kids thought about their living with me |  |
| Bismarck | keeping it calm, calling it quits when no agreement -- agree to disagree | trying to work out schedule | not much -- my ex-wife is very hard to deal with  |  |
| Minot |  |  | mediator's presence facilitated communication -- keep spouse's hostility to a lesser degree -- great to resolve issues, move forward and, hopefully, concentrate on our children | nothing comes to mind |
| Devil's Lake | he helped the communication when C---- would not take into consideration what I thought | not coming to all agreements | being in front of a third party who allowed both sides to express opinions and views separately | the defendant |
| Jamestown | being able to express myself and feelings and actually be able to say what I needed to without so much of an argument | she did a great job -- our communication with each other is not good. It's our fault that nothing was helpful because we are both stubborn | allowing time for rebuttals |  |
| Jamestown |  |  | nothing -- maybe that I found out more about the lack of rights a father has | I felt that I was the one expected to "give" -- this caused even more ill will between the two of us when I would compromise and she would not |
| Minot | getting options, ideas | My ex-boyfriend was being difficult and glad we can work it out | seeing different options |  |
| Fargo | (mediator's) tact with C----- |  |  |  |
| Grand Forks | not a lengthy drug out court case | I don't really want to give up my parental time | not a drug out court case | nothing |
| Bismarck | insight into how to word my feelings and concerns -- the focus on the kids | our personal dynamics presented complications -- we just need to be better together to resolve things | being able to work together |  |
| Bismarck |  |  | all good |  |
| Bismarck | cost | my outcome | having a level headed mediator | trying to communicate with my wife |
| Dickinson | just being able to discuss things | having a hard time saying what I really wanted to say | trying to understand what is best for us and the kids | not progressing fast enough on the issues |

# Time Required to Complete Mediations

A possible drawback for a mandatory mediation program is that it may delay the resolution of family law cases. Administrative Order 17 was structured to ensure speedy completion of the mediation process. The trial court is to notify the project administrator of a qualifying case within 10 days of filing. There is no time frame for the project administrator’s drafting of the mediation order, its return to the trial judge for signature, its return to the project administrator for distribution, and its dissemination by the project administrator to the parties, attorneys and mediator. The mediator has 90 days from the date of the order to complete the orientations and mediation. Assuming that the time from referral by the trial court to signing of the order takes up to 10 additional days, mediations should be completed within 100 days from referral of a case to the project.

During the first two years of the pilot project 58% of the cases (129 of 221[[23]](#footnote-23)) were completed within this time period. Ninety-two cases took longer than 100 days to complete. During the third reporting period, we computed three average completion times – one for all cases, one for cases that involved an extension of time, and one for cases that did not involve an extension. Forty cases involved an extension of time. The data for both reporting periods is set forth in the next table.

**Time Required to Complete Mediations**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Measure** | **First and Second Reporting Periods** | **Third Reporting Period - Total Cases** | **Third Reporting Period - Cases with Extensions** | **Third Reporting Period - Cases without Extensions** |
| **Percentage of cases completed within 100 days** | **58%** | **46%** | **0%** | **60%** |
| **Average time for completion** | **108 days** | **110 days** | **199 days** | **101 days** |
| **Longest case** | **520 days** | **404 days** | **375 days** | **404 days** |
| **Shortest case** | **21 days** | **5 days** | **108 days** | **5 days** |

Considering only the cases without extensions of time, the pilot project’s average time to complete a mediation was virtually within the time limit set by the Supreme Court in Administrative Order 17 for the third reporting period. However, only 60% of the mediations without extensions of time were completed within 100 days.

Using only the cases without an extension of time, the timeliness data shows a marginal improvement in both the percentage of cases completed within the time requirement (from 58% to 60%) and the average time to completion (from 108 days to 101 days).

The next table shows the timeliness performance of the mediators in the seven districts. Three of the districts had average completion times within the project requirement.

One of the most recently added districts – the East Central – had the best performance, with 70% of cases within the time requirement and an average of 91 days. Although it improved its average time to completion, the South Central District now has the worst performance – completing only 48% of its mediations within the time requirement.

With the exception of the South Central District, the most urban districts had higher percentages of mediations completed within the time requirement than the three most rural districts – the Northeast, Northwest, and Southwest Districts.

**Timeliness of Mediation Completion by District**

|  |  |  |
| --- | --- | --- |
| **District** | **First and Second Reporting Periods** | **Third Reporting Period – Cases Without Extensions** |
| **Total Cases Completed** | **Percentage of Cases Completed Timely** | **Average Time to Complete Mediations** | **Total Cases Completed** | **Percentage of Cases Completed Timely** | **Average Time to Complete Mediations** |
| **East Central** |  |  |  | **43** | **70%** | **91 days** |
| **Northeast** | **12** | **58%** | **83 days** | **55** | **56%** | **111 days** |
| **Northeast Central** | **106** | **64%** | **99 days** | **128** | **67%** | **90 days** |
| **Northwest** | **2** | **100%** | **101 days** | **60** | **53%** | **107 days** |
| **South Central** | **98** | **52%** | **122 days** | **83** | **48%** | **113 days** |
| **Southeast** |  |  |  | **31** | **66%** | **90 days** |
| **Southwest** | **3** | **33%** | **73 days** | **30** | **57%** | **106 days** |
| **Totals** | **221** | **58%** | **108 days** | **431** | **60%** | **101 days** |

The timeliness of mediation completion varied significantly from mediator to mediator – from 0% to 100% completion of mediations within the required time period (based only on cases without a time extension). Times of each mediator for the previous and current reporting periods are shown in the next table.

The performance of Mediators 24 and 25 – two of the newest mediators – show that the project’s goal can be attained. The performance of Mediator 5 was the worst at the time of the second interim evaluation. It improved in terms both of average time to completion and percentage of cases completed within the time requirement, but remains the worst for the pilot project. Ironically, Mediator 5 also had the highest number of extensions of time – eight.

For the sixteen mediators that completed cases during both reporting periods, four increased the percentage of mediations completed within the time requirement and six reduced the average time to complete all their mediations.

**Timeliness of Mediation Completion by Mediator**

| **Mediator** | **First and Second Reporting Periods** | **Third Reporting Period – Cases without Extensions** |
| --- | --- | --- |
| **Total Cases Completed** | **Percentage of Cases Completed Timely** | **Average Time to Complete Mediations** | **Total Cases Completed** | **Percentage of Cases Completed Timely** | **Average Time to Complete Mediations** |
| **Mediator 1** | **22** | **41%** | **123 days** | **16** | **50%** | **112 days** |
| **Mediator 2** | **26** | **77%** | **84 days** | **28** | **64%** | **79 days** |
| **Mediator 3** | **23** | **39%** | **133 days** | **38** | **24%** | **137 days** |
| **Mediator 4** | **11** | **64%** | **112 days** |  |  |  |
| **Mediator 5** | **18** | **6%** | **210 days** | **15** | **27%** | **161 days** |
| **Mediator 6** | **16** | **94%** | **70 days** | **2** | **50%** | **90 days** |
| **Mediator 7** | **17** | **71%** | **76 days** | **28** | **71%** | **86 days** |
| **Mediator 8** | **16** | **50%** | **109 days** | **18** | **81%** | **98 days** |
| **Mediator 9** | **17** | **47%** | **124 days** | **23** | **70%** | **95 days** |
| **Mediator 10** | **19** | **68%** | **98 days** | **13** | **69%** | **89 days** |
| **Mediator 11** | **3** | **33%** | **144 days** |  |  |  |
| **Mediator 12** | **16** | **100%** | **67 days** | **42** | **79%** | **76 days** |
| **Mediator 13** |  |  |  | **21** | **71%** | **84 days** |
| **Mediator 14** | **1** | **100%** | **70 days** | **12** | **64%** | **91 days** |
| **Mediator 15** | **1** | **100%** | **75 days** | **7** | **71%** | **75 days** |
| **Mediator 16** | **5** | **40%** | **97 days** |  |  |  |
| **Mediator 17** | **5** | **60%** | **102 days** | **17** | **47%** | **102 days** |
| **Mediator 18** | **2** | **100%** | **65 days** | **24** | **63%** | **106 days** |
| **Mediator 19** | **1** | **100%** | **56 days** | **31** | **52%** | **118 days** |
| **Mediator 20** | **1** | **100%** | **21 days** | **11** | **55%** | **104 days** |
| **Mediator 21** |  |  |  | **19** | **37%** | **123 days** |
| **Mediator 24** |  |  |  | **8** | **100%** | **70 days** |
| **Mediator 25** |  |  |  | **11** | **91%** | **90 days** |
| **Mediator 26** |  |  |  | **18** | **78%** | **86 days** |
| **Mediator 27** |  |  |  | **8** | **0%** | **152 days** |
| **Mediator 28** |  |  |  | **24** | **67%** | **91 days** |
| **Totals** | **221** | **58%** | **108 days** | **431** | **60%** | **101 days** |

# Effect of Mandatory Mediation on Time to Disposition in Family Law Cases

The North Dakota Supreme Court – and a number of members of the North Dakota family law bar – have been concerned that the introduction of mandatory mediation may extend the time that it takes to complete divorce and other family law cases involving parenting time disputes. As noted in the discussion of the data collected for this report, the project administrator and the information technology staff of the Administrative Office of the Court have gone to great lengths to collect data bearing on this issue. Preliminary analyses of this data were provided in the second interim report.

This evaluation presents a near-final report on the average time to disposition for cases in the pilot project compared with the average time to disposition for cases in the pilot districts before the pilot project began and with cases in two comparison districts (the East Central and Northwest Districts) during the same time period as the pilot project. Because the Northwest District was added as an additional pilot during the second phase of the pilot project, it is also possible to compare its pre- and post-implementation data.

Very few cases remain open at the time the data was gathered for this report – one pre-pilot case in the South Central District, one each in the first year cases for the Northeast Central and South Central Districts, one each in the East Central and Northwest comparison cases, and two in the first year cases for the Northwest District. While we will follow these cases and provide even more complete data for the final evaluation report, the data is now sufficiently complete to provide reliable results – results that show definitively that the North Dakota mandatory mediation program has speeded the disposition of family law cases with disputed custody matters.

The data is shown in the next table, which shows the number of completed cases in each data sample, together with the number of cases that remain open. Cases that were dismissed have been deleted from the analysis.

**Average Time to Disposition for Family Cases with a Parenting Time Dispute**

|  |  |  |  |
| --- | --- | --- | --- |
| **District** | **Number of Completed Cases** | **Number of Open Cases** | **Average Time to Disposition** |
| **South Central pre-pilot cases** | **29** | **1** | **408 days** |
| **Northeast Central pre-pilot cases** | **10** | **0** | **323 days** |
| **South Central pilot cases** | **53** | **1** | **286 days** |
| **Northeast Central pilot cases** | **56** | **1** | **243 days** |
| **Northwest comparison/pre-pilot cases** | **15** | **1** | **439 days** |
| **Northwest pilot cases** | **22** | **2** | **289 days** |
| **East Central comparison cases** | **17** | **1** | **377 days** |

The first chart compares the “before” and “after” data for the Northeast Central, Northwest, and South Central Districts. The “before” data consists of all cases with a contested custody matter filed in the Northeast Central and South Central Districts the year before they became part of the pilot program and, for the Northwest District, all such cases filed between March 1, 2008 and February 28, 2009 – seventeen months before that district became part of the pilot program. The “after” data consists of the cases referred to the mandatory mediation program during the first year of the pilot program – from March 1, 2008 through February 28, 2009 in the Northeast Central and South Central Districts and from August 1, 2009 through July 31, 2010 in the Northwest District.

The chart shows that time to disposition in family cases with parenting time disputes has been significantly shorter in the pilot districts following implementation of the mandatory mediation project. Time to disposition decreased by 80 days (a 25% improvement) in the Northeast Central District, by 120 days (a 30% improvement) in the South Central District, and by 150 days (a 34% improvement) in the Northwest District.

The second chart compares the average time to disposition for the first two pilot districts with “control group” cases filed during the same time period in the East Central and Northwest Districts. The control districts are colored yellow. This comparison confirms that the mandatory mediation program reduced the average time to disposition in North Dakota. The average of the two average times for the two pilot districts is 265 days. The average of the average times for the two control districts is 408 days. The mandatory mediation program appears to have reduced the time to disposition by 35%.

The two comparisons – “before” and “after” and “experimental” and “control” – show roughly the same effect for the introduction of mandatory mediation of parenting time disputes – a reduction of the time from filing to disposition of between 25% and 35%. The fact that the two comparisons reach very similar results strengthens our confidence in those results.

# Data on the Effects of Mediation Agreements on Subsequent Court Filings to Modify Parenting Time Arrangements

The North Dakota judiciary is also very interested in the frequency with which parties return to court to obtain further court rulings on parenting time and other issues relating to their children. One of the goals of the mediation pilot project is to reduce the number of returns to court by crafting agreements satisfactory to both parties and by providing the parties with enhanced skills to negotiate their own consensual modifications of those agreements.

The project administrator has been recording the number of times cases in the pilot project have been reopened. We are able to compare that data with data for comparison cases filed during the year before the pilot project began in the South Central and Northeast Central Districts, and for a year before it began in the Northwest District (offset by five months), with cases referred to mediation during the first year of all three pilot districts. We are also able to compare the number of reopenings in cases referred to the South Central and Northeast Central for mediation during the first year of those pilots with cases filed in the two “control group” districts. We have data for that year in the East Central and Northwest Districts, which did not have mandatory mediation at that time. All of the control group cases for the Northwest District were filed during the first half of the year.

As time goes on, more cases will be reopened. Because they have been closed for a longer period of time, it is to be expected that the pre-pilot cases in the original pilot districts will have a higher reopen rate than those during the pilot period. We should not expect any such difference between the cases filed during the same time periods in the first two pilot districts and the two “control” districts. By the time the fourth evaluation report has been completed, we expect to be able to report with confidence whether the pilot project has reduced the number of reopenings for the “before” and “after” comparisons as well as the “experimental” and “control group” cases.

The table on the next page shows the data collected to date – the number of cases mediated, the number of reopens for those cases, and the percentage of reopens per completed case.

We use “percentage of reopens per completed case” rather than “percentage of cases that were reopened.” If a case is reopened twice or three times, we count each reopening. If we were counting only the percentage of cases reopened, rather than the number of reopenings, compared to the total number of disposed cases, we would underestimate the burden on the courts from requests to modify parenting time or other child-related issues.

The data shows that the mandatory mediation program has been extraordinarily effective in reducing the rate at which parties involved in parenting plan disputes return to court after obtaining a judgment.

**Percentage of Reopenings for Family Cases with a Parenting Time Dispute**

|  |  |  |  |
| --- | --- | --- | --- |
| **District** | **Number of Completed Cases** | **Number of Reopened Cases** | **Percentage of Reopenings** |
| **South Central pre-pilot cases** | **29** | **27** | **93%** |
| **Northeast Central pre-pilot cases** | **10** | **7** | **70%** |
| **South Central pilot cases** | **53** | **4** | **8%** |
| **Northeast Central pilot cases** | **56** | **11** | **20%** |
| **Northwest comparison/pre-pilot cases** | **15** | **4** | **27%** |
| **Northwest pilot cases** | **22** | **5** | **23%** |
| **East Central comparison cases** | **17** | **10** | **59%** |

The first chart compares the “before” and “after” data for the original two pilot districts and for the Northwest district. The “before” data consists of all cases with a contested custody matter filed in the Northeast Central and South Central Districts between March 1, 2007 and February 28, 2008 – the year before the Northeast Central and South Central Districts began mandatory mediation of these cases and in the Northwest District between March 1, 2008 and February 28, 2009. The Northwest District joined the pilot project on August 1, 2009 – five months after the end of the “before” data gathering period. We have no reason to believe that the five month gap between the “before” and “after” periods for the Northwest District had any effect on the study comparisons. The “after” data consists of the cases referred to the mandatory mediation program during the first year of the pilot program – from March 1, 2008 through February 28, 2009 in the Northeast Central and South Central Districts and from August 1, 2009 through July 31, 2010 in the Northwest District.

One would expect that there will be fewer reopenings in the Northwest District during the pilot program phase, since its cases are younger in age than for the other sets of cases. That is not the case – the Northwest District has the highest percentage of reopenings.

The data for the first two pilot districts is striking – showing dramatically fewer reopenings for cases filed during the pilot project cases than for cases filed the year before. The effect for the Northwest District is positive, but less significant in size.

The reductions in the percentage of reopenings for the three districts are 91% for the South Central District, 71% for the Northeast Central District, and 14% for the Northwest District. The average percentage reduction for the three districts is 59%.

The second chart compares the reopening percentages for the first two pilot courts and the two control districts – contested custody cases filed in the East Central and Northwest Districts between March 1, 2008 and February 28, 2009. Again, the control districts are shown in yellow.

There is no reason to believe that the percentages of reopenings in the pilot districts will increase more in the future than the percentages in the control districts, since the cases were filed during the same time period.

When we add together the reopenings per case percentages for the “control” and “experimental” courts, reopenings in the “experimental” courts are reduced by 67%.

Once again, the results from the “before” and “after” and the “experimental” and “control” groups are comparable. We are confident in the conclusion that North Dakota’s mandatory mediation program is reducing the number of instances in which the parties to cases with contested parenting time issues are returning to court after they receive an initial judgment.

# Comments of Mediation Providers

Before the project began and again after the project had been operating for nine months, the project director sent surveys to attorneys in the pilot districts, mediation providers, judges and court staff. The reports of those surveys were contained in the first interim report. They showed widespread support for the use of mediation to resolve parenting time disputes and other family law matters, with opposition from a minority of the bar.

For the second interim evaluation the evaluator and project administrator met in person with groups of judges, court staff, and mediators in Bismarck, Devil’s Lake, Dickinson, Fargo, Grand Forks, and Minot during the first week of August 2010. The attendees at those meetings gave strong support for the project, had minimal problems to report, and reported generally that the project had widespread and growing support within the bar.

We have conducted no further attitudinal surveys for this third interim report. We reproduce below the comments provided by mediators on their reports for the third reporting period, together with the location of the mediation.

Several of the comments describe successful mediation outcomes arising in cases for which the mediator had little expectation of success following the orientation sessions with the parties. Others note progress during mediation, but ultimate inability of the parties to overcome the conflicts that had led to their separation.

An often repeated theme of the comments is obstruction by one or both attorneys – either in making it very difficult for the mediator to conduct the mediation or in vetoing an agreement reached during mediation. It might be useful to schedule an educational session at an upcoming North Dakota Bar conference at which mediators and family law attorneys can discuss the mediation process and identify and address specific problems that have arisen.

|  |  |
| --- | --- |
| **Location** | **Other comments** |
| Grand Forks | The plaintiff's attorney's negative comments regarding the mediation process may have interfered with the parties' self-determination and participation in further mediation sessions. |
| Bismarck | Parties were enrolled members of Standing Rock Tribe. I feel there may have been cultural issues related to family roles that affected the parties' inability to work together toward agreement. It would be beneficial to have a Native American mediator as a resource in a case like this.  |
| Bismarck | This mediation involved parents who are high school age. They reached an agreement in October. One party rescinded parts of the agreement. A new agreement was reached in December. |
| Bismarck | At the second meeting, the parties would not be in the same room. |
| Bismarck | Extensive joint time due to significant property issues and also parenting plan issues related to husband's concerns about losing his relationships with 3 children. |
| Minot | The parties did well on the peripheral issues regarding their children. However, the primary parental responsibility piece was difficult. |
| Fargo | Mother alleged Father had been verbally abusive. She stated she was agreeable to mediate if I was in the room with her. I made sure she was never alone with Father.  |
| Minot | We came very close to reaching some final agreements but ultimately their time was nearing an end and both backed off instead of being pressed for a decision for the wrong reasons.  |
| Minot | The parties reached an agreement on everything except travel associated with visitation! A report of child abuse/neglect arose between the orientations and the joint session, making the mediation interesting and difficult at first.  |
| Bismarck | The parties really embraced mediation and made it work for them. |
| Bismarck | There was communication from one attorney that a portion of the agreement pertaining to finances was not acceptable but no confirmation of whether the parties used the full agreement.  |
| Minot | The parties agreed to all issues in mediation but declined to give final okay to Summary of Decisions.  |
| Bismarck | Essentially came together on agreement re: parenting -- but property dispute got them alienated about agreeing on anything. They will, I think, settle before trial.  |
| Bismarck | The mother stopped me after the mediation and thanked me for helping them to re-open the lines of communication. |
| Bismarck | Problem of one party living in Colorado. Survey mailed to him for return directly to the administrator. (It was returned and included in the evaluation.) |
| Bismarck | Completion delayed by delays in obtaining real estate values and consensus about property division vis-a-vis the house. |
| Grand Forks | The parties have agreed to consult with Dr. \_\_\_\_ regarding parenting time as the child is but nine months old and will work out a schedule with Dr\_\_\_\_y's input, especially for overnights.  |
| Minot | An agreement was reached on all issues except child support. The parties wanted to leave that up to their attorneys' calculations.  |
| Minot | Mother indicated she was suffering from PTSD (she is in the military). I believe this greatly impacted this mediation.  |
| Grand Forks | Money was an issue as well as lack of personal responsibility with both parties. It was nice that the State of North Dakota could pick up the tab (in part) for extra session so they could figure out what they needed to do.  |
| Grand Forks | Telephonic -- father was deployed overseas throughout the mediation.  |
| Grand Forks | It was a pleasure working with the parties.  |
| Bismarck | This was a grandparent visitation issue. Really based on one topic/issue. |
| Grand Forks | The parties went into mediation with a positive attitude and all issues were discussed and put into a document (Stipulation) by the Plaintiff, proceeding pro se. I reviewed the document with the parties in order to assure them of the appropriate format, etc. The Plaintiff dominated the process. Had to run interference for the Defendant. No attorneys involved.  |
| Bismarck | The parties had arrived at some agreements in mediation; however, I was informed that the agreements were rescinded.  |
| Bismarck | There were power and control issues regarding withholding children.  |
| Dickinson | Parties intended on returning but then changed their minds. |
| Fargo | This couple had significant financial issues and during the mediation it was agreed that an expert in bankruptcy or finances be consulted. They did not follow through and said they just wanted to be done.  |
| Bismarck | Slightly over 90 days set by protocols. Some delay associated with scheduling due to the schedules of the attorneys (who were involved in all the joint sessions). |
| Fargo | The husband was very angry and had difficulty discussing different options/problem solving. The parties agreed to divorce back in October of 2010 and the home environment has been extremely tense since neither of them are feeling safe to leave due to their belief it will change the custody outcome.  |
| Fargo | One party fired their attorney the day before mediation and had very skewed and grandiose ideas of what "they could get," i.e., debt relief and custody. Made mediating very hard. He refused to get legal counsel stating a "lawyer couldn't tell him anything!" |
| Bismarck | Parties had attorneys with them for mediation. |
| Fargo | It was very difficult with the attorneys allowing their clients to agree to anything during mediation as well as the drafting language.  |
| Grand Forks | One of the parties used the process to try to manipulate the other.  |
| Fargo | Was late getting this finished due to attorneys requesting additional changes to parenting plan and wanted to do this for the clients. |
| Devil's Lake | Too much attorney involvement hinders the mediation process. This mediation was going very well until one party pulled out a proposed Stipulation prepared by an attorney. The other party shut down, but I was able to get that party to open up again, but with great difficulty.  |
| Fargo | I am not sure how the restraining order got through without the program administrator getting notified (and notifying the mediator).  |
| Fargo | One attorney in this case was very challenging. We would have agreement between the parties and the attorney would call and demand changes.  |
| Grand Forks | Perfect case for mediation. Enough time has lapsed. They wanted to move on.  |
| Grand Forks | The plaintiff's decreased capacity issues became apparent in the second session which impeded her ability to fully participate.  |
| Minot | The parties indicated they wanted to come back for a second joint session -- but later called and said they changed their minds.  |
| Minot | Mother became very hostile and angry at the conclusion of the joint session and yelled at me that I need to be more in control/aggressive during the mediation.  |
| Bismarck | The parties had close to a full agreement and at the last mediation one of the parties rescinded everything they had agreed to.  |
| Devil's Lake | This mediation could have been settled completely, if not for the lack of cooperation of one party's attorney, the CSEU's inability to make timely findings, and the pro se party's lack of knowledge of the law.  |
| Fargo | Mother wants only supervised visitation in North Dakota until proof Father is sober and drug free, has a license, and develops a relationship with the child. Father refused to agree to any of those terms. All other issues except visitation times/days were resolved. Father fired attorney and is representing himself.  |
| Fargo | Father seemed to be withholding a lot of important financial information. He owned several restaurants and was wholly motivated with protecting assets and not having the wife walk away with much. They are currently conducting discovery on businesses and finances. They want to mediate again after that has been completed.  |
| Fargo | One of the attorneys had absolutely no interest in mediating and it was very difficult to discuss any reasonable agreement. The client was also not being assisted by their attorney whatsoever.  |
| 50-? | Ultimately the party reporting abuse in the past decided that her rights could best be protected by the court.  |
| Bismarck | May try mediation again before trial. Want to see what judge will order at interim order hearing coming up. |
| Bismarck | Attorneys were present in this mediation and it is this mediator's opinion that counsel hindered the communication necessary for open discussions.  |
| Devil's Lake | The Plaintiff's attorney had my hands tied from the beginning. She had told the Plaintiff to submit a settlement proposal to the Defendant at the initial mediation session. This limited my ability to see the real issues at hand and to try to resolve any underlying issues that were a problem.  |
| Cooperstown | There was significant time spent on communicating with the parties before orientation/mediation could take place because of concerns with the original location and bias to one of the parties. I worked with the parties to find a mutually agreeable location, and therefore it took place in Cooperstown, ND. |
| Jamestown | As to the property, the parties agreed to use an appraiser and then will split property equally. |
| Fargo | An initial agreement was reached at the first session which was subsequently rescinded by both parties.  |
| Watford City | The parties reached a full agreement but ultimately rescinded due to a family emergency they both needed to deal with. It is anticipated that the outcome of the emergency will dictate a partial outcome in this matter.  |
| Grand Forks | Parties agreed; attorneys didn't. |
| Fargo | There were serious allegations of child abuse that CPS determined were not there. One party continued to insist and went to three other doctors, all of whom stated there wasn't cause for concern. Party would not agree to final parenting time until after another doctor evaluates parents and children. The accused party feels the other parent is doing this to prevent children from seeing them. I got parties to agree to use an experienced doctor in child abuse cases and put weight to her recommendations. Everything but final parenting time was agreed to, including holidays, vacation option, and joint decision-making.  |
| Bismarck | The parties spent time talking after completing orientations and came to the joint session with a full agreement that was being drafted by counsel.  |
| Williston | There was a huge history between the parties and they couldn't let go of that to move forward.  |
| Fargo | The parties were initially tentative about the process but when they agreed to their goals and what old communication patterns they wanted to avoid they utilized the time very well.  |
| Grand Forks | Shortly after the second mediation session, the parties were able to resolve in their entirety the remaining asset/debt issues, with their agreement being generally consistent as to what was discussed in mediation.  |
| Dickinson | Parties did not follow through with second joint session and did not complete surveys. |
| Jamestown | This mediation took little time due to the fact that the parties hired an objective professional to interview the child. The parties agreed to a temporary change of primary residential responsibility order. If the order is not questioned within a year, it becomes permanent.  |
| Grand Forks | These parents found the SBAND parenting plan helpful and used it to craft their own agreement.  |
| Fargo | Started out very tough and contentious but worked the process and ended just great. Parties began communicating very well towards the end. Remarked (they did) how great the mediation was, how shocked they were that it worked and that they wished they knew about this sooner! |
| Bismarck | This mediation took a while longer due to the fact that an accountant had to be used for expert advice. Also, one of the attorneys was not available for a number of weeks. |
| Minot | Parties did not want an agreement/memorandum drafted and sent to their attorneys. Rather they just wanted my mediation notes to take and discuss.  |
| Grand Forks | Mom wanted to relinquish her parental rights. Not a possibility. Doesn't want visitation. Her attorney is drafting an agreement. Both will sign it.  |
| Fargo | Resolved all issues and once attorney received notice the attorney disputed the label of settling on joint custody although the attorney agreed upon 50/50 parenting time. |
| Grafton | Parties intended to apply for more time but them changed their minds. Surveys were not completed as it was expected they parties would return. (One was returned.) |
| Grand Forks | While the parties have made tremendous progress, they don’t appear ready at this time to spell out a final parenting agreement. |
| Fargo | Very nasty mediation at first. Tons of power struggles. Both parties delayed the process many times. One party changed attorneys 3 times. Each time causing another long delay to schedule. The other party now lives in Montana, so traveling and scheduling was difficult. Once proceeding with mediation, it went well. They want to do more. |
| Minot | The parties had some good discussion but are so far apart with custody outcomes that there was no way to find any middle ground.  |
| Fargo | The parties reached an agreement on all issues however they requested that the agreement be tentative pending approval by counsel -- which did not occur. |
| Fargo | One party lived in the Twin Cities. Scheduling was difficult. Mediations got cancelled twice because of weather.  |
| Jamestown | Parties are not ready to complete a parenting agreement. Their current living situations -- school, work, distance, add challenges to their decision-making.  |
| Fargo | Parties reached agreement in mediation on all children issues and we went forward and they continued to reach agreement on all divorce issues. However, after the weekend, Plaintiff called and believed she could get more child support if she would go to court so wanted to take the whole thing to trial.  |
| Minot | This is a case whereby the memorandum/agreement was sent out for the parties' signatures but was only signed and sent back by one party. Therefore according to our recent conference call I have not sent the mediation closing form to the court.  |
| Dickinson | Orientation done by phone by first mediator. Parties traveled in bad weather from Dickinson on Dec 23, 2010 and Jan 4, 2011 to Bismarck where both attorneys practice. Very acrimonious divorce proceeding which has gone on for over a year. Some movement, and case might still settle before trial, but mediation sessions did not result in settlement.  |
| Grand Forks | After the orientations with each of the parties, I had very little expectation that the child-related issues would be resolved through the mediation process. At mediation, however, the parties were able to focus on what was in the best interests of their children and reached an excellent result. However, after the summary letter was sent to the parties, one of them contacted me and indicated an unwillingness to finalize the matter. I do not know specifically what terms the party was no longer in agreement with, so the Closing From indicates that no agreements were reached.  |
| Minot | The parties did not reschedule to finalize agreement. |

# Recommendations of the Third Interim Evaluation Report

The findings from the third reporting period are summarized in the Executive Summary at the beginning of this report.

Having reviewed all of the information provided in this report, Greacen Associates makes the following recommendations. They address the two persistent weaknesses in the pilot project – the failure of mediators to abide by the North Dakota Supreme Court’s timeliness requirement for completion of mediations and the low rate of return of participant satisfaction surveys, which threatens the validity of the project’s satisfaction data.

We are providing the project administrator with individual reports for each mediator, showing their personal agreement rates, satisfaction scores, timeliness performance, and survey completion performance.

We urge the State Court Administrator to prepare a cover letter for these individual mediator reports (or request the Chief Justice to prepare such a cover letter) requiring each mediator to prepare a personal action plan for improvement in the areas of:

* Timeliness of completion of mediations
* Response rate for post-mediation surveys
* Any participant satisfaction rating for that mediator which is 10% or more below the average for the project as a whole

The letter should require submission of the personal action plan to the project administrator within ten days of receipt of the letter and individual mediator report as a condition of continuing participation as a project mediator in the pilot project.

We further urge the project administrator to monitor timeliness of mediation completion – notifying mediators in writing of each instance in which their performance falls short of the Supreme Court’s timeliness requirement. We also urge her to withhold payment for a mediation until she has received the required participant evaluations and mediator report (or a written statement explaining to her satisfaction why the required participant evaluations cannot be obtained).

We recommend that the project administrator compile the mediator comments on dealing with power imbalances between the participants into a publication for use by the North Dakota mandatory mediation program and by other mediators interested in becoming more sophisticated in their mediation practice.

We recommend that the project administrator ask the mediators with exceptional participant ratings (as noted in this report) to make presentations to their colleagues during mediator conference calls or at other mediator training opportunities to encourage the adoption of the most effective techniques for accomplishing the pilot project’s goals of putting the needs of the children first, introducing new ideas into the negotiation process, and providing mediation participants with improved skills in negotiating with their former spouses.

We urge the State Court Administrator and the Executive Director of the North Dakota State Bar to develop an educational program at an appropriate bar training event to help North Dakota family attorneys understand how best to interact with the mandatory mediation program.

We suggest that the project administrator take to heart the request from one of the mediators to recruit an American Indian mediator who would be available to conduct or assist with mediations involving American Indian participants. American Indians are the largest minority group in North Dakota and reported a lower than average overall level of satisfaction with the mediation process (83% compared to the study average of 87%).

Finally, the results reported in this report on reduced time from filing to disposition for family cases with parenting time disputes and reduced reopenings have national significance. While it may be prudent to wait for the final evaluation report due by the end of this calendar year, we urge the North Dakota judicial branch to plan to publicize these findings widely. North Dakota has shown national leadership in its dedication of the resources required to gather the data for an extended evaluation of this important innovation and to contract for its analysis. Publication of the results will add to public knowledge and understanding of mandatory mediation of parenting plan disputes and possibly encourage other states to engage in similar rigorous evaluation efforts.

Please let us know if there are ways in which Greacen Associates can help to implement any of these recommendations.

1. Since the first interim report, the North Dakota legislature has adopted the terminology “parenting time” in lieu of the previously used terms “custody and visitation.” [↑](#footnote-ref-1)
2. It also appears from the project administrator’s records that there were ten cases for which mediations were completed during the second reporting period which were not on her spreadsheet at the time of the second interim report. We have not made any attempt to incorporate those cases into our analysis. [↑](#footnote-ref-2)
3. Adjusted from second interim report. [↑](#footnote-ref-3)
4. Three cases represent second mediations in the same case. One case from the third reporting period was counted twice – once for the surveys and once for the mediator’s report, so the number of cases appearing in the reports is 427. For our analysis of time required to complete mediations, we have been able to use the project administrator’s spreadsheet, including 471 cases for the third reporting period. [↑](#footnote-ref-4)
5. The total project period data includes one additional survey for a case analyzed during the first reporting period. The information from that survey appears only in the cumulative data reports. [↑](#footnote-ref-5)
6. Second mediations were conducted in three cases. Frequently the parties will return for a second or further session with the mediator; this is not considered a separate mediation. But when a further mediation addresses a new dispute in the same case, it is considered a separate mediation. [↑](#footnote-ref-6)
7. The only information we have on 53 of these cases is that contained in the project administrator’s spreadsheet of all project cases. Because of a lack of information, we have not included those cases in our analyses, except for the analysis of time required to complete mediations. [↑](#footnote-ref-7)
8. The project administrator’s records show ten more cases completed during this time period than were included in this data from our second interim report. [↑](#footnote-ref-8)
9. We are missing district information for four cases and county information for eleven cases, so the counts for the counties within a district do not necessarily sum to the district total. [↑](#footnote-ref-9)
10. This column shows only the cases for which we have information from a mediator’s report. It is lacking 55 cases for which we do not have a report. [↑](#footnote-ref-10)
11. As noted earlier, we discovered that three cases¸ representing five surveys, were cases that we had included in the analysis for the second interim report. We conclude that these cases involved second mediations in the same case, and have included them in the data base of completed surveys. [↑](#footnote-ref-11)
12. For this data, we used the cases data set, involving only one survey from each case. This data set had the number of children for 340 of 427 cases for the third reporting period. [↑](#footnote-ref-12)
13. These numbers sum to more than 100%. Our questionnaire used the method used by the US Census Bureau, which treats Hispanic as an ethnicity, not a race, e.g., there can be White Hispanics and Black Hispanics. So the racial categories add up to 100%, to which the percentage of persons identifying themselves as Hispanic is added. [↑](#footnote-ref-13)
14. Mediation outcome was not reported on 17 of the 648 completed cases. [↑](#footnote-ref-14)
15. Comparison of cross-jurisdictional outcomes should be treated with considerable skepticism. This data was gathered from multiple sources. The full context of each program and its evaluation was not available. It is therefore not clear whether the other programs listed were comparable to North Dakota’s program, how full and partial agreements were defined and measured (assessment was left completely to the mediator in North Dakota), or the extent to which participation was mandatory or voluntary (one might expect higher agreement rates in voluntary programs). Note, however, that Benjamin and Irving in their 1995 summary of research on this topic (Benjamin, M. and Irving, H. H., “Research in Family Mediation, Review and Implications,” *Mediation Quarterly,*1995) conclude that outcomes do not vary significantly on these variables. [↑](#footnote-ref-15)
16. Mediator coercion was reported in this jurisdiction. [↑](#footnote-ref-16)
17. Full and partial percentages do not always equal total percentages because of rounding. Ten cases during the third reporting period and fifty-two for the pilot project to date lack information on case type. [↑](#footnote-ref-17)
18. Full and partial percentages do not always equal total percentages because of rounding. [↑](#footnote-ref-18)
19. Full and partial percentages do not always equal total percentages because of rounding. [↑](#footnote-ref-19)
20. Full and partial agreement rates for third reporting period may not sum to total agreement rates due to rounding errors. Includes only cases for which we have reported outcomes information. [↑](#footnote-ref-20)
21. Representation status was not recorded on 192 of the surveys. [↑](#footnote-ref-21)
22. The scores for statements presented in the negative (which are indicated with an asterisk) have been inverted so that all scores can be compared easily. [↑](#footnote-ref-22)
23. Dates were missing for one case. [↑](#footnote-ref-23)