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# Parent Mediation Program Evaluation Report: January-June 2019 & Fiscal Year 2019

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**Massachusetts Office of Public Collaboration**

**PARENT MEDIATION PROGRAM EVALUATION REPORT:  
JANUARY-JUNE 2019 & FISCAL YEAR 2019**

**Executive Summary**

The Department of Revenue's Child Support Enforcement Division (the DOR) provided funding for the Parent Mediation Program (PMP) in the amount of \$133,265.45 for Fiscal Year (FY) 2019. On the whole, the PMP proved itself to be an effective dispute resolution program that served the need of divorcing, separating, and never married parents for assistance with resolving their disputes over parenting issues that arose within divorce or separation contexts to the satisfaction of nearly all parties. Administrative tasks were accomplished by the Massachusetts Office of Public Collaboration (MOPC) in a timely manner. By the end of FY 2019, all but 7% of the grant had been expended due to a decrease in demand for PMP services, particularly on the part of members of the community. The lower demand for PMP services was turned into an opportunity for increasing PMP services by raising the cap on the available quantity of subsidized mediation hours and allowing parties in closed cases to return for additional mediation. Centers and MOPC are urged to employ more effective outreach efforts to expand the number of people receiving PMP mediation services.

Many surveyed participating parents received PMP mediation benefits in the form of settled parenting disputes, diminished court intervention, and progress with reducing conflict and increasing communication between parents. The PMP primarily served a lower-income population during FY 2019. Somewhat more than half the 137 responding parents or 53% were low income. The ethnicity or race of PMP parties generally reflected Massachusetts demographics, consisting of a White majority and Hispanic/Latino and Black/African American minorities. Almost half of surveyed parents turned to mediation in preference to going to court yet the court was parents' predominant source of information about PMP mediation services.

A settlement rate of 75%, comprising all forms of agreement, was achieved during FY 2019, which was at the high end of the range of typical mediation agreement rates of 50% to 80%. Moreover, progress with developing parenting plans applied to 77% of parents.

Substantial majorities of two-thirds of parents reported that mediation helped them make progress in reducing the conflict between themselves. Similar majorities of parents felt their skills in resolving conflict with one another had improved with the help of mediation. PMP mediation also helped most parents behave more civilly to one another.

For the most part, communication between parties was successful with the aid of PMP mediation. Progress in communicating with the other parent was achieved for a large majority of 72% parents, and better parental communication was still occurring weeks later for over half of

interviewed parents. Even when their communication involved more fraught subject matter, progress in communicating with one another still applied to a majority of parents.

Although issues regarding parents' relationship with their child(ren) were the ostensible topics to be mediated, progress in making advances on these issues was reported by minorities of the FY 2019 group of responding parents. Nevertheless, majorities of non-custodial parents – over two-thirds – found some degree of success in improving core PMP parenting issues – viz., access, visitation, and time with the child(ren) – through mediation. Only minorities of custodial parents experienced improvements in these matters.

Success in increasing their own financial support for their offspring was more prevalent among non-custodial than custodial parents by 12 percentage points. On the other hand, following a four-to-ten week interval after mediation, the minority of interviewed non-custodial parents who had maintained an increase in their ability to financially support their offspring was smaller than the minority of custodial parents who did so. According to a minority of parents, social factors – such as the parents' relationship – influenced parents' financial support for their offspring more often than did such economic factors as housing and transportation.

Party approval of mediators and the mediation process was widespread among the FY 2019 group of surveyed parents. Parents were generally enthusiastic about their mediators. Mediators employed a variety of strategies to make mediation productive for parties. Active listening, which involved a number of tactics designed to assure parties that they were being heard, was employed the most often. Overall, FY 2019 parties were pleased with the assistance they received from their PMP mediators.

## **I. Introduction:**

Inasmuch as the parent-child relationship and parents' child-rearing responsibilities outlast the breakdown of the parents' personal relationship, parents are faced with fulfilling their parenting responsibilities despite divorce or separation. Child-rearing issues are among the most contentious confronting divorcing or separating parents,<sup>1</sup> and settlement of parents' parenting disputes is less likely when conflict levels are high.<sup>2</sup> Mediation is a dispute resolution process that can help divorcing or separating parents handle their disagreements and meet their responsibility for their child's welfare. In mediation, parties discuss their issues and explore alternatives for mutually acceptable agreements with the assistance of a neutral third party – the

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<sup>1</sup> “During the divorce, the two most contentious issues are usually finances and children – in that order,” says Dan Couvrette, publisher of *Divorce Magazine*.<sup>7</sup> (idfa). (2015). Leading causes of divorce: Survey: Certified divorce financial analyst (CDFFA) professionals reveal the leading causes of divorce. Retrieved July 24, 2015, from <https://www.institutedfa.com/Leading-Causes-Divorce/>.

<sup>2</sup> Ballard, R.H., Holtzworth-Munroe, A., Applegate, A. G., & D’Onofrio, B. (2011, January). Factors affecting the outcome of divorce and paternity mediations. *Family Court Review*, 49:1, 16-33.

mediator.<sup>3</sup> Research-based evidence shows that between 50% to 80% of mediated disputes end in agreement and that improved parenting by the non-custodial parent is more likely when divorce includes mediation and not just litigation.<sup>4</sup> Since Fiscal Year (FY) 2008, the Parent Mediation Program (PMP) has provided for the dispute resolution needs of Massachusetts parents dealing with child-rearing issues arising from divorce or separation.

PMP was established in part to mitigate the financial burden on never-married, divorcing, or separating parents of addressing their parenting disputes through legal or social services. Under PMP auspices, up to four hours of mediation services are available free of charge to eligible parents to deal with disputes over access, visitation, parent's time with the child, and the development of parenting plans. Other parenting issues, such as child support, are beyond the scope of PMP mediation unless they impact any of the aforementioned child-rearing issues. Parents are considered suitable for PMP assistance if, among other things, they are the biological or adoptive parents<sup>5</sup> of the child or children – at least one of whom is a minor – whose care is in dispute, and if greater care-taking responsibility is exercised by one of the parents.

The anticipated outcomes of PMP mediation for participating parties include addressing and resolving parenting disputes and positively impacting parenting time. The expected benefit for the Probate and Family Court is the removal of access and visitation cases settled through PMP mediation from the court docket. For the community at large, the PMP offers a model for expanding access to mediation services for parenting disputes associated with divorce or separation.<sup>6</sup>

The PMP was sponsored by the Department of Revenue's Child Support Enforcement Division (the DOR) through a federal Access and Visitation Grant and a ten percent state funding match and administered by the Massachusetts Office of Public Collaboration (MOPC, the state's dispute resolution agency). Mediation services were provided by participating community mediation centers (centers), which were non-profit, community based organizations committed to delivering affordable mediation services to the public. The four centers that participated in the PMP during FY 2019 were the Community Dispute Settlement Center

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<sup>3</sup> Wilkinson, J. (2001, August). *A study of Virginia and ten states: Final report and recommendations*. Virginia Association for Community Conflict Resolution (VACCR), The Institute for Environmental Negotiation, University of Virginia.

<sup>4</sup> Emery, R. E., Sbarra, D., & Grover, T. (2005). Divorce mediation: Research and reflections. *Family Court Review*, 43:1, 22-37. Retrieved August 15, 2012, from <http://onlinelibrary.wiley.com/doi/10.1111/j.1744-1617.2005.00005.x/full>; Pearson, J. & Thoennes, N. Divorce mediation research results. (1988). In J. Folberg and A. Milne. (Eds.). *Divorce mediation*. New York: Guilford Press.

<sup>5</sup>Permission from the DOR is required, among other conditions, for legal guardians to be eligible for PMP mediation.

<sup>6</sup> The removal of “pending access and visitation cases in the Probate & Family Court ...[from] the court docket in an expedited fashion through on-site, court-based mediation services and “program design for future replication and expansion” are among the outcomes of the PMP listed in the FY 2019 scope of services agreement with the DOR.

(CDSC), MetroWest Mediation Services (MetroWest), North Shore Community Mediation (North Shore), and The Mediation and Training Collaborative (TMTC).

## **II. The Parent Mediation Program in operation:**

The effectiveness of a program's functioning resides partially in the timely accomplishment of organizational responsibilities, which, in the case of the PMP, were variously shared by the DOR, the University of Massachusetts Boston, MOPC, and participating centers. The DOR provided funding for the PMP in the amount of \$133,265.45 for FY 2019, reviewed the appropriateness of policies and practices that were brought to its attention by the PMP Program Manager, and transmitted information about the PMP to state and federal governments. The University of Massachusetts Boston did its part in performing the bureaucratic tasks involved in the formation of contracts and the disbursement of funds for PMP purposes. MOPC, in the person of the Program Manager under the direction of MOPC's Executive Director, not only provided for program management, administration, and evaluation, but also oversaw centers' delivery of mediation services and the acquisition and submission of information to the DOR concerning the impact of mediation services, the evaluation of the program, and compliance with program requirements. Centers provided mediation services and collected information needed to demonstrate compliance with PMP requirements and to conduct program evaluation.

### **A. MOPC's PMP responsibilities:**

Once the FY 2019 ISA/contract between the Child Support Enforcement Division of the DOR and MOPC through the University of Massachusetts Boston was completed, contracts for mediation services were formed with four community mediation centers who had agreed to abide by the conditions for PMP participation. Although contract formation was more time-consuming than in the past, possibly due to staffing issues at the university, PMP operations and the delivery of mediation services by centers proceeded apace through the combined efforts of the Program Manager and centers. Throughout the year, the Manager oversaw the delivery of mediation services by centers from the initial receipt of referrals to the collection of data concerning PMP operations and impact, regularly communicated with centers collectively or individually to share information about program developments and requirements, and responded to center needs and suggestions by, e.g., providing training in PMP procedures to centers on an as-needed basis, and managing PMP finances.

#### **1. Managing PMP finances:**

The management of PMP finances by the Program Manager involved creating a budget to guide program expenditures and complying with the university's procedural and documentation requirements for paying centers for their activities on behalf of the PMP. Centers' PMP activities included processing referrals, performing screenings and assessments, preparing parties for

mediation, conducting mediations, acquiring post-session feedback from parties and mediators through surveys and telephone interviews, and completing quarterly surveys to furnish their perspective on the PMP. Payment amounts were determined by the type of activity performed by centers. Centers submitted invoices for their work each quarter. After checking the accuracy of the documents, the Program Manager submitted them to the university for processing and the release of funds.

The budget process undertaken by the Manager included the formulation of referral and mediation targets meant to provide guidance about the estimated quantity of center activities likely to be covered by PMP funding during the fiscal year. As in FY 2018, targets of 110 referrals and 90 mediations were proposed for FY 2019. The \$133,265.45 in FY 2019 government funding for the PMP underwrote these targets along with associated center and MOPC activities.

To further guide centers in managing their PMP finances, the Program Manager continued her practice of allotting a portion of the grant money to each center at the beginning of the fiscal year based on the center's past financial history with the PMP. The fund allotment was provisional and subject to reallocation depending on circumstances. Late in FY 2019, a routine reallocation of funds among the centers was conducted by the Manager as a precautionary measure to make sure that centers were paid for services, an action that turned out to be important for two centers in particular. By the end of FY 2019, all but 7% of the grant was expended.<sup>7</sup>

## **B. Center's PMP activities:**

Centers' PMP responsibilities were wide-ranging. In the course of referral processing and intake activities, center staff tracked the source of the referrals and determined the initial eligibility of the case. Through screening procedures, staff determined whether parties were providing informed consent to mediate; whether parenting time, access, or visitation issues were to be mediated; and which parent exercised the greatest amount of child care responsibility and could therefore be designated, for PMP purposes, as the custodial parent while the other parent would be considered non-custodial. Mediation sessions were scheduled and parties were prepared for mediation. One center's observation that "... generally they [parties] are very appreciative of having had the good listening and clear explanations by the case coordinators prior to mediation" was confirmed by 99% of 148 surveyed parents who indicated that they had received clear information about the mediation program and the mediation process before mediating. As one parent said, "working with the case coordinator was very positive experience. Means a lot to be listened to!" Center staff interviewed willing parents about the effects of mediation four to ten weeks after the last mediation session. At the end of each quarter, centers completed a survey asking for their feedback about the PMP. One of the centers repeated that "we would (again) recommend this survey be done once or twice a year instead of 4 times per

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<sup>7</sup> In this report, percentages will be given to the nearest integer.

year. Also, questions on this survey about outreach efforts seem repetitive and duplicative.” Once again, the Program Manager explained that the frequency of center surveys was dictated by the requirement for quarterly reporting.

Besides conducting the mediation, centers were required to track the amount of mediation time spent on PMP-eligible issues, record changes in parenting time and in the circumstances of the non-custodial parent that would favor more parenting time, fill out a form describing session developments, complete a post-session questionnaire, and ask parties to voluntarily participate in a post-mediation survey. Despite their paperwork burden, mediators appreciated the PMP benefits for parties: “They [mediators] still groan about the paperwork and recognize the value of the service,” noted one center.

Center staff and the Program Manager helped mediators surmount their paperwork difficulties. Just completing the session description section of the PMP session write-up form was challenging for some mediators. According to one center, “on the PMP Session Write up form, under Session Description, the level of detail needed in this section (particularly when describing a parenting schedule) is onerous to the mediators and often requires the case coordinator speaking with them to clarify and prompt them to add more detail.” The intermingling of PMP-eligible issues with other parenting issues during a mediation session meant that, at another center “sometimes mediators have had challenges with separating the fee-based part of the mediated conversation from the PMP part of the conversation. Often these conversations are interwoven. We overcome the challenge by keeping in dialogue about it with our mediators.” Uncertainty about recognizing that mediation would not resume continued to bedevil some mediators. Misidentifying the finality of the mediation session risked the loss of party feedback or the acquisition of premature feedback. One center pointed out that its PMP mediation model “continued to work very well, except for mediators continuing to forget to give the evaluation forms to parties. The mediators often plan to give the forms at the last session, but oftentimes it is not clear when the last session will be. We would appreciate guidance on how to handle this.” The Manager reminded centers that parent evaluation surveys could be mailed to parties. In cases where the survey was premature because parties continued to mediate, parties were surveyed again, with the most recent survey retained in place of the previous survey. This fiscal year, four later surveys replaced earlier ones.

After the mediation session, mediators conveyed information related to the mediation session from to center staff for submission to the Program Manager. Conducting mediations at court sites, away from the center’s office, occasionally led to delays in the transmission of documents at one of the centers: “Sometimes there is a time lag between mediations and receiving the required paperwork from the mediators. ... But in general our mediators are thorough and timely with their paperwork.”

### **C. Referrals and mediations performed by centers:**

By the end of the 2019 fiscal year, actual referrals and mediations exceeded the proposed targets by 28% and 29%, respectively (see Table 1). At least 423 people – a minimum of two parents and one child per case over 141 newly referred cases – were probably affected by center attention under PMP auspices. Compared to the previous fiscal year, however, actual referral and mediation numbers declined in FY 2019 by 12% and 15%, due in large part to a marked drop of 24% in community-based referrals (which made up 35% of the referrals) (see Table 1). Court-based referrals (65% of the referral total), though, decreased by only 4%. FY 2018 referral and mediation numbers were themselves lower than those of FY 2017 when centers handled a total of 176 new case referrals, 153 of which progressed to mediation.

Center reactions to their referral and mediation numbers may be related to the downturn in the quantity of these activities over FY 2019. During the first quarter of the fiscal year, three out of four centers were satisfied with their referral and mediation numbers. In succeeding quarters, more centers expressed an interest in getting more cases. Three centers in the second quarter would have liked additional cases while two centers expressed their readiness for a larger caseload in the third and fourth quarters.

Table 1: Referrals, screenings, and mediations for FY 2019 and FY 2019 quarters.

|                                     | <b>FY 2018 &amp; 2019 Targets</b> | <b>July-Sept 2018</b>      | <b>Oct-Dec 2018</b>        | <b>Jan-Mar 2019</b>        | <b>Apr-June 2019</b>       | <b>FY 2019 totals</b>       | <b>FY 2018 totals</b>       | <b>% decrease since FY 2018</b> |
|-------------------------------------|-----------------------------------|----------------------------|----------------------------|----------------------------|----------------------------|-----------------------------|-----------------------------|---------------------------------|
| <b>New case referrals</b>           | 110 for year                      | 32                         | 36                         | 38                         | 35                         | 141                         | 161                         | 12%                             |
| <b>Community-referred new cases</b> | n/a                               | 12                         | 19                         | 8                          | 11                         | 50                          | 66                          | 24%                             |
| <b>Court-referred new cases</b>     | n/a                               | 20                         | 17                         | 30                         | 24                         | 91                          | 95                          | 4%                              |
| <b>Screening completed</b>          | n/a                               | 30                         | 29                         | 32                         | 36                         | 127                         | 149                         | 15%                             |
| <b>Mediations</b>                   | 90 for year                       | 27 progressed to mediation | 23 progressed to mediation | 31 progressed to mediation | 35 progressed to mediation | 116 progressed to mediation | 139 progressed to mediation | 17%                             |

The exclusive hold on court referrals of cases to the PMP, exercised for at least five years by the three western Massachusetts probate courts in Franklin, Hampden, and Hampshire counties, finally ended during the first half of FY 2019 with two referrals from the Middlesex Family and Probate Court. During FY 2019, the Hampden court was the major source of referrals, providing nearly half or 49% of the referrals while 27% were generated by the Franklin court, 21% by the Hampshire court, and 2% by the Middlesex court (see Table 2).

Table 2. Court referrals of new cases during FY 2019

| <b>Probate &amp; Family Court</b> | <b>July-Sept 2018</b> | <b>Oct-Dec 2018</b> | <b>Jan-Mar 2019</b> | <b>Apr-June 2019</b> | <b>FY 2019 Total (%)</b> |
|-----------------------------------|-----------------------|---------------------|---------------------|----------------------|--------------------------|
| <b>Essex</b>                      | 0                     | 0                   | 0                   | 0                    | 0 (0%)                   |
| <b>Franklin</b>                   | 6                     | 5                   | 5                   | 9                    | 25 (27%)                 |
| <b>Hampden</b>                    | 8                     | 7                   | 18                  | 12                   | 45 (49%)                 |
| <b>Hampshire</b>                  | 5                     | 4                   | 7                   | 3                    | 19 (21%)                 |
| <b>Middlesex</b>                  | 1                     | 1                   | 0                   | 0                    | 2 (2%)                   |
| <b>Worcester</b>                  | 0                     | 0                   | 0                   | 0                    | 0 (0%)                   |
| <b>Suffolk</b>                    | 0                     | 0                   | 0                   | 0                    | 0 (0%)                   |
| <b>Total</b>                      | 20                    | 17                  | 30                  | 24                   | 91                       |

**D. Responding to party needs for more mediation time:**

Dealing with parenting issues can be time consuming. Although parties can arrange for more mediation time with centers outside of PMP auspices in exchange for the payment of center sliding scale fees, in one center’s experience, “having free services encourages parties to take the time they need to work things out. Sometimes that means more than one session.” Raising the cap on the quantity of hours subsidized through the PMP enables center to provide parties with time to deal with issues free of charge. Mediation time is the most expensive of centers’ PMP activities so increases in subsidized time is dependent on available funding. By March 2019, the state of PMP finances was such that the Program Manager, with DOR approval, decided to make up to four additional free mediation hours available per case through the remainder of the fiscal year. The Program Manager’s response to a request for additional mediation time from the center on behalf of parties was influenced by such factors as need, the progress made in the case, and the estimated number of hours needed. The four centers requested additional mediation time for 12 cases.

**E. Preserving access to PMP mediation services:**

The Program Manager and centers undertook to preserve access to PMP mediation of the parenting disputes between divorcing, separating, or never-married parents. Their efforts included extending access to PMP mediation to parties whose PMP cases were closed, remedying shortfalls in service delivery, and engaging in outreach.

**1. Returning to mediate again:**

Willingness to mediate again is a commonly used measure of party satisfaction with mediation. Over the years, overwhelming numbers of parent participants in PMP mediation have indicated their willingness to mediate again. FY 2019 was no exception: 97% of 145 surveyed parents said they would use the program again. Former PMP parties acted on this willingness this fiscal year by seeking to return for more PMP mediation services to assist with changed circumstances even though their case was closed. As a result, questions were raised about whether to grant the returnees access to PMP mediation again and, if such return be allowed, how to classify their case under PMP guidelines. Given unspent PMP funds, the Program Manager consulted with the DOR and weighed the goal to maximize access to PMP mediation against the mediation needs of parties who were once served under the PMP and the needs of parties who had never received PMP services. It was decided that a single return to PMP mediation would be allowed per case. Faced with the alternatives of treating the parties' return to mediation as either the continuation of the original case or as a new case, the Program Manager developed criteria and protocols for classifying the return. If the return occurred within six months of the last session of closed case, it would be handled more like a case continuation: the case number would remain the same; centers would receive no payments for intake, screening or scheduling; and parties would be offered two free mediation hours, with the possibility of an additional two hours. If six months or more lapsed since the final mediation session of the closed case, the return to mediation would be considered a new case, provided with a new case number, compensation would be available for pre-mediation center activities, and access to four free mediation hours would be granted to parties. During the fourth quarter of FY 2019, four cases involved returning parties, three of which were classified as new cases while the fourth was treated as a continued case.

## **2. Repairing shortfalls in PMP mediation services:**

The program manager worked with centers to remedy the gap in access to PMP mediation created by personnel changes at one center and the withdrawal of another center from the PMP in FY 2018. Personnel changes prevented one of the current PMP centers from being a fully active participant in the program during the latter half of FY 2019. Staffing turnover and a scheduled leave during the third quarter of FY 2019 diminished the center's ability to deal with PMP paperwork and fully participate in the PMP: "PMP is an increased workload for our center to keep up with paperwork. That is why we are pausing our involvement with PMP this [third] quarter given our staffing changes." The Program Manager helped this center with its existing cases and conducted comprehensive trainings in PMP policies and procedures for new staff on two occasions.

Last year, one of the PMP centers left the program. As a result of renewed interest in parenting mediation among community members and following discussions with the Program Manager, a former PMP center applied to rejoin the PMP, effectively compensating for the departure of the former center. To get ready for FY 2020 PMP participation, center staff and mediators will be trained in program protocols and policies by the Program Manager during the summer months.

### **3. MOPC and center outreach activities:**

During the FY 2019 fiscal year, center efforts to encourage interest in PMP services largely involved presenting information about the center's portfolio of services, which included PMP mediation, to groups with no special interest in parenting mediation per se, such as Franklin County Service Providers, a conflict resolution workshop for an after-school program, YWCA, mediation workshop at a community college, presentations at rotary club meetings and the Massachusetts Bar, mediation trainings for community members, etc. Less frequently, centers provided PMP information to groups likely to be interested in parenting mediation, including Cambridge Family and Children's Services and STEPS Young Parent Summit. Mediators also engaged in initiatives to further acquaint court personnel and parties about the PMP at various probate & family courts, such as meeting with personnel at the Franklin, Hampshire, and Hampden probate courts and with attorneys, coordinators, and other court officials involved in on-site mediation pilots at the Salem and Middlesex probate & family courts, as well as distributing brochures about the PMP to parties involved with the on-site mediation pilots.

MOPC also engaged in outreach. On-going discussions were initiated with a Lowell community mediation center, the Middlesex Community College Law Center, about joining the PMP once the center receives approval as an alternative dispute resolution program from the Probate & Family Court. The MOPC Executive Director has also offered expertise – acquired from the MOPC's experience running the PMP, including program evaluation instruments – to the Probate & Family Court Department in connection with the development of a pilot ADR program in the Cambridge and Salem courts of the Middlesex and Essex Probate & Family Court divisions.

#### **F. Center feedback about the PMP:**

According to centers, the value of the PMP resided in addressing party needs. As one center pointed out, “parties report that they are grateful for the service and that the PMP mediators are very helpful;” and “we highly value the opportunity to offer these free mediation service as it ... so on point addresses the needs of families and children,” noted a second center. Furthermore, the removal of financial obstacles for PMP services expanded access to parenting mediation services: The PMP “has made the services even more financially accessible for the largely low and moderate income people that we serve, and has encouraged people to engage in more than one session, as desired,” remarked one center; and “families who wouldn't otherwise be able to afford mediation are able to utilize these vital services,” observed another center. At a third center, the PMP was instrumental in providing mediation for parenting issues that were outside the PMP's purview: the PMP “also provides resources for our center to continue to be able to offer free and very low cost mediation services for divorce & family cases that may NOT qualify for [the] PMP.”

#### **G. Fulfilling the reporting requirement:**

MOPC demonstrated its accountability for administering the PMP by reporting on the status of the program on a quarterly basis and evaluating the program's effectiveness semi-annually. The reports were based on office records, information furnished by parties and centers during intake and screening procedures, and party, mediator, and center responses to surveys and interviews.

The introduction of a question about the factors that influenced the parent's financial support for the child into the telephone interview – instituted at the behest of the DOR on behalf of federal authorities – was criticized by one center as awkward, intrusive, and irrelevant: the “new Question 6, when asked in an interview it comes off as awkward and intrusive and overall just too much. It doesn't address the mediation directly so we would recommend deleting it;” and “I believe some of the phone evaluation questions, particularly the final question, are phrased in a way that is a bit awkward and difficult for the parties to understand what information is being sought. Perhaps [it] could be revised for next year?” During the coming year, this question will be reviewed to determine whether changes in its form or its content (or both) are needed.

For this fiscal year, MOPC fulfilled its reporting responsibilities by the timely submission of four quarterly reports prepared by the Program Manager and two program evaluation reports produced by the MOPC research unit under the direction of the MOPC Associate Director.

### **III. The impact of mediation on parents served:**

The evaluation of the effectiveness of a human services program requires an examination of not only the program's operations but also its impact on the population served. Analysis of the impact of PMP mediation during FY 2019 was based on responses to post-session questionnaires, which consisted largely of closed-ended questions with some open-ended options. One hundred fifty parents (hereafter “surveyed parents”) in 80 cases voluntarily completed a questionnaire after their last mediation session. The questionnaire inquired into the parents' motivation to mediate, the source of their knowledge about mediation, their assessment of mediation and mediators, the level of conflict present during the mediation session, the accomplishments of mediation, and the factors that influence their financial support for offspring, among other matters. Four to ten weeks after their last session, 94 willing parents from 72 cases participated in guided telephone interviews (hereafter “interviewed parents” or “interviewees”) conducted by center staff about the continued existence of gains made in mediation. Mediator observations about developments during the mediation session were required to be recorded on questionnaires after each session. One hundred eight-three questionnaires describing 183 sessions in 132 cases were completed. There were 80 cases in common between the mediator and party questionnaires, which included all but one of the party cases; 46 cases were common to party respondents to the post-session questionnaire and to the telephone interview; and 58 cases were jointly represented in the telephone interviews and the mediator post-session questionnaires.

The information yielded by the party and mediator surveys was based on aggregated responses with particular attention paid to the proportion of respondents who responded similarly to questions.<sup>8</sup> The resulting findings apply only to the group of individuals responding to the surveys.

## **A. Setting the mediation stage:**

### **1. Characteristics of mediating parents:**

Information about the financial circumstances, race/ethnicity, and custodial status of mediating parents was based on their responses to the post-session questionnaire. The results indicated that the surveyed PMP population was economically and racially/ethnically diverse.

#### ***Financial circumstances:***

The PMP primarily served a lower-income population during FY 2019. Somewhat more than half the 137 parents responding to the party post-session questionnaire or 53% were low income, earning at most \$29,000, which was under 199% of the federal poverty level for a two-member household (one parent and one child) or \$32,755.<sup>9</sup> A bit over one-fifth of surveyed parents or 23% could be considered indigent, earning under \$10,000, less than \$20,575 or 125% of the 2018 federal poverty level for a two-member household.<sup>10</sup> Nearly one-fifth of surveyed PMP parents or 19% had incomes of \$60,000 or more.

#### ***Ethnicity/race:***

The ethnicity or race of PMP parties generally reflected Massachusetts demographics. The Massachusetts population consisted of a White majority estimated at 72.2%, and Hispanic/Latino (11.9%) Black/African American (8.8%), and Asian (6.9%) minorities.<sup>11</sup> The

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<sup>8</sup> Percentages are reported to the nearest integer.

<sup>9</sup> Federal Poverty Level: Definition, Guidelines, Chart - The Balance. Available at <https://www.thebalance.com/federal-poverty-level-definition-guidelines-chart-3305843>; Population Reference Bureau (PRB). U.S. low-income working families increasing. Retrieved February 4, 2019, from <https://www.prb.org/us-working-poor-families/>

<sup>10</sup> Indigency standards used by the Massachusetts courts in 2018. See <https://www.mass.gov/files/documents/2018/02/06/povertyguidelines2018.pdf>

<sup>11</sup> US Census Bureau. QuickFacts. Available at <https://www.census.gov/quickfacts/ma>

surveyed PMP population (of 146 parents) comprised 60% who self-identified as White, 24% as Hispanic or Latino, 17% as Black or African American, and 0% as Asian.

### ***Custodial status:***

Out of 120 parents who responded about their custodial status on the post-mediation questionnaire, those who considered themselves custodial parents outnumbered non-custodial parents by nearly two to one. Sixty-five percent (or 78) parents claimed custodial status while 35% (or 42) self-identified as non-custodial. Six custodial parents indicated that custody of the child(ren) was shared. Fully one-fifth of the 150 surveyed parents failed to respond about their custodial status. In contrast, the custodial status of interviewed parents was supplied by the center interviewer and corresponded to the custodial status originally assigned to parents by the center, which, under PMP guidelines, required parents to differ in their de facto responsibility for their child(ren) and did not allow for shared custody. Consequently, the 94 interviewed parents were almost equally divided between custodial and non-custodial parents: 46 or 49% were custodial and 48 or 51% were non-custodial, which did not necessarily reflect either post-mediation changes in custody or the interviewees' understanding of their custodial status.

## **2. How parents learned about the Parent Mediation Program:**

The court was parents' predominant source of information about PMP mediation services. A majority of 56% of 149 parents learned about the program from a judge's recommendation (26%) or order (30%) while another 28% heard about the PMP from court personnel. The internet or recommendations from family or friend informed 16% of parents about the program, and 11% relied on other sources, including therapists or community organizations. These findings were in line with Program statistics showing that 65% of new cases in FY 2019 were referred by the court.

## **3. Parents' reasons for mediating:**

Almost half or 49% of 145 surveyed parents turned to mediation in preference to going to court. The accessibility of mediation, the absence of fees, and mediation's positive reputation each appealed to approximately one-third of parties: 37% were motivated by accessibility, 34% by reputation, and 33% by the free services. Out of the 19% who chose to mediation for other reasons, nearly half or 9% were ordered to mediate by the court.

## **4. Existing complications:**

Parents' plans about the future welfare of their child(ren) were not solely complicated by the disruption of their personal relationship. Mediators noted that parents at 87% or 159 of 183

sessions were troubled by other difficulties in their lives, including problems with one another. Parents at 65% of sessions experienced difficulty cooperating on child-rearing or child-related issues. At more than half or 55% of sessions, tolerating differences between themselves was a problem for parents. Disrespect for the other parent and distrust between parents were each evident at 53% of sessions. An inability to separate their needs from those of their child(ren) afflicted parents at 40% of sessions. Between 22% and 31% of sessions involved parents who had problems validating the importance of the other parent, had a poor sense of the boundaries between parents, and verbally abused the other parent.

## **5. The impact of mediation on parents:**

Although the express goal of mediation is the settlement of disputes through mutually acceptable agreements, research studies have shown that mediation may confer other benefits upon parties. Compared to litigated divorces, divorce mediation was more likely to lead parents to consider their relationship to be cordial, to be more reliable about child support,<sup>12</sup> and to improve parenting on the part of the non-resident (or non-custodial) parent.<sup>13</sup> According to Hedeem and Coy (2000), “[a]mong mediation’s numerous advantages is its ability to constructively address conflicts, respect each party’s perspective, empower individuals to take personal responsibility for conflicted relations, establish mutually beneficial dialogue, and reduce violence. Written settlements are often a by-product of these dynamics, but they are not in themselves a sufficient goal of community mediation.”<sup>14</sup> The mediation process behind these outcomes typically receives widespread approval from parties.<sup>15</sup> Accordingly, the impact of the PMP has been examined in terms of agreements, the relationship between the disputing parties, parenting circumstances involving parent and child(ren), parents’ financial support for the child(ren), and the intervention of other organizations as well as parent reaction to the mediation experience.

### ***a. Settling disputes by agreement:***

When a dispute that gets resolved through mediation culminates in an agreement, the agreement tends to be the product of parties’ efforts and mutually acceptable to both parties. To illustrate: at one mediation session, the mediator observed that “Parties were able to work cooperatively and reach a full parenting agreement;” parents at another session “worked cooperatively towards creating a parenting plan,” and at a different session, the mediator issued “reminders [to parents] to focus on the parenting plan that works for both ....” With respect to

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<sup>12</sup> Bautz, B. J. & Hill, R. M. (1989, Fall). Divorce mediation in New Hampshire: A voluntary concept, *Conflict Resolution Quarterly*, 7:1, 33-40.

<sup>13</sup> Ballard et al. (2011, January).

<sup>14</sup> Hedeem, T. & Coy, P. G. (2000). Community mediation and the court system: The ties that bind. *Mediation Quarterly*, 17:4, 351-367.

<sup>15</sup> Wilkinson (2001, August).

agreements in general, out of 118 surveyed parents, 39% achieved full agreements from mediation, 24% reached partial agreements, and 15% agreed temporarily. One-fourth (25%) of parents came to no agreement. Viewed positively, a 75% agreement rate (counting all forms of agreement) was achieved in mediation during FY 2019, which was at the high end of the range of typical mediation agreement rates.

The agreement rate derived from party responses was consistent with the agreement rates generated at 180 mediation sessions, which represented over 60% more cases than did the party rate. Agreements were reached at 74% of 180 sessions (23% resulted in full agreements, 37% in partial agreements, 19% in temporary agreements, and 26% in no agreement). At 129 final sessions, an agreement rate of 74% was also produced at 129 final sessions according to mediators (full agreements were reached at 30% of final sessions, partial agreements at 34%, temporary agreements at 16%, and no agreement at 26% of final sessions). The status of the agreements could change. Full agreements might be undermined by circumstances: as one parent explained some time after mediation, “I know on the paperwork I agreed to child support, but pretty hard to do when you have no job!” With additional mediation sessions, partial agreements could develop into full agreements: reminding parents to focus on planning, a mediator found that “with reminder when they [parents] become embroiled in their past behaviors, the parents were able to focus on creating a partial parenting plan. They intend to return to mediation to finish the parenting plan.”

Parenting plans, a subset of agreements, seek to allocate child-rearing responsibilities between the parents. Such plans are required in contested custody cases,<sup>16</sup> and are an eligible topic for PMP mediation. Devising a parenting plan was relevant for 93% of 130 surveyed parents, a majority of whom or 77% found that their efforts were fully or partially assisted by mediation (43% and 34%, respectively). Mediators’ account of parents’ progress on parenting plans in 183 sessions indicated that progress was made in 80% of sessions, either completely (25% of sessions) or in part (55% of sessions). Scheduling times that parent and child(ren) could spend together was a frequent feature of such plans, potentially redounding to the benefit of both parent and child. One parent noted that mediation “helped us work out a plan that fits our schedules and ensures fairness, like alternating holidays and so on, so we’re both able to see our son” while another parent found that “settling on a weekly schedule has ensured I get regular time with my kid. That’s positive for me and for him [son].”

#### ***b. Dealing with parental conflict:***

*The presence of conflict during mediation sessions:* According to 81% of 145 surveyed parents, parental conflict permeated their last session. Conflict was intense for 21% of parents, moderate for 36%, and low for 25%. About one-fifth or 21% of parents experienced no conflict. Conflict was more pervasive during final mediation sessions according to mediators. Conflict

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<sup>16</sup> Parenting plans, known as shared custody implementation plans, are mandated by Massachusetts General Law ch.298 §31 in contested custody cases.

was present in 94% of 129 last sessions – high conflict in 29% of sessions, moderate conflict at 38%, and low conflict at 26%. Only 6% of final sessions were conflict-free.

Conflict is a risk factor for disagreements and disputes. Research indicates that high levels of conflict reduce the likelihood that disputes will be settled.<sup>17</sup> PMP mediation sessions provide anecdotes illustrating this finding. The mediator at one mediation session noted how conflict hindered decision-making: “the level of conflict and distrust was such that even when they appeared to reach parenting decisions, they invariably stepped back when one or the other made a derogatory comment.” On the other hand, the agreement rate generated by 74% of final mediation sessions exceeded the 71% of final sessions with moderate to no levels of conflict, which suggest that mediation might have mitigated the negative impact of parental conflict. Lower conflict levels need not interfere with planning: at one session, the mediator remarked that “the parents were able to plan with a much lower level of animosity and competitiveness.”

*Reducing conflict between parents:* More direct evidence of an association between mediation and the reduction of conflict between parents was provided by parent and mediator assessments of the progress made in mediation with decreasing parental conflict. Substantial majorities of parents reported that mediation helped them make progress in reducing the conflict between themselves – 67% of 149 responding parents progressed in lessening their conflict in mediation fully (21%) or in part (46%). Mediators concurred, finding that conflict had diminished at 69% of 183 mediation sessions fully (12%) or partially (57%). Moreover, the change in conflict persisted over time: decreased parental conflict was reported by most interviewed parents (53% of 94) four to ten weeks after mediation. After a period of time had lapsed since mediation, one parent commented on the diminished conflict between parents. Another parent was grateful for the mediator’s assistance with the conflict situation: “It was really helpful having the mediator ... because otherwise we would have just yelled at each other.” According to a third parent, less parent conflict benefited the child: “I think she’s [daughter’s] feeling better that we’re not in as much conflict; it’s less stressful and so she [daughter] doesn’t have to worry about that, and that is good for our daughter.” However, a minority of 26% of surveyed parents made no progress with their conflict during mediation and 14% of interviewed parents reported increased conflict in the four-ten week period following mediation. As one parent put it: We [parents] “don’t get along, conflict [is] getting worse.”

*Building skills for resolving parents’ conflict:* Similar majorities of parents felt their skills in resolving conflict with one another had improved with the help of mediation. Seventy percent of 148 parents made partial or complete progress in their conflict resolution skills, and four-ten weeks later, 54% of 94 parents claimed improved conflict resolution skills with respect to parental conflicts. Mediators saw progress made in acquiring such skills at 66% of 183 sessions.

### ***c. Creating a positive relationship between parents:***

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<sup>17</sup> Ballard, R. H., Holtzworth-Munroe, A., Applegate, A. G., & D’Onofrio, B. (2011). Factors affecting the outcome of divorce and paternity mediations. *Family Court Review*, 49:1, 16-33

Mediation is a dispute resolution process that involves collaboration between disputants in contrast to the adversarial approach taken in litigation. Party relationships are consequently more likely to be preserved by mediation than by litigation.<sup>18</sup>

*Civility between parents:* PMP mediation helped most parents behave more civilly to one another. Over two-thirds or 69% of 149 surveyed parents reported greater civility between themselves, and mediators saw progress in parents' civility at 62% of 183 mediation sessions. The gains in parental civility persisted weeks later according to 50% of the 94 parent interviewees.

*Dealing with relationship problems:* Parents' relationship problems consisting of disrespect, distrust, and intolerance of differences were among the most frequent difficulties attending parents at the time of the mediation. Mediators noted that parents made progress in dealing with disrespect for the other parent and the high degree of distrust between parents in 26% of 159 mediation sessions. Intolerance of parents' differences, an existing problem at 55% of sessions, also diminished at 22% of sessions. And so, mediators observed that "the parents [at one session] improved their level of trust and respect for the other parent." At another session, the mediator saw "parents developing more respect for one another, greater ability to co-parent cooperatively." Parents at a third session were "able to hear each other's strong views and concerns about politics and religion." Mediators at yet another session reported that "the parties came to understand each other's struggles, particularly on a financial level." On the other hand, the beneficial impact of time on relationships was recognized by a parent, remarking that mediation had lasted only for one hour and the parents' "relationship is better now probably because time has passed."

#### ***d. Dealing with parent communication:***

In mediation, parties seek to resolve their disputes by talking to one another. For the most part, communication between parties was successful with the aid of PMP mediation. Progress in communicating with the other parent was achieved for a majority of 72% of 149 surveyed parents completely (19%) or partially (53%). Successful communication between parents advanced at 81% of 182 sessions. And better parental communication was still occurring weeks later for 56% of 94 interviewed parents. One parent remarked, "we're talking more and communicating with less conflict which is good for our co-parenting relationship." Formerly related parents agreed that the improvement in their communication was beneficial to their child: it's "been easier to communicate with father, ... positive effect for child" said the mother and, according to the father, "more communication between me [the father] and mother has had

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<sup>18</sup> Ballard et al. (2011); Bautz & Hill, (1989); Caprez, J. V. & Armstrong, M. A. (2001). A study of domestic mediation outcomes with indigent parents. *Family Court Review*, 39, 415-; Emery et al. (2005); Pearson & Thoennes (1988).

positive effect on child.” A fourth parent also noticed how parent communication reduced the child’s stress: and told the interviewer that the child was worried that parents couldn’t communicate and that the child was feeling less anxious now. For a fifth parent, better parent communication was not a panacea: “positive: [parents] started communicating, which is positive, but [other parent] still is taking advantage of situation by seeking lower child support order in court (negative).”

Even when their communication was tested with more fraught subject matter, progress in communicating with one another applied to a majority of parents. Slightly more than half or 52% of 133 surveyed parents unconditionally affirmed that mediation helped improve their ability to discuss issues with the other parent. Another 29% experienced some improvement in issue discussion. According to mediators, parents’ ability to discuss issues completely improved at 9% of 183 sessions whereas partial improvement occurred at 68%, with some degree of progress achieved at a total of 77% of sessions. The improvement in parent communication was not even impaired by the topic of parenting expectations for most parents. Mediation helped a majority of 65% of 148 surveyed parents make progress in better expressing their parenting expectations to the other parent, progress that mediators said parents made at 68% of 180 sessions. Thus, for one parent, mediation “opened up the space for us [parents] to have important conversations. We needed to talk about it, about our time with our child and how it was all going to work. It’s a work in progress.”

e. *The parenting situation:*

*Parents’ perception of their contact and involvement with their child(ren):* Although issues regarding parents’ relationship with their child(ren) were the ostensible topics to be mediated, progress in making advances on these issues was reported by minorities of the FY 2019 group of 146-147 responding parents from approximately 80 cases. Smaller minorities of the parents indicated that such matters did not apply in the mediation context. Failure to progress on parenting issues characterized even smaller, though non-negligible, minorities of more than 10%. Thus, with respect to the issues of access, visitation, and parent’s time with the child(ren), these core PMP parenting issues were not germane to mediation according to 33% to 42% of 146-147 surveyed parents. Meanwhile, between 43% and 48% of the parents made some progress on dealing with these core issues, whereas no progress was achieved by 16% to 18% of surveyed parents. In terms of parental participation in their child’s life, half of 147 respondents reported increases in the other parent’s involvement with the child(ren); 29% thought such involvement immaterial to mediation; and 20% found no improvement in the amount of the other parent’s involvement with the child(ren). As for the more specific forms of parent involvement in the child(ren)’s education and extra-curricular activities, roughly one-third of surveyed parents did achieve progress in increasing involvement with the education (37%) or extra-curricular activities of their child(ren) (34%), even though these issues were irrelevant to mediation for 46% and 48% of surveyed parents and progress did not materialize for 17% and 19% of parents, respectively.

*Mediators' perception of parents' contact and involvement with their child(ren):* Mediators' views of the impact of mediation on parents' relationship with their child(ren) differed from those of responding parents. Across the 181-182 sessions in 132 cases, which encompassed all but one of the cases represented by surveyed parents, mediators were more positive about the mediation gains and applicability of core PMP parenting issues and less positive about the advances and relevance of issues related to parental participation than were surveyed parents. Accordingly, apart from the 17%-25% of 181-182 sessions in which core parenting issues were considered inapplicable, mediators observed progress at a majority of sessions with improving access (58%), visitation (55%), and parents' time with the child(ren) (62%), but no progress in minorities of 17%-22% of sessions. In contrast, a degree of success in expanding parental participation in the lives of their offspring was achieved in only minorities of sessions – more parental involvement with education in 19% of 181 sessions and with extra-curricular activities in 12% of 182 sessions – whereas parental involvement in the child(ren)'s education or extra-curricular activities were not a mediation concern 67% and 72% of sessions, respectively, and no progress in such issues realized at 16% of the sessions.

*Parents' contact and involvement with their child(ren) according to custodial status:* The difference between parent and mediator assessment of the impact that mediation had on the various issues relating to the parent-child relationship might be due to the mediators' impartial perspective on session developments, to the greater number of cases observed by the mediators, to the disproportionate representation of custodial parents among the respondents to the post-mediation party questionnaire, or to other factors. It is likely that the difference in custodial status of parents influenced parents' attitudes and experiences regarding their contact and involvement with their child(ren). When custody involves the child(ren) and parent living together, the non-custodial, non-resident parent typically has a greater interest in arrangements for maintaining the parent-child relationship than does the custodial parent.

The FY 2019 group of surveyed parents was composed of around 53% custodial parents, 28% non-custodial parents, and 19% of parents who did not identify their custodial status. When the responses of parents who failed to provide their custodial status were removed from consideration and the remaining party responses were disaggregated by custodial status, the resulting findings revealed a greater similarity between the views of mediators and non-custodial parents than with custodial parents about the effects of mediation on core PMP parenting issues.

In their responses to the post-mediation session questionnaire, few non-custodial parents (minorities of 10% to 20% of 40-41 non-custodial parents) thought that the core PMP parenting issues were irrelevant to mediation compared to the majorities of 54% to 69% of 77-78 custodial parents who held that view. Furthermore, majorities of non-custodial parents – from 69% to 73% – found some degree of success in improving core PMP parenting issues through mediation, viz.,

increases in access for 73% of non-custodial parents, in visitation for 71%, in time with child for 71%, and in preventing decreased time with child for 69%. In contrast, improvements in these matters were only experienced by minorities of 27% to 34% of custodial parents. There was a 44-22 percentage point difference in responses about achievements in core parenting issues between the two groups of parents.

Interest in dealing with issues surrounding their involvement with their offspring was more prevalent among 40-41 non-custodial than among 77-78 custodial parents. The proportion of non-custodial parents who considered involvement with their child(ren)'s education or extra-curricular activities inapplicable to mediation exceeded the proportion of non-custodial parents who shared that opinion by 34 and 39 percentage points. In comparison to the core parenting issues, however, the difference between custodial and non-custodial parents' reports about improved parent participation in their child(ren)'s lives was less stark, differing by 22-23 percentage points. Progress in increased parent participation in the education and extra-curricular activities of their offspring was achieved by a corresponding 51% and 49% of non-custodial parents compared to 29% and 26% of custodial parents.

After the passage of four to ten weeks, many of the 94 parents interviewed reported no change in the amount of time they and their child(ren) spent together (48%) or in their involvement with their child(ren)'s education (66%) or extra-curricular activities (65%). Although less than 10% of the interviewed parents thought these issues were inapplicable to their post-mediation situation, improvements in these matters continued to exist only for minorities of 21% to 36% of the interviewees while declining for 2% to 16%. Positive changes in the other parent's involvement with the child(ren) proved more durable. The involvement of the other parent with the child(ren) was deemed unchanged by 30% of 87 interviewed parents, increased by 22%, and decreased by 10%. And acknowledgment of the increase in the other parent's involvement was greater among custodial than non-custodial parents. Over one-third or 36% of 42 custodial parents compared to less than one-tenth or 9% of 45 non-custodial parents reported that the other parent was more involved with the child(ren).

*f. Parents' financial responsibility for their child(ren):*

Parental involvement with the child(ren) usually includes financial responsibilities. And mediation may well be beneficial for parents' financial support for their offspring. For instance, research indicates that using mediation in divorce proceedings can positively affect the reliability of child support payments.<sup>19</sup> Yet, child support issues are excluded from PMP mediation absent their direct involvement with PMP-eligible issues, and consequently, mediators are constrained from using their financial expertise in PMP mediation – which may account for one parent's lament over the absence of mediator assistance with financial issues during PMP mediation: “The mediators did not have divorce experience,” alleged the parent, “they said they didn't have

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<sup>19</sup> Bautz & Hill (1989, Fall).

experience with the financial or legal issues.” Nevertheless, the issues that do get addressed in PMP mediation can exert an influence on parents’ assumption of financial responsibility for their offspring.

As a PMP mediation topic, mediators indicated that financial support for the child(ren) was irrelevant at a majority of 58% of 181 sessions, and gains in financial support were made at a minority of just over one-fourth or 26% of sessions. From the parents’ perspective, though, the issue of increasing the parent’s own financial support for offspring through mediation resonated. Such support was considered inapplicable to mediation by a minority of 42% of the entire group of 146 surveyed parents while progress in increasing such support was achieved by just over one-third or 36% of parents. However, for a large majority of 73% of interviewed parents, their own financial support for the child(ren) remained unchanged over the passage of time. Interestingly, the small proportion of interviewed parents who claimed that the increase in their own financial support for their offspring was on-going (19% of interviewees) was still somewhat larger than the proportion of those who declared that the other parent’s financial support was continuing (i.e., 14%). Moreover, fewer parents disclosed a decrease in financial support from themselves (8% of 94) than from the other parent (15% of 94).

Moreover, the issue of parents’ financial support for the child(ren) was related to custodial status in parent responses to both the post-mediation questionnaire and to interviews conducted weeks following mediation. Directly after mediation, belief in the irrelevance of their own financial support for their offspring to mediation was more widespread among custodial (43% of 76) than non-custodial parents (24% of 41) by 19 percentage points, whereas success in increasing their own financial support was more prevalent among non-custodial (49%) than custodial parents (37%) by 12 percentage points. On the other hand, following a four-to-ten week interval after mediation, a smaller proportion of interviewed non-custodial parents (15%) had maintained an increase in their ability to financially support their offspring compared to custodial parents (24%). None of the interviewed parents considered their financial support of their child(ren) inapplicable to their lives.

*Factors related to parents’ provision of financial support to their child(ren):* To determine what circumstances parents considered relevant to the financial support they provided to their child(ren), parents were asked to identify influential factors from a list that included both social and economic options. On both the post-mediation questionnaire and in interviews and irrespective of custodial status, social factors were among the most frequently identified influences on their financial support for their children. Nearly half or 49% of 114 surveyed parents identified less conflict with the other parent and a third or 33% chose better communication with the other parent as factors that would help them to financially support the child(ren). However, the financial support of a greater proportion of non-custodial parents (41% of 32) than custodial parents (32% of 60) was affected by parental communication while the reverse was true for parental conflict. Forty-four percent of non-custodial parents and 57% of

custodial parents indicated that less conflict would be helpful with their financial support. The social factor of time or access to child(ren) was among the least selected factors at 9% among all surveyed parents, yet was chosen more often by non-custodial (28%) than by custodial parents (2%). Economic factors such as transportation, housing, jobs, child support payments, and other services were considered influential by 4% to 20% of parents. Nearly one-fourth or 24% of parents denied any need for change in financial support.

A roughly similar question was put to interviewed parents, asking them to assess how listed factors affected their financial support for their child(ren), including such social factors as the parent's relationship with the other parent and time or access to the child(ren) and such economic factors as jobs, housing, and transportation. Jobs had the most extensive positive influence on parents' financial support – affecting 44% of 88 interviewed parents. Social factors exerted a positive influence on support from the next two largest proportions of 87 interviewed parents – the parental relationship and time/access to the child(ren) positively affected support from 38% and 43% of parents, respectively. More non-custodial parents than custodial parents were positively affected by the job and social factors: namely, 36%-48% of non-custodial parents and 17%-40% of custodial parents.

***g. Intervention by third-party organizations:***

Consistent with the preference for mediation over court proceeding expressed by 49% of 145 parent respondents to the post-mediation questionnaire, 64% of 146 parents made progress in decreasing court involvement through mediation. Across the 182 sessions for the 132 cases mediated, advances in reducing court interventions were less frequent, occurring at 42% of sessions according to mediators. And for one parent, PMP mediation “was great. So much better than the court experience friends have had in court.”

Diminishing dependence on welfare services was irrelevant in mediation for 69% of 140 surveyed parties with some degree of success attained by 19% of parents. Four to ten weeks later, the welfare situation remained unchanged for 14% of 93 interviewed parents, and parents' welfare dependence was increased for 2% or decreased for another 2%. Mediators indicated that at 96% of 180 mediation sessions, reducing welfare dependence was not applicable.

A minority of 15% of parents at 181 sessions were referred to services from other organizations by the mediators. Most referrals were made to court service centers. Counseling was also occasionally recommended. Other referrals included a court-required parenting course, Alcoholic Anonymous, and Concerned Black Men of Massachusetts.

***h. Parent reaction to PMP mediation:***

Party satisfaction with mediation is typically high. In one study of divorce mediation, 77% of interviewed parties were very satisfied with the process.<sup>20</sup> Similarly, approval of mediators and the mediation process was widespread among the FY 2019 group of surveyed parents. Near unanimity characterized parents' satisfaction with mediation: out of 145 parents, 97% would use PMP services again and 99% would recommend the program to others. Indeed, two parents announced that they had already recommended the program: "I have been and will continue to recommend this service to others. Thanks!," stated one, and "I've recommended this program to a friend going through a similar issue. I think it really helps," declared the other parent.

Parents were generally enthusiastic about their mediators. "Mediators were awesome!," enthused one parent. "Both mediators were great 😊," stated another parent (emoji in original). "Working with [mediators' names] was an amazing experience. It streamlined the divorce process and made it emotionally easier," declared a third parent. "Mediator was very helpful and understanding," noted a fourth parent.

PMP mediators, though, were not immune to criticism. One party complained that the mediator fell short in decelerating party conflict: "It was tough being in room / yelling at each other / hostility between parties. Mediator didn't do enough to calm the situation. Wished mediator had given parties a breather. Felt shut down." Other parents praised the mediator despite their disappointment with the mediation outcome: "[Mediator's name] was very wonderful. Difficulty [about how to] ... solve all [the] issues [that] came between parents. [Mediator's name] offered everything reasonable she could. Great mediator."

Mediators employed a variety of strategies to make mediation productive for parties. Active listening, which involved a number of tactics designed to assure parties that they were being heard, was employed the most often – used in a majority of 55% of 183 mediation sessions. Around one-third of sessions involved reframing (39% of sessions), where different descriptions of relevant matters were offered in order to facilitate discussion, and refocusing (32%), where a shift in focus was introduced to guide constructive discussion. For example, at different sessions, parents were reminded "that this was their opportunity to make decisions about their child rather than leaving those decisions to a judge;" "to focus on children, not just to compete for time;" and "encourage[d] to move forward rather than emphasizing history of discord." Approximately one-fifth of sessions included caucusing (21%) – which consisted of meetings between the mediator and one side of the dispute – and exploring options (21%), which generated possible ideas for agreement. And so, at some sessions, mediators turned to caucusing because of sensitive topics – "private session with father was especially helpful to explore and clarify interests and priorities related to parenting and drinking" – or intense conflict – "private sessions [were held] due to high conflict currently between the parties". One parent, though, expressed disapproval of caucusing, opining that "meeting separately doesn't work."

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<sup>20</sup> Ballard et al. (2011, January); Pearson & Thoennes (1988).

Overall, FY 2019 parties were pleased with the assistance they received from their mediator. Large majorities, exceeding 75% of 145 surveyed parents, reported that the mediator was fair and unbiased (84%), listened well to parents' needs and concerns (82%), identified relevant issues (80%), and helped generate ideas (78%). More than two-thirds of parents appreciated mediator assistance with writing up their agreement (69%) and enabling them to make their own decisions (67%).

#### **IV. Conclusion:**

On the whole, the PMP proved to be an effective dispute resolution program that served the needs of divorcing, separating, and never married parents for resolution of their disputes over parenting issues relating to the context of divorce or separation to the satisfaction of nearly all parties. Administrative tasks were accomplished in a timely manner, and the decline in the demand for PMP services was turned into an opportunity for increasing PMP services by raising the cap on the available quantity of subsidized mediation hours and allowing parties in closed cases to return for additional mediation.

The benefits of engaging in PMP mediation, which accrued to many parents, included settlement of their parenting disputes, diminished court intervention, and progress with reducing conflict and increasing communication between parents. To a large extent, more non-custodial than custodial parents achieved some degree of success in improving access, visitation, and time spent with child. According to a minority of parents, social factors, such as the parents' relationship, influenced parents' financial support for their offspring more often than did such economic factors as housing and transportation.

#### **V. Recommendations:**

- (1) The decline in the demand for PMP services, particularly from the community, should be reversed by redoubling outreach efforts from centers and MOPC to encourage more Probate & Family Courts and members of the community to take advantage of PMP services and thereby expand the number of people receiving PMP services.
  - a. The offer of on-site services from centers may attract more courts to participate in the PMP.
  - b. More outreach efforts should be conducted and designed to target audiences that would be likely to be receptive to information about parenting mediation.
  - c. Research indicates that outreach efforts would be more effective when delivered in a variety of ways. One divorce mediation study found that that approximately one-third of pro se parties prepared for mediation by reading court literature, nearly one-fourth consulted court personnel, and one-fifth investigated mediation on their own.<sup>21</sup> All information should be presented in clear, ordinary language

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<sup>21</sup> Wissler, R.L. (2010). Representation in mediation: What we know from empirical research. *Fordham Urban Law Journal*, 37, 419-471.

and conveyed by persons who are physically present and command the respect of their audience as an authority or expert (e.g., knowledgeable court or center personnel) as well as through readily accessible written and electronic means.<sup>22</sup>

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<sup>22</sup> See Kulp, H.S. (2013). Increasing referrals to small claims mediation programs: Model to improve access to justice. *Cardozo Journal of Conflict Resolution*, 14, 361-393; Shestowsky, D. (2017, Spring). When ignorance is not bliss: An empirical study of litigants' awareness of court-sponsored alternative dispute resolution programs. *Harvard Negotiation Law Review*, 22, 189-239; Wissler (2010).