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# Massachusetts Office of Public Collaboration Parent Mediation Program January-June 2016 and Fiscal Year 2016 Evaluation Report

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**Massachusetts Office of Public Collaboration Parent Mediation Program  
January-June 2016 and Fiscal Year 2016 Evaluation Report  
To the Massachusetts Department of Revenue**

**Executive Summary**

The Massachusetts Office of Public Collaboration and participating community mediation centers worked together to insure that the Parent Mediation Program weathered the twin challenges of reduced funding and increased demand for services during Fiscal Year 2016. The timely fulfillment of administrative responsibilities and the delivery of quality mediation services led to agreement rates, including parenting plan agreements, which were at the upper end of the range of typical rates for divorce agreements.<sup>1</sup> PMP mediation helped most parents make at least some progress in reducing the involvement of courts and improving their interactions with one another, including managing their conflicts and communicating better, during both the second half and all of Fiscal Year 2016. Sizable minorities of parents, particularly non-custodial parents, experienced some increase in their contacts with their children, quite possibly reinforcing their responsibility for their child's welfare. For the most part, parent satisfaction with the mediation process was high. The demonstrated effectiveness of the program formed the basis for recommending that the program be expanded and additional funding be sought.

**I. Introduction**

Parenting responsibilities persist even when the personal relationship between parents is deteriorating. Parents are consequently confronted by the need to address issues over parenting their children that arise from their efforts to disengage themselves from one another. Mediation is a voluntary and confidential conflict resolution strategy that disputing parents can use to settle their differences in a non-adversarial fashion. In mediation, disputing parties discuss their issues and explore possibilities for a mutually acceptable solution to their disagreements with the help of a neutral third party, the mediator.<sup>2</sup> As a result, mediating parties may find their conflict diminished. Typically, between 50% to 80% of mediated divorce disputes result in agreement.<sup>3</sup>

Unlike the adversarial processes employed in court, mediation's focus on pursuing mutuality may help avoid further relationship damage. Supporting evidence for the likelihood that mediation can positively impact party relationships is furnished by a study, involving small

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<sup>1</sup> These typical agreement rates were generated by research into mediation and divorce agreements. See Emery, R.E., Sbarra, D., & Grover, T. (2005). Divorce mediation: Research and reflections. *Family Court Review*, 43:1, 22-37, citing Kelly, 1996. Retrieved August 15, 2012, from <http://onlinelibrary.wiley.com/doi/10.1111/j.1744-1617.2005.00005.x/full>

<sup>2</sup> Wilkinson, J. (August 2001). *A study of Virginia and ten states: Final report and recommendations*. Charlottesville, VA: Institute for Environmental Negotiation, University of Virginia

<sup>3</sup> Emery et al., *op. cit.*

claims cases, which found that the achievement of agreements through mediation led parties to assign their opponents significantly lower negative ratings than did parties in adjudicated agreements.<sup>4</sup> Protecting relationships is an important consideration for separating or divorcing parents whose parenting roles entail ongoing interactions with one another. Research shows that the benefits of mediation on minimizing damage to party relationships and lowering litigation costs also extend to disputing parents involved in divorce or separation.<sup>5</sup> Eligible parents can pursue mediation's benefits of conflict reduction and relationship preservation by availing themselves of mediation services provided by the Parent Mediation Program (the PMP), which are designed to help estranged parents deal with child-related issues arising from divorce or separation.

The PMP offers up to four free hours of mediation services to separating, divorcing, or never-married parents to help them deal with issues over parenting time, visitation, access, and parenting plans.<sup>6</sup> Research shows that mediation can be instrumental in reversing the trend towards increasingly infrequent contact between the non-custodial parent and the child following the end of the parents' relationship.<sup>7</sup> A study by Emery and associates (2005) found that contact between non-custodial parent and child was significantly greater when child-related divorce disputes had been settled through mediation rather than through judicial intervention. These parenting differences did not emerge over the short term of one year or less but over the long term (a twelve-year period). In contrast to non-mediating parents, the improvement in contact for mediating parents was qualitative as well as quantitative: "the nonresidential parent had a greater influence on childrearing decisions, and was more involved in the children's discipline, grooming, moral training, errands, holidays, significant events, school or church functions, recreational activities, and vacations."<sup>8</sup> By offering parent mediation services, the PMP seeks to promote parents' responsibility for their child's well-being through increased parental contact.<sup>9</sup>

Established in 2008, the PMP functions as a partnership between the Massachusetts Office of Public Collaboration (MOPC) and participating community mediation centers (centers) for delivering four hours of free mediation services in divorce- or separation-related parenting

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<sup>4</sup> Wissler, R. L. (1995). Mediation and adjudication in the Small Claims Court: The effects of process and case characteristics. *Law & Society Review*, 29:2, 323-358.

<sup>5</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; Bautz, B. J. & Hill, R. M. (1989). Divorce mediation in New Hampshire: A voluntary concept. *Conflict Resolution Quarterly*, 7, 33-; Caprez, J. V. & Armstrong, M. A. (2001). A study of domestic mediation outcomes with indigent parents. *Family Court Review*, 39, 415-; Emery, R. E., Sbarra, D., & Grover, T. (2005). Divorce mediation: Research and reflections. *Family Court Review*, 43:1, 22-37; Pearson, J. & Thoennes, N. Divorce mediation research results. (1988). In J. Folberg and A. Milne. (Eds.). *Divorce mediation*. New York: The Guilford Press; Wilkinson, *op. cit.*; and Wissler, *ibid.*

<sup>6</sup> Parent Mediation Program. (2016). Massachusetts Office of Public Collaboration. Retrieved August 10, 2016, from [https://www.umb.edu/mopc/projects/parent\\_mediation\\_program](https://www.umb.edu/mopc/projects/parent_mediation_program)

<sup>7</sup> Emery et al., *op. cit.*

<sup>8</sup> *Ibid.*, p. 31.

<sup>9</sup> Palihapitiya, M. (2011, February). *Parent Mediation Program evaluation plan*. Boston, MA: Massachusetts Office of Public Collaboration, University of Massachusetts Boston.

disputes. MOPC, the state's office of dispute resolution, administers the program. The state's Department of Revenue's Child Support Enforcement Division (the DOR) sponsors the PMP under a federal Access and Visitation Grant. The size of the grant is related to the availability of funding, and the distribution of funds to states is connected to the state's birth rate. The community mediation centers involved in the program are local non-profits that provide mediation assistance in resolving conflict to people in their community and at the courts. Centers' community roots, their commitment to providing mediation services regardless of parties' ability to pay, and the impartiality of their stance during disputes, make the centers convenient, neutral, and safe forums for disputing parents to address their disagreements.<sup>10</sup> During fiscal year (FY) 2016, five centers took part in the program – Community Dispute Settlement Center, Family Services of Central Massachusetts, MetroWest Mediation Services, North Shore Community Mediation, and The Mediation and Training Collaborative. As a whole, these centers were prepared to accept referrals for parent mediation services from across the state.

## **II. Program Administration**

Administration of the PMP entails responsibilities that range from contracting with mediation service providers, managing finances, assuring compliance, tracking productivity and impact, maintaining communication, navigating challenges, and providing accountability. The fulfillment of these responsibilities made for the effective operation of the PMP during FY 2016.

### **A. PMP Administration Responsibilities**

The multiple administrative and reporting responsibilities arising from the numerous requirements imposed by state and federal agencies, the university, and the best practice standard embraced by MOPC were fulfilled by the Program Manager, with oversight by the MOPC Executive Director, and with the cooperation of the participating centers. Contracts were formed with centers, setting out the conditions of their participation in the PMP. Center responsibilities included collecting information about prospective parties that was relevant to eligibility for PMP services, such as income, residency, ages of children, issues in dispute, and relationship to child (biological, adoptive, guardianship, other), custodial status, and marital status; setting up mediation sessions, which encompassed explaining the process to parties, gaining party consent, and scheduling and conducting mediation sessions; tracking time spent mediating, and supplying feedback from parties, mediators, and the center by way of surveys and telephone interviews. Centers relayed documentation pertinent to the accomplishment of these responsibilities to the Program Manager, who processed the information and exercised oversight to assure the proper operation of the program.

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<sup>10</sup> Community mediation centers typically offer their services for free or on a sliding scale basis, thereby fulfilling their mission to provide access to mediation to the public, including underserved populations, irrespective of ability to pay. Hedeem, T. & Coy, P. G. (2000). Community mediation and the court system: The ties that bind. *Mediation Quarterly*, 17:4, 351-367.

## **B. Center Fulfillment of PMP Responsibilities**

The bureaucratic demands attached to the PMP weighed heavily on mediators. Mediators' post-mediation session duties included tracking and documenting time spent on PMP issues during mediation sessions, completing a survey about the course of the mediation process during the session; and distributing surveys to parties after the final session. As one center explained, "forms remain a chronic challenge" and "mediators continue to complain a bit about the paperwork, particularly having to fill out documents after a long, tiring session." Mediators' lack of familiarity with forms that they had primary responsibility for completing exacerbated their paperwork difficulties. And so, at the aforementioned center, "For some mediators, if it's been awhile since they have done a PMP case, they need refreshers as to how to correctly fill out the forms." After-hours scheduling of mediation deprived mediators of access to staff expertise with the forms "in part, because the mediators are here after hours and staff is not here to answer their questions on the forms or to be vigilant to supervise the mediators who complete them."

Centers succeeded in meeting PMP bureaucratic demands as their mediators gained experience with PMP forms. Timeliness was achieved at one center since "all [center] mediators are now familiar with the PMP paperwork expectations and complete it in a timely fashion." An in-service workshop conducted by the Program Manager enhanced mediator comfort with forms at another center, which reported that "[center] mediators are now experienced in the program. Our Manager of Mediation Services keeps them abreast of changes and they enjoyed an in-service from MOPC staff," such that "... working with forms continues to go smoothly." In short, centers put in the necessary effort to assure compliance with PMP requirements.

## **C. Communication**

The Program Manager functioned as a "communication hub," connecting MOPC, centers, and DOR officials. The manager conveyed information about PMP developments, solicited center inquiries and reactions, and responded to center contributions through emails and telephone contacts throughout the year as well as through quarterly conference calls. As one center remarked, the "flow of communication and working with forms continues to go smoothly." A second center concurred – "communications between [center] and MOPC are smooth, transparent and efficient...." The manager also acted as liaison to the DOR for information, advice, and decisions about PMP operations and policies.

## **D. Finances**

The Program Manager managed the finances of the program based on DOR funding for the year. A piecemeal approach was used to compensate centers for the various services rendered under the PMP, with separate monetary values placed on intakes and screening, time spent mediating, completion of mediator and party surveys, and telephone interviews of parties. In order to help centers guard against exceeding PMP resources, each center was informed of its anticipated share of the program's annual funds as calculated by the Program Manager. Payments to centers for services were secured upon receipt of appropriately documented

quarterly invoices, which were then subjected to university processing. An exploratory investigation into using lump sums in the PMP payment structure was initiated during the second half of FY 2016. For FY 2017, the current payment structure will remain in place while an examination of alternatives continues.

### **E. Program Changes**

The PMP administration demonstrated flexibility in dealing with the fluid financial situation that confronted the program in FY 2016. PMP's finances proved more challenging than usual due to a 3.5% reduction in DOR funding for FY 2016 and the legacy of a 15% decrease in funds from the previous year. The latter funding decrease was prompted in part by Massachusetts' falling birth rate. The reduction in funding created uncertainty about the continuity of PMP services. Based in part upon the rate of expenditures for PMP services in prior years, the threat loomed large that PMP resources would be exhausted before the year ended and PMP services would be suspended as a result. An interruption in service could damage PMP's reputation as a reliable source of mediation services, thereby discouraging participation in the program – a realistic concern considering that mediation's positive reputation persuaded nearly one-third of parents to mediate in the PMP. MOPC responded to this concern by implementing cost-saving measures to protect the continuity of PMP services while maintaining access to such services for lower-income parents.

In consultation with DOR officials and participating centers, the target for referrals was lowered, an income eligibility requirement was introduced and additional constraints were placed on the availability of free mediation hours. Although the threat of depleted funds and discontinued services was averted, the unexpected consequences of these new measures on center performance led, during the second half of FY 2016, to cancellation of the income requirement and to a temporary increase in the amount of free mediation time for parents.

As mentioned before, centers are compensated for each step of PMP mediation, and the hourly payment for time spent mediating is by far the most expensive item. To maximize cost-savings and minimize the drain on PMP resources, the maximum allowable number of subsidized mediation time was reduced from six hours to four in March 2015 and continued into FY 2016. The demand for the maximum allowable free mediation time, however, was less than forecast over a ten-month period in FY 2016. Instead of fund depletion, a surplus emerged during the second half of the fiscal year. Consequently, the cap on allowable free mediation time for parents was temporarily raised in late April 2016 from four hours up to two additional hours. Extra time was subsequently requested in seven cases.

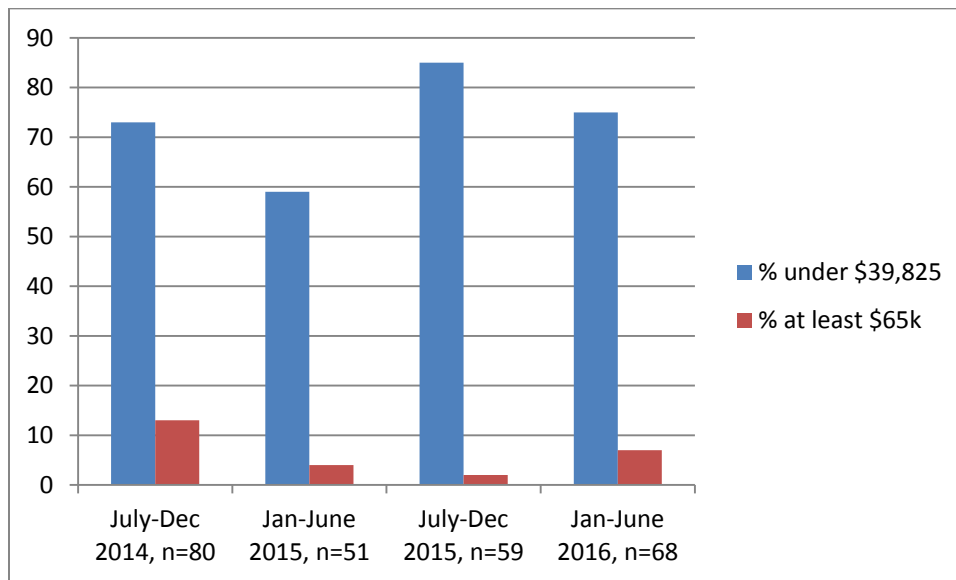
Eligibility requirements for PMP services were expanded in FY 2016 to include income limits. Accordingly, parents would not qualify for services if the annual income of one parent exceeded \$39,825 and the other parent's income was \$75,000 or more. At one center at least, complying with this requirement was taxing: "it is harder now to establish whether parties qualify for PMP hours or not. Getting the exact income from each party, at such an early stage is not always easy." In addition, the negative effect on centers' PMP caseload from the income

requirement, forecast by some centers, materialized. One center noted that “the new income restrictions limited the number of PMP cases in this time period.” Another center found that “the income eligibility requirement has come to be a barrier to PMP service for [center] clients” inasmuch as “the income eligibility requirement was a factor in the lower numbers of cases eligible to go forward under the PMP program. At least 3 cases fit that description.” Over all the centers, at least 19 cases were disqualified from PMP services on economic grounds.

As a further consequence of the income requirement, the breadth of the population served narrowed. Although the proportion of lower income parents grew when income limits were in place, the percentage of higher income parents declined, a trend that was in tension with the view, expressed by one center, that “the program is valuable to all families regardless of income and class status.” The alignment between the range of people receiving PMP services and the income requirement proved imperfect at best. And so, income restrictions were eliminated during the second six-month period of FY 2016 on February 10 with the aim of restoring the breadth of PMP coverage with respect to income and region. The second half of FY 2016 saw the beginnings of recovery in the economic and geographic diversity of the population served by the PMP.

Due to the removal of the income requirement, the distribution of higher and lower incomes in January-June 2016 returned to the income distribution pattern of previous time periods that were free of income eligibility requirements. As shown in Figure 1, the percentage of parents with lower incomes, below \$39,825, reached a high of 85% when income limits were in place – during July-December 2015 – and fell to the 70s and below during periods largely without income restrictions, including the July-December 2016 period and two earlier six-month periods (i.e., July-December 2014 and January-June 2015). The opposite trend occurred for parents with higher incomes of \$65,000 or more. The proportion of parents earning at least \$65,000 was at its nadir during the six months that the income eligibility requirement was in effect. The percentage of higher-income parents was on an up-swing during the subsequent six months in FY 2016 when income limits were abandoned.

Figure 1. Percentage of parents with lower or higher incomes mediating during six-month periods



The introduction of the income requirement was also associated with increased geographical disparities in the provision of PMP services. Based on mediator surveys, when income limits were in place, 92% of 72 mediation sessions were conducted by a single center for cases in western Massachusetts. The remaining 8% of sessions were conducted by a second center in non-western cases. Removal of income restrictions in February 2016 was accompanied by an increase in the geographic diversity of mediation sessions. The proportion of mediation sessions from western Massachusetts decreased to 81% of 77 sessions during the second half of FY 2016 while non-western sessions increased to 19%. These non-western sessions were handled by three centers, indicating an increased diversity of non-western regions served. Regional coverage may further increase in the future with the addition of a center from southern Massachusetts to the PMP roster of participating centers. Talks between the center and the Program Manager and Executive MOPC Director, initiated in FY 2016, are ongoing.

## F. Outreach

The centers participating in the PMP, like community mediation centers in general, made it their mission to raise public awareness of mediation and other dispute resolution services through outreach initiatives.<sup>11</sup> Typically, their services under PMP auspices were included in their publicity about center activities. This practice continued during FY 2016. Information about the PMP and the center's role in the program formed part of the presentations, workshops, and other forms of communication that were provided by centers to local groups and community organizations, like business associations, college students, religious groups, housing authorities, and professional organizations involving realtors, attorneys, and social workers, among others.

<sup>11</sup> Wilkinson, *op. cit.*



Centers also reached out to audiences interested in family issues. One center entered into a relationship with The Divorce Center. Another center proceeded to cultivate relations with the county's Probate and Family Court. A third center participated in the STEPS Young Parents Conference. And a fourth center strengthened its ties with Probate & Family Courts in three counties.

MOPC supported centers' outreach efforts by including information about the PMP on its web-site with links to the PMP brochure and information sheet. The Program Manager regularly supplied centers with copies of the PMP brochure for distribution.

Limited resources were the major constraint on centers' outreach efforts. In the case of one center, staff shortages curtailed outreach such that "limited staff time presents challenges for doing more outreach." The improvement in PMP's financial situation during the second half of FY 2016 served to stimulate center outreach: "Now that we know there will be funding and the income threshold has been removed, we expect to schedule some outreach events," announced another center.

## **G. Reporting**

Quarterly reporting was accomplished by the Program Manager upon the submission of reports to the DOR after the end of each quarter in FY 2016. Data generated by center services, quarterly group calls, and quarterly surveys completed by centers concerning their participation in the PMP informed the quarterly reports. These reports, together with the survey and interview information collected from parents, mediators, and centers, formed the basis for semi-annual reports evaluating the effectiveness of the PMP in FY 2016, which were also submitted to the DOR.

## **H. PMP Performance**

Each year the Program Manager develops targets for referrals and mediations which optimize the use of center services in the PMP while containing the outflow of money within the confines of PMP funding. Because of the drop in funding, the referral target for FY 2016 was lowered from the previous year, down from 125 in FY 2015 to 110 for FY 2016. The FY 2016 mediation target remained the same as that for FY 2015, which had already been reduced to 90 mediations.

Notwithstanding the year's challenging financial situation and lower referral and mediation targets, FY 2016 was a banner year for center productivity in meeting a record demand for PMP services (see Table 1).

Table 1. New case referrals, mediations, and screenings by quarter in FY 2016

	FY 2016 quarterly targets	Jul-Sep 2015	Oct-Dec 2015	Jan-Mar 2016	Apr-Jun 2016	FY 2016 totals
New case referrals*	27-28	38	24	33	60	155
Eligible referrals		37	21	33	59	150
Community-referred cases*		13	6	19	18	56
Court-referred cases*		25	18	14	42	99
Screening completed		36	21	29	52	138
Mediations (progressed to mediation)	22-23	31	21	23	45	120

\*Before full eligibility determination.

Actual new case referrals and mediations exceeded FY 2016 targets by fully a third and more. The total for the year's referrals reached 155, an increase of 41% over the referral target. Center diligence in completing eligibility determinations, screenings, and other administrative procedures resulted in 120 cases proceeding to mediation, 33% more than originally targeted. The surge in referrals and mediations during the fourth quarter of FY 2016 accounted for 39% of the year's referrals and 38% of mediations. As in previous years, most referrals were court-connected, and all were generated by Probate & Family Courts in three western counties. As shown in Table 2, the proportion of court-connected cases was just shy of two-thirds of the year's cases (at 64%). Community-connected cases constituted slightly more than one-third of cases (36%). Whether the referral source was the court or the community, the number of referrals during the second half of FY 2016 was just about double that of the first half.

Table 2. Community-connected and court-connected case referrals

New case referrals* (n=155)	Jul-Dec 2015	Jan-Jun 2016	FY 2016
Community-connected*	19 (12%)	37 (24%)	56 (36%)
Court-connected*	28 (18%)	56 (36%)	99 (64%)

\*Before full eligibility determination.

Center experience suggested a connection between the growth in referrals and the removal of income limits. One center observed “a marked improvement in the number of referrals to our center for the PMP program since the income limit for clients was lifted. This has allowed the program to be accessed by a greater number of families who need it.” A second center noted that “with the change in income level – we are satisfied with referrals to PMP.”

The upshot of the year’s referral and mediation numbers was that, based upon the mediation numbers for the fiscal year, at least 360 people – two parents plus a minimum of one child per case that proceeded to mediation – were beneficiaries of PMP services.

### III. Impact of PMP Mediation on Participating Parents

Goal fulfillment and user satisfaction are customary indicators of an endeavor’s success. To evaluate PMP effectiveness, information about the impact of the program’s mediation services on the lives of participating parents was used to measure the extent to which the program met its goals of settling parenting disputes, protecting relationships, and promoting parent responsibility for the child in divorce or separation situations.<sup>12</sup>

To this end, parents were invited to voluntarily respond to an exit survey, largely consisting of closed-ended questions, which inquired into their reactions to the mediation process and the effect of mediation on the settlement of their disputes, and on progress made in improving their interactions with each other and with their child, their financial circumstances, and their involvement with outside institutions. Over the entire year, 139 parents representing 75 cases (out of which 73 parents in 40 cases were surveyed in the latter half of the year) voluntarily completed the exit survey after their final mediation session (or what was considered to be the final session). An open-ended question was included to give parents the opportunity to expand on their responses.

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<sup>12</sup> The evaluation of the PMP was accomplished by the Research Unit of the MOPC, which is separate from program administration.

The durability of the outcomes attained through mediation was ascertained through guided telephone interviews of 115 parents in 90 cases that were conducted four to eight weeks after mediation. In response to closed-ended questions, interviewed parents indicated whether various aspects of their relationship with the other parent and with their child, their financial situation, and their involvement with the court and awareness of community services had increased, decreased, remained the same, or were inapplicable. The interviews also included an open-ended question, which allowed parents to provide additional information about the program or their circumstances.

Mediators supplied feedback, mostly in response to closed-ended questions, about mediation's impact on parents by completing a survey after each mediation session for a total of 149 surveys in 107 cases for the year (including 77 surveys in 64 cases during the January-June period). Besides providing an assessment of progress made by parents through mediation with respect to agreements, parents' interactions with one another and with their child, their finances, their involvement with courts and community services or resources, mediators also identified the techniques used to mediate and the problematic circumstances that formed the context of each mediation.

To assess program effectiveness, survey responses were aggregated and usually expressed in percentages. The importance assigned to responses was directly related to their frequency. The statistical significance of these numbers could not be determined. Since parent surveys were not completed after as many mediation stages as mediator surveys, comparisons involving parent and mediator responses about session-related phenomena used mediator responses from surveys completed after the final session of mediation.

## **A. Information about Mediating Parents**

### **1. Custodial status**

A parent's custodial status identifies which parent has primary responsibility for the child. Custodial status is consequently connected to the amount of time and contacts between parent and child. In practice, non-custodial parents tend to have less time and fewer contacts with their child. Custodial status is also important as a criterion for parents' eligibility for PMP services. Services were not provided unless, at a minimum, one parent could be considered custodial and the other non-custodial.

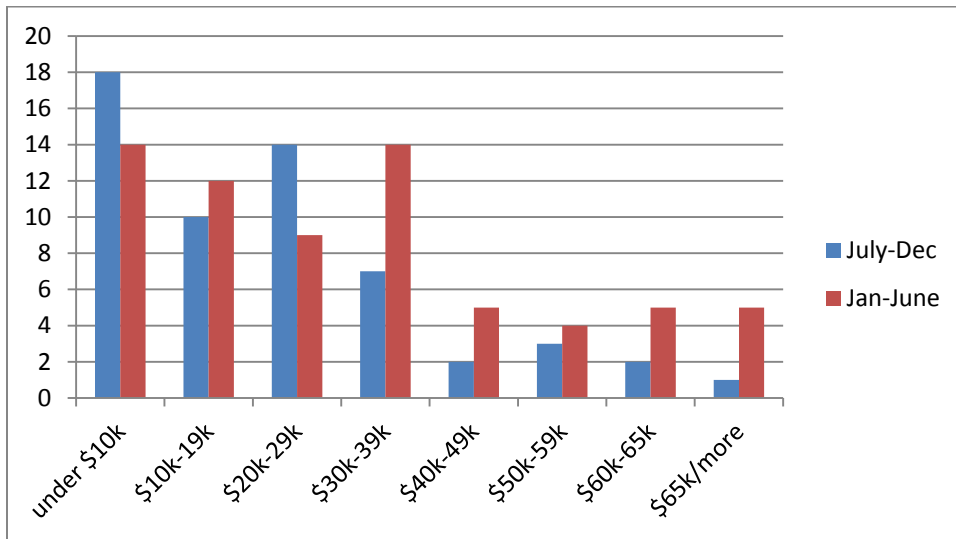
Most of the parents who responded to this year's survey had custody of the children. During the second half of FY 2016, 18% more survey responses were received from custodial parents (30 out of 51 respondents) than from non-custodial parents (21 out of 51). For all of FY 2016, the difference between the number of custodial and non-custodial parents' responses decreased to 14%. In addition, mothers outnumbered fathers in completing the survey, with 7% more mothers than fathers in the survey sample during FY 2016, including the second half of the year. Consistent with the long-standing custom of assigning child care to mothers, 80% of the surveyed custodial parents were mothers.

## 2. Parent income

The PMP tradition of predominantly serving lower-income parents continued in FY 2016 with 80% of 125 surveyed parents earning annual incomes under \$39,825 or 250% of 2016 Federal Poverty Guidelines for a two-person household.<sup>13</sup> The proportion of lower-income parents served was greater during FY 2016 compared to the previous year in which 67% of 131 parents had reported comparably low incomes.

Eligibility for PMP services was expanded to include an income requirement that was in effect in FY 2016 until its elimination during the second half of FY 2016 on February 10. According to survey responses, as shown in Figure 2, the number of parents served by the PMP with incomes under \$40,000 was unaffected by the change in income eligibility, remaining constant at 49 parents during each half of the fiscal year.

Figure 2. Number of parents at different income levels during each half of FY 2016



The impact of the income requirement was, however, greatest for parents at higher income levels. According to centers, at least 19 potential cases for PMP mediation were rejected for income ineligibility. The removal of the income requirement coincided with a growth in the number of parents earning \$40,000 or more. Whereas eight parents were in the \$40,000 and higher income brackets during the July-December period, more than double that number or 19 parents were at those income levels during the subsequent six months. At the highest income level tracked for the PMP – those earning \$65,000 or more – the proportion of such higher earners in FY 2016 fell short of the proportion occurring in FY 2015. Only 5% of 125 parents reported earnings of at least \$65,000 in FY 2016 compared to 11% of 131 who did so in FY 2015.

<sup>13</sup> Available at <https://www.parkviewmc.com/app/files/public/1484/2016-Poverty-Level-Chart.pdf>

In sum, the net effect of canceling the income cap on PMP eligibility was to begin to restore service to more affluent parties without changing the program's focus on the needs of lower-income parties, thereby re-establishing the breadth of the population served by the PMP.

### **3. Race/ethnicity of mediating parents**

The racial/ethnic composition of parents served by the PMP has remained constant over the years. Typically, white parents form the majority of PMP participants, and black/African-American and Hispanic parents comprise nearly all the remainder. This fiscal year was no exception: the parents participating in the PMP reflected the diversity of Massachusetts' population. The state demographics for 2015 indicated that 82.1% of the state population was white, 8.4% was black or African American, 11.2% was Hispanic, 6.6% was Asian, and 0.5% was American Indian.<sup>14</sup> Except for Asians, minorities were a bit more heavily represented among the parents participating in the PMP than in Massachusetts in general. Among 138 survey responding parents participating in the PMP, 71% identified themselves as white, and self-identified blacks/African American and Hispanics together accounted for nearly all of the remaining parent participants. More particularly, Hispanic parents were 11% and black/African-American parents 16% of the PMP population served for the year. Under 1% (that is, 0.07%) of parents were Asian and 2% were American Indian or Alaska Native.

### **4. Parties' sources of information about the PMP**

Irrespective of time period in FY 2016, judges were the most important source of information about the program, issuing either recommendations or orders for mediation (according to nearly one-fifth of parents surveyed during each half year). Recommendations from court personnel accounted for close to an additional one-fourth of sources. Between one-fifth to one-fourth of information sources were generated by non-court sources, such as friends or the internet.

### **5. Reasons for choosing mediation**

As in previous years, court avoidance led most parents to choose mediation for their parenting issues. Mediation was preferred over going to court by the largest proportion of parents (38% of 73 in the January-June period and 43% of 138 parties for the year). Mediation's positive reputation attracted at least one-third of parents; another third was influenced by accessibility (whether convenient or local); and cost was a consideration for the one-quarter of parents drawn to the offer of free mediation services. Approximately one-third of responses to the open-ended option of "other," which comprised one-fourth of all responses, identified either the judge or the court as motivating the party's selection of mediation.

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<sup>14</sup> See U.S. Census Bureau. Quick Facts: Massachusetts. Retrieved August 28, 2016, from <http://www.census.gov/quickfacts/table/PST045215/25>

## **6. Troubling circumstances of parties**

During January-June 2016, mediators found that parents came to most mediations (between 58% and 63% of 59 sessions) beset by mutual distrust, disrespect for the other parent, difficulty with validating the other parent's importance, inability to separate their needs from those of their child, and problems cooperating on child-related issues. Over the entire 2016 fiscal year, these same circumstances constituted the five most prevalent problems accompanying parents at sessions (between 45%-71% of 126 sessions). Moreover, access denial, violent behavior, verbal abuse, difficulty tolerating party differences, poor sense of party boundaries, involving child in conflict, and regular court appearances posed problems for parents at a sizable minority of sessions – 20% or more of the number of sessions for either the six-month or the twelve-month period. The fewest sessions involved parents who harshly disciplined their child because of their conflict (at 2% of the numbers for either period).

### **B. Outcomes Advanced or Accomplished through Mediation.**

#### **1. The impact of mediation on parents' relationship with each other:**

Child-related issues brought disputing parents undergoing divorce or separation to the attention of the PMP. Dealing with the child-related issues nearly always involved dealing with the problems infecting the parents' interactions with one another. For the most part, addressing conflict and communication behaviors between each other mattered to more than 90% of parents.

##### **a. Addressing conflict between parents through mediation:**

Conflict is a frequent companion of crumbling personal relationships, and reducing the conflict between themselves was a major concern for parents who used PMP mediation.

##### **i. The presence of conflict between parents during mediation sessions:**

Conflict was a regular presence at PMP mediation sessions. In a comparison of parent and mediator responses concerning final mediation sessions in FY 2016, both mediators and parents agreed that party conflict attended a large majority of mediation sessions (more than 80%) (see Table 3).<sup>15</sup> However, mediators detected conflict at a larger proportion of final sessions than did parents. According to 123 parents, 24% indicated that low conflict characterized sessions, 29% indicated moderate conflict was involved, and 30% found that low conflict prevailed at sessions over the entire fiscal year. Mediators indicated that conflict during final sessions was high at 26% of 103 sessions, moderate at 41% and low at 27%. The variations in conflict assessment between parents and mediators may be explained by the dearth of

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<sup>15</sup> Sessions reported on by parents were a sub-set of those reported on by mediators due to the voluntary nature of parents' survey participation. Thus, the comparison focused on differences in percentages of parent and mediator conflict assessment responses.

standardized measures of conflict intensity in interpersonal relations and by the different roles that parents and mediators play in the conflict – the former as actor and the latter as observer.

The discrepancy in conflict assessments made by parents and mediators also emerged with respect to the absence of conflict. This disparity was apparent in FY 2015 results and repeated in FY 2016. In FY 2015, parents indicated that 15% of sessions were without conflict while only 4% of last sessions were so identified by mediators. When mediators and parents assessed the level of conflict at final sessions in FY 2016, 16% of parents indicated that final sessions lacked conflict whereas 6% of sessions were conflict-free according to mediators (see Table 3). Even when the comparison was limited to responses from mediators and parents in the same cases, the disparity between parent and mediator identifications of conflict-free sessions persisted (17% of 115 parent surveys as opposed to 5% of 64 mediator surveys). Additional data is needed to determine whether these results about the absence of conflict signal an emerging trend or a chance fluctuation.

Table 3. Level of parents’ conflict during the final mediation session according to parents and mediators during FY 2016

Level of parents’ conflict at the final mediation session	FY 2016 parent assessment (n=123)	FY 2016 mediator assessment (n=103)
High conflict	30 (24%)	27 (26%)
Moderate conflict	36 (29%)	42 (41%)
Low conflict	37 (30%)	28 (27%)
No conflict	20 (16%)	6 (6%)

**ii. Reducing conflict between parents:**

Only 5% of responding parents thought that the issue of conflict reduction did not apply to them in mediation. A large majority of parents – 71% of 122 parents over the entire fiscal year and 74% of 57 parents during the January-June 2016 period – reported that some or full progress was made by mediation in reducing their conflict. Success, that is to say, full progress, was achieved for one-third of 59 parents during the half-year period, and for around one-fourth or 27% of 122 parents over the whole year. As one parent noted, “[mediator] was very helpful when it came to [other parent] and I sitting in a room together and being able to communicate instead of argue.” A second parent declared that “this [mediation] is a[n] utterly fantastic way to resolve conflict no matter what the conflicts are.” The durability of mediation’s effect on reducing parent conflict was noted by a third parent: “Mediation eliminated confusion, which has helped. No conflicts since mediation.” Mediators agreed with parents, noting partial or complete progress in reducing between-parent conflict at a large majority of sessions (75% of 107 final sessions for the year).

For a sizable minority of parents – over a third or 37% of 114 interviewed parents in FY 2016 and just under one-third or 30% of 69 during the second half of the fiscal year – the



positive effect of mediation on decreasing conflict between them persisted in the four-eight week period following mediation. In one case, a parent rejoiced that the son would be protected from his parents' conflict because of mediation: "I think the long-term impact [of participating in mediation] will be good because he [son] now won't have to hear me fight with his father." A second parent also noted the benefits to the child from a peaceful relationship between parents: "But he [the other parent] and I can interact much more peacefully now, which is good for the kids." Otherwise, during the post-mediation period, between-parent conflict increased for one-fifth of parents and remained the same for another 27%. In one parent's experience, the impact of mediation proved "temporarily positive, but no effect long-term." A second parent accepted the absence of mediation-related change: "Everything is pretty much the same as it was before mediation, which is okay." Two parents, though, complained about continuing conflict, with one commenting that the "ex refuses to co-parent peacefully, and a second mentioning that "my ex is impossible. He continues to threaten me and make false accusations."

**iii. Acquiring skills to resolve conflict with other parent:**

Conflict is a familiar type of personal interaction, and when conflict is well-managed, its negative consequences can be averted.<sup>16</sup> The acquisition of conflict resolution skills may help individuals handle future conflicts in a constructive manner. The issue of better conflict resolution skills was relevant to a very large majority of parents – 91% of 122 during FY 2016. A smaller but still large majority – 74% of 122 during FY 2016, including 79% of 58 during the January-June period – indicated that mediation helped them improve their ability to resolve conflicts with the other parent in part or in full. Indeed, more than one-fourth of parents considered that they had made full progress in gaining these conflict resolution skills. In contrast, mediators saw partial or complete progress in skill improvement in a smaller majority (59% of 107) of final sessions. Mediation's positive effect on conflict resolution skills tended to diminish with the passage of time. After four to eight weeks, a minority of parents who thought their ability to handle conflicts with the other parent had decreased (37% of 114) outnumbered those (20% of 114) who thought their ability continued to improve.

**iv. Settling conflict through agreement:**

Conflict, qua discord and hostility, feeds disputes, and high levels of conflict militate against the settlement of disputes through party agreement.<sup>17</sup> One parent, whose mediation experience illustrated this phenomenon, observed that "the non-progression during this mediation had to do with prior conflict and not at mediator." Both parents and mediators provided evidence for the efficacy of PMP mediation in producing agreements in conflict situations (see Tables 3 and 4). The 79% agreement rate (consisting of full and partial agreements) reported by 85 of 108 parents and the 75% agreement rate (based on 102 sessions according to mediators) were at the upper end of the range of agreement rates generated by divorce mediation in general.

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<sup>16</sup> Hedeem & Coy, *op. cit.*

<sup>17</sup> Ballard et al., *op. cit.*

Table 4. Agreements achieved during final mediation sessions according to parents and mediators

Agreements achieved	FY 2016 parent responses (n=108)	FY 2016 mediator responses for final sessions (n= 102)
Full agreement	65(60%)	36 (36%)
Partial agreement	20 (19%)	39 (39%)
Temporary agreement	15 (14%)	6 (6%)
Agreement rate	85 (79%)	75 (75%)
No agreement	8 (7%)	21 (21%)

Some confirmation that conflict apparently gave way to agreement through PMP mediation came from both parent and mediator responses relating to agreement rates and to an association between the agreement failure rate and the amount of high-conflict sessions (see Tables 3 and 4). Parent responses revealed that the 79% agreement rate (reported by 85 of 108 parents reaching full or partial agreements) was achieved despite widespread conflict with 83% of (123) parent reporting conflict-filled mediation sessions. Moreover, the presence of high levels of conflict did not pose an insuperable obstacle to reaching agreement when mediation was concerned. The agreement failure rate (where no agreements were achieved, not even temporary agreements) of 7% (of 108 parents) was much lower than the 24% of (123) parent reports of sessions with high conflict levels.

Mediator responses covered 36% more cases than did parents (102 cases represented by surveyed mediators versus 62 cases represented by surveyed parents) and still yielded a comparable agreement rate, that is to say, a rate of 75%, achieved in 102 final sessions. Failure rates, though, were not comparable: the agreement failure rate found by mediators approached 20%, considerably higher than that of parents. Even though mediators considered agreement failure and conflict to be more widespread than did parents, mediator responses displayed the same pattern of associations between rates and conflict that parent responses did. The agreement rate found by mediators (at 75%) was below the proportion of conflict-filled sessions (at 94%). The agreement failure rate reported by mediators of 21% was somewhat lower than the 26% of sessions with high levels of conflict.

**v. Settling parents’ conflict through agreements about parenting plans**

Parenting plan agreement rates were also within the range of typical rates for mediated divorce agreements. Parenting plans are a type of agreement that identifies and assigns the rights and responsibilities of each parent for the welfare of their child. Under most divorce or separation circumstances involving children, such plans can be instrumental in forestalling future parenting disputes. When custody is contested, parenting plans, known as shared custody

implementation plans, are required by state law (Massachusetts General Law ch.298 §31). According to mediators, over 90% of sessions led to some amount of agreement about parenting plans. Nearly one-third made full progress (in 32% of 146 sessions in FY 2016), and in more than half of sessions (56% of 146 sessions), some progress on parenting plans was achieved. Similarly, annual parenting plan rates based on parent responses were roughly consistent with those of mediators: 93% of 121 responding parents indicated parenting plans were developed fully or partially, 89% of 97 parents reported that plans were revised fully or partially. One parent remarked on how children benefited from the parenting plan that was developed in mediation: “We both put the kids first, and always have, but mediation helped us create a plan that we both feel good about and is good for kids.” Another parent appreciated the assistance with improving their parenting plan: “Very helpful; [we] were able to achieve a parent plan which in the past has been a nightmare. Thank you!”

### **b. Promoting communication between parents**

Improving communication with the other parent was a widespread concern for mediating parents. During the second half of the fiscal year, only one parent out of 59 surveyed parents considered the issue of communication with the other parent inapplicable to their situation. For all of FY 2016, the number of parents for whom between-parent communication was irrelevant climbed to 7 or 6% of 125 parents. Mediators concurred, identifying a mere six sessions (out of 107 final sessions) at which improved communication was not an issue.

Communication between parents was at the heart of their mediation experience. They were encouraged to talk about their interests and needs, to listen and be heard, and to discuss ways of dealing with their issues. By the end of mediation, more than three-fourths of parents (76% of 125 for the year, including 81% of 59 during the second half of the year) achieved at least some improvement in communication with the other parent. Progress in better communication was completed for substantial minorities of these parents – 32% in the year’s second half and 27% for the full year. Mediators were more positive about gains in parent communications, reporting that parental communication improved partially or completely at 85% of 107 final sessions during the year, but less positive about complete improvement, which they ascribed to only 9% of sessions.

The ability to communicate gets tested when the matter under discussion is controversial or sensitive. Even so, over half (54%) of 105 parents indicated that mediation improved their ability to discuss issues with the other parent. Another 27% found their ability to do so was somewhat improved. Less than a fifth (18%) said there was no such improvement. Likewise, when the subject involved parenting expectations, a 60% majority (of 121 parents) were at least somewhat better at expressing those expectations, with over a quarter or 29% entirely better.

A month or more after mediation, fewer parents were concerned about communicating with the other parent – under 90%, that is to say, 82%, of 114, indicated that this matter applied to their situation. During this interval, communication improved for a sizable minority or almost

one-third (32%) of 114 parents. One parent observed “we can now communicate more, work things out.” A second parent noted how improved parent communication benefited the children: “we can communicate better which means it’s easier on the kids.” Communication facilitated agreements about parenting issues, according to a third parent, who observed that mediation “allowed their dad and I to communicate more effectively and reach agreements that are in the best interest of the kids.” Communication was unchanged for a roughly equivalent number of parents (35%) while a much smaller minority of 15% of parents found communication had diminished. Failure to communicate occurred in different ways. As one parent admitted, “we don’t really talk.” For a second parent, the other parent was responsible for the failure: “I don’t think any of our communication plans got through to him.” Communication problems led to other problems. In the case of one parent, court involvement became imminent: “it [mediation] worked initially but communication has broken down and we’re going back to court.” Another parent mentioned the negative effect of poor parent communication on the child: “because our ability to communicate really deteriorated during and after mediation, it has hurt our daughter.”

### **c. Mediation’s effect on how parents relate to one another**

Mediation was instrumental in improving most parents’ relationship to the point where they treated each other with greater civility. Improved civility was important to 91% of parents. As a result of mediation, at least two-thirds (67% of 122 parents) reported that civility had improved somewhat or in full. Similarly, mediators indicated that there was at least some improvement in civility at just under two-thirds of final sessions (63% of 107 sessions). Civility remained on the increase for a substantial minority of 40% of 113 parents in the four-eight weeks following mediation. One parent remarked how “mediation has been a really big help. We treat each other much more civilly now.” Increased civility benefited the child of another parent: “It [mediation] helped me understand that I have to be more civil and understanding with his Mom. Really improved that relationship, which decreases son’s stress.”

## **2. The Impact of PMP Mediation on the Parent-Child Relationship**

The child-related disputes that brought parents into PMP’s ambit did not necessarily reflect parents’ concerns about their own relationship to their child. The goal of furthering parents’ responsibility for their child’s well-being, however, does implicate the parent-child relationship, particularly the non-custodial parent’s relationship with the child. The grant of child custody upon a parent bestows rights and privileges regarding decision-making, child care, and responsibility for the child’s welfare that may be withheld from the non-custodial parent. Consequently, issues around instituting and strengthening the parent-child relationship are particularly salient for non-custodial parents.

### **a. Mediation’s impact on the quantity of parent-child contacts**

The issue of parent-child contact encompasses visitation, access, and parenting time with the child. During FY 2016, a modest majority of all surveyed parents – between 52% to 59% of

121-123 respondents – regarded obtaining or increasing access, visitation, and parenting time, as well as preventing a decrease in parenting time, to be matters of concern in mediation. The relevance of these matters varied with custodial status. More non-custodial parents than custodial parents considered these issues relevant. Specifically, twice as many custodial parents as non-custodial parents indicated that parent-child contact issues did not apply to their situation.

Substantial minorities of surveyed parents saw at least some progress with their parent-child contact issues as a result of mediation in FY 2016. Between 43%-47% of 121-123 responding parents saw gains in obtaining or increasing access, visitation, and parenting time. Thirty-five percent of 123 parents reported that decreases in their parenting time were prevented partially or fully. Mediators were more sanguine than parents about progress in increasing parent-child contacts. Out of 106-107 final sessions, mediators reported at least some progress at more than 60% of sessions regarding access (61%), visitation (64%), and parenting time (74%). According to parents, increases in their time with the child persisted over a four-eight week post-mediation period for nearly one-third (32%) of 115 parents. Just over half of these 115 parents (52%) experienced no change in their time with child, and 15% reported a decrease. The longevity of other parent-child contacts was not tracked.

Out of the 102-104 parents who identified their custodial status and provided assessments of progress made in connection with parent-child contacts, 44% were non-custodial and 56% had custody. Despite the preponderance of custodial parents, more non-custodial parents reported positive changes in contacts with their children from mediation than did custodial parents. Of 56 parents reporting progress (partial or full) in gaining access to the child, 48% were non-custodial parents and 38% were custodial parents. Mediating visitation was fruitful (in part or in full) for 58 parents, 50% of whom were non-custodial and 38% were custodial. Progress (partial or complete) in increasing parenting time through mediation was claimed by 53 parents, 51% of whom lacked custody and 36% had custody. The 43 parents who achieved a degree of progress in preventing decreases in parenting time consisted of 49% non-custodial parents and 37% custodial parents. And so, one non-custodial parent who “worked out agreement on time spent with daughter; is able to spend alone time with daughter without other parent’s supervision.” A second non-custodial parent explained that mediation was “positive because my ex was able to hear different ideas and he eventually came around which benefited kids. . . . He understood that kids needed to see me and spend time with me, which was good for them.” Altogether, these numbers bode well for the possibility that the responsibility of the mediating parents – including those lacking custody – for their children’s well-being was reinforced by increasing contacts with their children.

#### **b. Mediation’s impact on the parent’s involvement with the child**

Many parents did not look to the PMP for assistance with their involvement (aside from parent-child contact) with their child during FY 2016. Half of 123 surveyed parents did not consider their involvement with their child’s education or extra-curricular activities to be a relevant issue for mediation. Slightly more than half of parents (52% of 122) indicated that

improving their ability to handle conflict with the child did not apply to them in mediation. The inapplicability of increasing their understanding of parenting skills and of increasing the other parent's involvement with the child was asserted by 40% of 121 parents and 46% of 123 parents, respectively.

Some amount of progress in these matters was achieved through mediation for minorities of parents. Progress with respect to the other parent's involvement was reported by 45% of 121 parents, and 41% saw gains in the understanding of parenting skills. Progress with parent's involvement in their child's education or extra-curricular activities, or in improving their child-related conflict resolution skills was reported by about one-third of 122-123 parents. From the mediator's point of view, any amount of progress in the varieties of parental involvement with the child involved a minority of final sessions, at a high of 45% (of 106 sessions) for increasing parental involvement with the child to a low of 12% (of 107 sessions) for better skills in resolving conflict with the child.

Increases in parental involvement with their child's education or extra-curricular activities or in improved parental conflict resolution skills lasted over the four-eight week post-mediation period for a small minority of parents – between 8%-13% of 115 parents.

### **3. The Impact of PMP Mediation on Parent's Financial Situation**

Whatever their financial concerns, few parents expected to have them addressed through mediation. Shoring up the child's financial support in mediation was immaterial to nearly half of parents. Fifty percent of 121 parents indicated that mediation assistance with increasing financial their child's financial support did not apply to their situation. Neither was using mediation to increase their own financial support for the child relevant to 51% of 122 parents. As for welfare dependence, reducing their reliance upon welfare with the help of mediation applied to the fewest number of parents altogether. More than three-fourth of parents (77% of 115 parents) viewed this outcome as irrelevant in their mediation. Consistent with parent views, mediators identified welfare dependence as almost universally irrelevant or inapplicable at 97% of 104 sessions.

Progress (in full or in part) with mediation-assisted increases in financial support for the child and in parent's own financial support for the child occurred for 33% of 121 parents and for 29% of 122 parents, respectively, during the fiscal year. By the end of the four-eight week post-mediation period, the parent's ability to provide for their child financially speaking remained unchanged for 70% of 115 parents. Eighteen percent claimed their financial support had increased, and ten percent experienced a decrease.

Mediation was least successful in reducing welfare dependence. Full or partial progress was claimed by the smallest proportion of parents – 17% of 54 parents and 13% of 115 parents in the six-month and twelve-month periods in FY 2016, respectively. Mediators provided an even bleaker picture of the association between mediation and parents' welfare circumstances. During

the entire fiscal year, mediators found that full progress in decreasing welfare dependence occurred at a single session. Otherwise, mediators determined there was no partial progress in reducing welfare dependence at any session during the fiscal year. After an interval of four to eight weeks following the end of mediation, five percent of 115 parents were more dependent on welfare; seven percent were less so; and the welfare situation was unchanged for 41% and inapplicable to the remaining 47% of parents.

Although mediation was not expected to affect parents' financial situation, parents appreciated the savings afforded by the free mediation services from the PMP. The absence of fees encouraged one parent to fully engage with the process: "It's nice to sit down and process through children's schedules and not think I am having to pay \$300 an hour to do so." A second parent mentioned how free services contributed to their financial well-being: "The mediator really helped us. It also saved us a ton of money, which helped our financial situation. Lastly, it expedited the process, which was good." The importance of free mediation services for lower-income parents was attested to by a center: "The PMP is very important for our low income clients because it allows them access to free divorce mediation services, so that they can resolve their differences in a respectful and collaborative manner, instead of an adversarial approach through litigation."

#### **4. The impact of PMP mediation on the involvement of third-party institutions**

##### **a. Reducing court involvement through mediation**

Mediation can supplement or provide an alternative to court processes for resolving disputes.<sup>18</sup> Seventy-two percent of surveyed parent learned about the program from court sources so PMP-involved parents were somewhat familiar with court processes. Minimizing court involvement was the most popular reason for parents to turn to PMP mediation as a way to address their parenting issues. When success in achieving outcomes was measured by parents' reports of full progress, mediation's greatest success was in reducing court involvement, with the largest minority of parents reporting full progress – 41% of 58 parents during the January-June period and 41% of 124 parents during the fiscal year. Any degree of progress, whether full or partial, was achieved in mediation for more than two-thirds of parents: 67% of 58 parents during the latter half of FY 2016 and 69% of 124 parents over the fiscal year. As a result of mediation, a parent noted, "we were able to avoid court, so that was good. We also were able to discuss things we hadn't before." The mediation experience was less onerous than litigation for a second parent: "It [mediation] was easier and less stressful than litigation, which has to be good." A third parent found mediation more empowering than a judicial intervention: "this [mediation] allowed us to avoid having a judge decide the future of our family." A fourth parent recommended mediation over court proceedings for all those experiencing separation or divorce: "It [mediating] was the right thing to do and everything came out good for us. More people need

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<sup>18</sup> Hedeem & Coy, *op. cit.*

mediation after a break-up. Better than the courts.” A fifth parent appreciated mediation as a supplement to litigation: “It [mediation] helped us resolve some things, which was good, better than just using lawyers.”

Mediators also indicated that reducing court involvement was a prominent mediation success, with full progress achieved at a sizable minority of final sessions, viz., 31% of 107 final sessions. Court involvement was reduced in full or in part at a majority (57%) of final sessions.

Mediation does not impinge on a person’s right to have their case tried in court. The ability to return to court after mediating is an advantage of mediation. During FY 2016, no progress in reducing court interventions was experienced by a small minority of parents – at 19% of 107 final sessions according to mediators and by 13% of 124 responding parents. Accordingly, some parents ended up in court following mediation. One parent returned to court to settle issues: “I’m now taking the Mom to court for full custody.” Another parent blamed the other parent’s intransigence for the continued court involvement: “My ex is the kind of person who cannot compromise. It will have to be litigated which is unfortunate for everyone.” A third parent found that the mediation agreement was short-lived: “We reached a great agreement, but two days before our hearing, my ex got angry and wouldn’t agree in front of the judge. We had to go to trial.”

#### **b. Gaining access to community resources and services**

By virtue of obtaining mediation services from community mediation centers in the PMP, parents were provided with the opportunity to learn about other resources and services that might assist them with their issues. A modest number of parents took advantage of this opportunity during FY 2016. A large percentage – 43% of 122 parents – did not think that such information was relevant. Somewhat less than half, or 47%, of parents increased their awareness of community resources or services fully or in part through mediation. Mediators considered this matter did not apply at 77% of 107 final sessions, but did identify 20% of sessions as leading to some or complete awareness of the availability of resources or services. Examples of resources and services recommended by mediators include counseling, psychotherapy, supervised visitation center, and PACT, a court program.

### **5. Parent’s Satisfaction with the PMP**

#### **a. Parent satisfaction with the mediation process:**

Parents were satisfied with the PMP mediation process. Consistent with research that showed that more than 90% of parties using mediation for a variety of issues would use mediation again,<sup>19</sup> 91% of 139 parents indicated their willingness to participate in PMP mediation in the future. As one parent noted, “I felt at the time it [mediation] served its purpose. It helped things move along. I would do it again if needed.” Another parent concurred: “It [mediation] was really good. We still have some questions to work out. We may come back.”

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<sup>19</sup> Wilkinson, *op. cit.*



Readiness to recommend the program to others was almost unanimous at 99% of 138 parents. Parents praised the program. “This [PMP mediation program] is an excellent program,” pronounced one parent. Another parent commented, “It [the PMP mediation program] was a great program. It helped to reach an agreement in a more human way.” “It [mediation] was a very positive experience with a better outcome than I thought,” said a third parent. A fourth parent remarked on the long-term benefits of mediation: “Longer term, it [mediation] has had positive effect on all of us. Gave us both better perspective and mediation broke stalemate parents had, which was good for child.” And parent approval of their mediation experience was not dependent upon getting their hopes realized. As one parent observed, “mediation program is good. Just was not able to help the issues we had.” Another parent had “hope[s] for more resolution but [mediation] experience was positive.”

**b. Parent approval of mediator’s efforts:**

PMP mediators, the agents of the mediation process, earned the approval of a large majority of parents. Some parents were dissatisfied with their mediator’s performance. For example, one parent was convinced that the mediator favored the other parent: “I thought the mediator was biased towards my ex and didn’t fully understand my safety concerns.” Another parent felt unappreciated by the mediator: “I didn’t feel like the mediator cared about what I brought to mediation to show all that I’ve done in the last few years. I just agreed because I wanted it over with. I hate conflict.” However, a large majority of parents did approve the mediator’s efforts. “[Mediator’s name] is an incredibly kind, honest, and skillful mediator,” noted one parent. “[Mediator’s name] was very fair and supportive,” declared a second parent. A third parent stated that “[names of two mediators] were extremely helpful, thoughtful, calm and available – accommodated our desire to finish quick[ly].” According to a fourth parent, both disputing parents appreciated mediation and the mediator: “We both agree that it was a very positive experience. Mediating was definitely the way to go for us. Our mediator was also great.” And a fifth parent described how his early impression of bias on the part of the mediator was resolved with the mediator and led to a lasting agreement:

[I] struggled a bit with the mediator – she made me feel uncomfortable, like she was biased. Once I explained my concern to her, it was okay. I didn’t want to talk so much about my current girlfriend, and she kept asking. I felt ganged up on, women vs. me (men). We ultimately reached agreement. It’s still in place.

Disappointment with mediation results did not blind parents to the mediator’s contribution: “Mediator was amazing until my ex threw everything out the window,” stated one parent. “The mediator was wonderful; we’re just in an awful place in our divorce. He’s [other parent] totally inflexible,” explained a second parent. In all, over 70% of 135 parents during FY 2016 valued the mediator’s fairness and neutrality (73%) and the mediator’s skills in listening (79%) and in identifying and clarifying issues (73%). Over 60% of parents appreciated the mediator’s help in writing agreements (61%) and exploring options (63%). The mediator’s contribution to increasing the parent’s control over decision-making was valued by a minority – one-third – of parents.

### **C. Mediation Techniques that Contributed to the Impact of PMP Mediation**

Parents' positive reaction to the mediation process and the achievement of a number of outcomes through mediation during FY 2016 were owed to the deftness with which mediators deployed various techniques to promote productive discussions between the disputing parents. Chief among them was active listening, a set of practices including summarizing, paraphrasing, and reflecting back, used to assure parties that they had been heard and understood. Active listening regularly occurred at 48% of 128 sessions during the year and at 64 sessions during the January-June 2016 time period. At one session, for instance, the mediator described often "reflecting back to parties what they said." The mediator at another session had "parties paraphrase each other's statements." Summarizing by the mediator at a different session involved "stating what each party was asking for at different stages of mediation session, stating agreements and differences."

Reframing and re-focusing techniques were frequently employed at one-third of sessions throughout the fiscal year. During the 64 sessions held in the latter half of the year, reframing played a large role at 38% of sessions and re-focusing was prevalent at 22%. Reframing involved the rewording of issues and problems by the mediator so as to promote a problem-solving mindset among the disputing parties. And so, at one session, the mediator described "restating [the] objective of each party." In re-focusing, the mediator guides parties towards addressing aims and objectives that further a constructive discussion. The mediator at one session issued "frequent reminders to focus on their son's best interest; frequent reminders that this was their opportunity to make decisions about their son's future, rather than leaving those decisions to a judge."

Caucusing, exploring options, and asking questions occurred often at one-fifth to one-fourth of sessions during the second six-month period and the entire fiscal year. Caucusing refers to meetings between mediator and one of the disputing parties without the presence of the other party. Such sessions might be held to reduce party tensions or to promote frank discussion. Thus, mediators at one session "used separate sessions when it reached a conflict level that seemed to be discouraging the parties. It definitely helped re-engage parties." The mediator at a different session would "ask[] in separate session what each party would request when in joint session from the other party to facilitate communication in the mediation and beyond as co-parents." Exploring options occurs when alternatives are generated and examined in the search for a solution that would be acceptable to both parties. One mediator encouraged the consideration of options by 'asking them [parents] to consider and elaborate all options. "What would that look like?"; presenting other options, "sometimes people do this...."' Mediators would frequently ask questions, sometimes in the form of open-ended questions, other times as hypotheticals, to gather information, to invite discussion of consequences and alternatives, and otherwise move the discussion forward. For example, to encourage parents at one session to consider the impact of their decisions on their child, the mediator asked 'questions such as: "if (the child) had a voice here, which of the options you're discussing might he/she choose?"'

The value of the mediation techniques employed at FY 2016 mediations was demonstrated by the positive outcomes that were achieved and by parent approval of the process. Children were beneficiaries of PMP mediation along with parents, or, as one parent put it, “the kids don’t realize this, but mediation did help us see eye-to-eye, so that’s been good for the kids.”

#### **IV. Recommendations**

The PMP was well-run during FY 2016. Administration responsibilities were fulfilled, challenges were addressed, and quality mediation services were delivered, all contributing, in varying degrees, to the well-being of parents and their children in divorce or separation situations. In view of the demonstrated value of the PMP, it is recommended that going forward:

1. Efforts should be made to extend the reach of the program.  
Such efforts might encompass
  - a. Increasing the number of centers participating in the PMP;
  - b. Increasing the number of courts involved in the PMP;
  - c. Increasing the number of community members served, by engaging in improved outreach efforts among other endeavors.
  
2. Additional sources of funding for the PMP should be sought.  
Obtaining alternative sources of financial support for the PMP to supplement DOR funding will help assure the continuity of PMP services and the sustainability of the program. Moreover, growing the program will strain PMP resources, and might not be feasible without additional funding.

The accomplishments of the PMP in FY 2016 indicate that the program is worthy of both support and expansion.

August 2016