
Access to Mediation Services for Rural, Low-Income, and Culturally Diverse Populations

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Low-income, rural, and culturally diverse populations have less access to divorce mediation services than other groups and are limited to legal aid services if they qualify, a private attorney if affordable, or a pro se divorce. Cooperative Solutions' experience serving these same populations with highly trained, well-qualified mediators who are professionally remunerated and recognized for their good work mediating divorces contrasts greatly with the usual outcomes in these areas. Parents make decisions that consider their children's needs for relationship with each parent after the divorce, child support is paid based on an understanding of what children need, and clients have the opportunity to work out division of assets and debts reasonably with understanding and cooperation.

Cooperative Solutions Incorporated (CSI) is a nonprofit mediation organization that serves rural, low-income, and culturally diverse populations in Minnesota with professional mediators. There are no other organizations in Minnesota that provide family mediation on a statewide basis using professional, paid mediators who meet the Academy of Family Mediators membership standards. There are also no other organizations in Minnesota specifically designed to meet the needs of rural, low-income, and culturally diverse people providing family mediation services.

The CSI program provides mediation of the entire divorce to all families without regard to their ability to pay, many of whom are often unable to access the court for lack of legal representation. CSI offers mediation of all issues in the divorce, rather than splitting custody mediation from property and support. In the CSI program, mediators settle the entire divorce and then draft a memorandum of understanding to be used by lawyers to prepare the legal documents needed to implement their decisions in mediation. The case is then handled administratively as an uncontested divorce.

The CSI Model

Cooperative Solutions Incorporated was created to expand the use of mediation beyond the metropolitan areas and throughout the state of Minnesota. It pledged to assist *all* divorcing families in settling their divorce and child custody conflicts, especially those families who have limited access to the court system due to their low income, geographic isolation, or lack of legal representation. CSI developed a model as a starting point for communities to then adapt to their own needs.

The Corporate Board of CSI has up to fifteen members consisting of one legal services attorney, a fundraising consultant, two family court judges, the Minnesota chief justice, two mediators, an economist, a certified public accountant, a state government consultant, a state senator, a therapist, and a marketing executive. In addition, each center has a representative on the board. The board oversees and has responsibility for the operation of CSI and makes decisions for the corporate and overall operations of the nonprofit organization.

The Cooperative Solutions administrative office has been funded by the Hewlett Foundation and is located in the Minneapolis–St. Paul metropolitan area. The executive director promotes the mediation programs by holding regional and local meetings with mediators and community leaders to inform them about mediation and its value to the divorcing families and other conflicts in their communities. Board members also meet with mediators in their regions to assist in the development of new and existing centers. The Cooperative Solutions program includes coordination of mediation services with legal assistance, human services, family violence/violence prevention, and other local programs, as well as with mental health and counseling services for families. Cooperative Solutions continues to identify mediators throughout the state and contracts with some of them to serve on the local panels of mediators who mediate at the centers. The program also provides training, supervision, consultation, and administrative support for mediators.

The CSI central office responds to requests from Minnesota communities that wish to establish a mediation center by offering to do the following:

- Network with local community leaders and hold meetings in local communities to begin local mediation centers
- Set up the local mediation and education programs and the advisory boards
- Seek commitment of local programs in providing space, time, referrals, and other identified needs specific to the location
- Identify mediators and provide initial co-mediation and supervision (see qualifications)
- Establish service fees and sliding fee scales
- Provide assistance in mediation office set-up, operations, and procedures based on the experience of the original center in Grand Rapids, Minnesota

Collaborating with the Community

CSI's mission is to work collaboratively with local social, religious, legal, therapeutic, and other programs to create a mediation program in their community that creates access to mediation services for all families in their communities.

The CSI Model assists communities who request that CSI work with them to create mediation centers that best meet the needs of the community. First, the CSI Corporate Board of Directors requires that each community establish an advisory board of community leaders representative of all the significant entities serving families in the community. Next, this advisory board begins to meet with the CSI executive director to define the community needs and the populations to be served by the center. This process may take from a few months to over a year to develop. Because the problems of divorce, post decree, and paternity disputes are universal in communities today and the most evolved and time-tested mediation models are for these disputes, this is the first area of services that is developed by the advisory board. The advisory board considers whether the population can support the center in terms of numbers of cases and potential clients. It discusses how the mediation center will fit in with all of the other services in the community, weighing both the strengths and the weaknesses of this concept for its community. The board also learns of the relationship of the center with the broader organization of Cooperative Solutions Incorporated, what services are provided by the central office, and what the responsibilities of the advisory board and local center will be. These discussions are led by a convener chosen by the advisory board. The convener facilitates all meetings and coordinates the effort until the center is established. Advisory board members are charged with planning and organizing their center. CSI's executive director offers information, reading material, ideas from other centers, and education about mediation and the spectrum of services that may be offered in a community. The advisory board then begins to plan its center.

CSI recommends that the centers operate independently from other community organizations and provide services to everyone without regard to income, ethnicity, or residence. This is important to its identity as a service provider that is not influenced by other entities in the community, and sets the meditation center apart as a neutral agency committed to facilitating issues of conflict between individuals, family members, and others.

A major key to beginning a CSI center is funding. Once the advisory board has finalized its initial planning, CSI will assist it in seeking initial funding. The funding is generally sought from local foundations for start-up expenses and for the first three years of operation. Since the CSI mediation centers are fee-based, an estimate of client fees is projected in the budgets submitted with funding proposals. This requires the advisory board to analyze the demographics of its community to ascertain how many divorces and post decree and

paternity actions occur each year and then project how many may potentially be mediated. It will also be necessary to estimate how many of the potential mediation cases will require a negotiated fee rather than a full fee. (Fees range from twenty to one hundred dollars per hour and are based on each family's income and financial picture.) Another item on the budget is the payment of mediators for their work. CSI mediators are paid approximately twenty to forty dollars per hour depending on the type of case being mediated. Mediator fees are unrelated to the fees paid by parties, so there is no relationship between ability to pay and mediator competence or experience.

To ensure that the program is not a training ground for inexperienced mediators to learn by practicing on these unique populations, CSI is committed to providing well-trained, high-quality professional mediators. The philosophy underlying the delivery of mediation services to these unique populations holds that the same high-quality professional services should be guaranteed to all without regard to economic, residential, or cultural status.

Building High-Quality Mediation Services

CSI is committed to providing high-quality mediation services by local mediators. The next step is to find mediators. CSI surveyed trained mediators in 1990 throughout the state for those who were interested in beginning mediation services but had difficulty becoming established. CSI has assisted some of them in developing and using their mediation skills to mediate divorces and child custody disputes by inviting those who qualify to serve on the mediator panel in their community. CSI is committed to offering mediation services by mediators from the communities instead of importing mediators from the city or other dominant cultures. CSI works with the advisory board to develop mediators by identifying people from their communities who wish to be trained and to complete an internship with experienced mediators to meet the CSI standards of practice before they begin to mediate for fees.

The training is provided by Erickson Mediation Institute (EMI) according to the client-centered model it has developed. Training consists of the 40-Hour Divorce Mediation Training or the 30-Hour Civil Mediation Training offered by EMI or both. Training in mediating domestic violence cases is mandatory for all divorce mediators, and parent-child mediation training is available for those who wish to mediate family wellness issues. In addition, CSI mediators may receive training in school mediation and victim-offender mediation through the Restorative Justice Center at the University of Minnesota School of Social Work. Persons who wish to become mediators must pay for their own training. However, the fee for the sixty-hour internship program is waived for those who contract to mediate for CSI for two years.

Once mediators have completed the 40-Hour Divorce Mediation Training, they may apply for an internship with CSI. The internship is a commitment of at least sixty hours. The first twenty hours are spent in observation of

actual mediation sessions. The intern observes an experienced mediator mediating family or divorce cases. The intern signs the mediation contract, so the confidentiality agreement covers the intern. The intern is expected to follow three cases from the initial consultation to conclusion, to meet with the mediator before and after each session to discuss the session, and to assist the mediator with tasks and with the drafting of the memorandum. During the second twenty hours, the intern co-mediate at least three cases from initial consultation to conclusion with an experienced mediator. Under supervision of the mediator, the intern is fully responsible for each case, meaning all correspondence and the memorandum. The intern and mediator meet before and after each session to discuss and strategize. During this aspect of the internship there are ten two-hour continuing education meetings for all interns. These generally add on to the initial training by expanding knowledge in areas the interns are now experiencing in their cases. Topics include the initial consultation, budgeting and the divorce tax planner, in-depth parenting issues, and detail about complicated property issues. Case consultation is also included in each meeting.

CSI Formal Mediator Qualifications. The CSI Board developed standards and qualifications for mediators to meet in order to be accepted on CSI panels. The standards and qualifications are derived from Family Mediation Canada's Proposed Standards and Qualifications for mediators with the permission of FMA. In addition, mediators must be in good standing in their former professions and carry mediator liability insurance. All CSI mediators formally contract with CSI either as hourly employees or as contract employees. They are supervised and must regularly attend peer mediator meetings and have at least ten hours of continuing education approved by CSI each year.

Providing Public Education and a Divorce and Parent Education Program

The CSI Model includes an education component for the public about mediation and conflict resolution in general and for divorcing parents and couples. These education programs are to be provided to all interested people, without regard to ability to pay. The advisory board in each community decides what education programs will be offered by CSI. It then meets with referral resources in communities to explain and encourage referrals to the program. The fee for the class is ten dollars per evening, and those who indicate that the fee is a barrier to attendance need only mention it while phone registering and the fee will be waived.

The Divorce/Parent Education Program is designed to inform divorcing people about the choices they have in getting a divorce. The first class compares the mediation process and the litigation process of divorce and the steps in each. It contrasts the legal steps with mediation so that people can make an informed choice about how they want to proceed to resolve issues in their

divorce. The second hour discusses how each person affects their own divorce experience by pointing out to people that they need to decide "Who's driving the bus": their anger, their reactions to the other, their lawyer, their friends, or themselves. This encourages people to take charge of their divorce and be responsible for the decisions they make in their divorce. It challenges people to step aside from the blame and fault, and look forward to what can be done that will settle their issues to serve the needs of parents and children in the future. The third hour teaches about the emotional divorce process. This section helps people understand the complexities and stages of marriage breakdown as well as the emotions they may experience. Most people cannot pinpoint when the marriage relationship began to deteriorate, much less who was responsible. It offers some tools and referral resources for people to better cope with the emotional side of their divorce. The last hour of the divorce education class is for parents and presents information on the effect of their divorce on children and what they can do to minimize the inevitable harm of the divorce to their children.

Although the divorce education classes are initially met with some hostility, especially when they are court mandated, the evaluations are very positive. A frequent suggestion is that there be more time for the classes. The CSI board believes that expanding the class hours and adding content is a goal for future classes. The reason for the brief classes has been the reluctance of the court to mandate people to attend for a longer period of time.

In addition to the above classes, CSI offers public education in conflict resolution, mediation skills, and other topics. These are either offered through the CSI center or are presented by the CSI speakers bureau to fulfill requests of community groups. The topics vary depending on the needs of the group making the request. CSI also offers law enforcement departments training in mediation skills and techniques for officers to use in highly emotional conflicts involving families, neighbors, and other situations.

Providing Support Services, Consultation, and Leadership to CSI Centers

Once the community advisory board has committed to opening a center, funding is in place, mediators are trained, and education programs are ready, the advisory board rents an office and hires a program director. The program director is a full-time paid employee of CSI. That person is in charge of the local office operations. The program director's role is similar to that of an office manager with additional responsibilities of public relations and speaking, accounting, and grant writing. The office needs to be set up with a reception area adjacent to the director's office and two mediation rooms, and all of the furniture and equipment to accommodate the functions of the office. The CSI executive director arranges for insurance and payroll functions, which are part of the coordination responsibilities of the central office of CSI. The central office

also provides each office with forms, an operations manual, and a personnel manual. The CSI executive director assists in the set-up of the accounting and office management systems so that each center does not have to duplicate efforts already made. All of the forms and systems were initially developed by Erickson Mediation Institute and then revised and built on by the first center's program director. CSI and Erickson Mediation Institute have since written these manuals to be published and sold to other organizations wanting to establish mediation programs.

Collaborating with the Court and Other Community Entities to Reach Clients

Even the best-built organization will not be useful if there are no people to serve. When CSI first started in Grand Rapids, Minnesota, in the spring of 1992, the CSI executive director, the CSI board members, and Grand Rapids CSI discussed the program with the judge who heard all of the divorce proceedings to persuade him to refer to CSI. He was unconvinced until asked how many custody trials were pending over the summer. When he replied eight, he was asked if he wouldn't rather be fishing (Grand Rapids is located in beautiful resort and lake country in Northern Minnesota). The judge agreed to order all of his pending custody cases to mediation before trial to see if they could be mediated. The next meeting with the judge was in the fall of 1992 after all cases had been successfully mediated and he had had time to go fishing. The judge asked what more he could do for CSI and agreed to mandate all family law matters to an initial consultation with a mediator before he would hear them in court. This was how CSI was able to begin its first mediation center in Minnesota. Since then other judges have been amenable to referring family law cases to CSI centers, though not as wholeheartedly as that first judge.

There are basically two drawbacks to depending on court referrals for mediation clients. The first is the concerns raised by the programs that serve battered women. Battered women's advocates disagree with the mandatory referral for an initial consultation in mediation, suggesting that a mediation process would further victimize a battered woman. The experience of the CSI centers to date, however, has not found this to be true. In fact, seven of the first eight cases mediated by the CSI program in Grand Rapids were with battered women who were represented by legal aid lawyers. It is important for CSI center staff to recognize the work of the battered women's programs and meet and educate the battered women's advocates about mediation, demonstrating and explaining the screening protocol used for identifying domestic violence and the special rules for mediating these cases. In addition, the CSI mediators needed to learn more about domestic violence from the professionals working with battered women's services. Developing rapport with these professionals has created a good working relationship between them and the CSI mediators, and battered women's program professionals have referred battered women to the

CSI centers. There have been no recurrences of abuse after mediation in CSI programs, and this finding is supported by recent publication of the research conducted by Desmond Ellis and Maureen Stuckless, who found that “voluntary mediation makes a greater contribution toward preventing postprocessing [post decree] violence toward female ex-partners than does lawyer negotiation” (Ellis and Stuckless, 1996, p. 62). Because CSI asks for mandatory referral from the court for an initial consultation only, there is not a mandate to mediate. Only those who choose to mediate after the initial consultation will mediate their issues. CSI mediators are also trained to affirm people’s choices, and when one chooses not to mediate, that is communicated to the other party as the mediator’s decision that mediation is not appropriate for them.

The second drawback is dependence on the courts for referrals. Some judges have experienced complaints by lawyers about mandating the education program and initial consultation posing some challenges to CSI collaboration with the courts. Such complaints from a few members of a local bar were intimidating and difficult for a judge to ignore. CSI corporate and advisory boards have found this to be a very delicate situation. With all due respect to judges, this situation raises the question, Who does the court serve—the families or the bar? This question raises some basic issues about who makes decisions about what process is best for families. This has challenged CSI to educate the public about mediation so that people may make their own choice rather than be ordered by a court. Ideally it is best for CSI to provide its services directly to the public and not be dependent on the courts. In fact, although building a good working relationship with the court and the local bar association is absolutely necessary, CSI has found it is more beneficial to divorcing couples to learn about their choices of litigation, lawyer negotiation, and mediation before they begin any process. When they make a well-informed choice, they become responsible for the outcome.

Working Collaboratively with Local Legal Aid Services

When CSI formed in 1988, it wanted to create access to mediation for those who may not seek the services because of the costs. CSI has worked diligently to form close relationships with the legal aid organizations in the communities. In Grand Rapids, the director and one of the lawyers of the local legal services office are trained mediators and serve on the CSI family and civil mediation panels. They have even obtained grant funding to pay for their time away from legal services to mediate, and have their CSI mediation fees go into a fund at CSI to supplement the fees of low-income clients (they cannot mediate low-income cases because of potential conflict of interest). This is one of the more creative funding strategies of CSI.

CSI has worked with legal services organizations in Minnesota to mediate divorces for low-income families who are unable to obtain services from exist-

ing low-income legal programs. There is a growing number of people who are turned away by legal services because they do not fit the criteria for legal services representation and because federal cutbacks in legal services funding have reduced the availability of services. It is now more important than ever that mediation services be available to low-income families to assist in resolving divorce and post decree and paternity matters.

Working closely with legal services organizations benefits clients. Clients who mediate tend not to play out their emotions in the court process, which we were told is a major problem when legal services clients do not mediate. CSI-negotiated fees are affordable, and with legal services managing the legal papers, the entire divorce process becomes much more manageable for low-income clients. Because mediation services are frequently offered evenings, clients do not necessarily have to miss any work, and this eases the financial stresses as they divorce.

Developing a Network of Mediation Centers in Minnesota

The following history of the model center in Grand Rapids offers ideas about how to begin a mediation program like CSI. As was discussed earlier, the first CSI mediation center to open was in Grand Rapids. After the original challenge from the judge, an advisory board was formed. Initial funding was received from the Blandin Foundation, based in Grand Rapids, to operate the center for three years beginning in March 1993 as a model to be replicated throughout the state of Minnesota. The next step was to build a panel of divorce mediators. Itasca County Social Services offered meeting space, and eight persons from the area were trained as mediators to become the Grand Rapids Cooperative Solutions Mediation Center's first panel of mediators.

The Grand Rapids Cooperative Solutions Mediation Center opened in March 1993 with one full-time staff program director managing the operations of the center. In addition to offering mediation of family law cases, the center received referrals for a variety of other types of mediation. Cooperative Solutions was also asked to provide training for a school mediation program in the fall of 1993, and afterward it became the fiscal agent of the coordinator position for that program, which was created through collaboration of the Grand Rapids School District and Itasca County Social Services.

In June 1994 twelve family mediators were trained in Parent/Child Mediation, and Cooperative Solutions began to offer this additional service. Itasca County Social Services contracted with Cooperative Solutions to offer Parent/Child Mediation for their cases involving emancipated minor conflicts and adolescent treatment planning cases. Other agencies and the schools are also supportive of this new program.

The Minnesota Supreme Court's rules requiring referral of all civil matters to alternate dispute resolution (ADR) beginning July 1, 1994, has encouraged

the development of a panel of qualified civil mediators and arbitrators by Cooperative Solutions. Cooperative Solutions has registered its panel with the state and now receives court referrals of civil matters.

In 1996 CSI in Grand Rapids collaborated with the county attorney's office to begin a victim-offender mediation program for juveniles. Training was provided by Mark Umbreit and the Restorative Justice Center at the University of Minnesota School of Social Work. In addition, the county attorney has offered CSI a contract to mediate all workplace disputes in Itasca County. This program began in early 1997. In July 1997 the Supreme Court changed the Family Court Rules to mandate ADR in family law matters before they may be heard in court. This has also increased the number of cases being mediated by CSI offices.

The Grand Rapids experience laid the basic framework for developing a model to be replicated in regions throughout Minnesota. From the Grand Rapids experience CSI learned many invaluable lessons. First and foremost, each community may replicate the model or create a different center unique to the community it serves. In order for the model to work, it must be modified and amended to fit the needs of each community. Second, the mediation center must rely on its own public education rather than depend on referrals from the court. Using a divorce/parent education program, for example, is probably the best way to introduce mediation to the public as a choice so that people can make wise, informed decisions about how they will proceed in their divorce.

The second CSI center, established in Crookston, Minnesota, deviated from the Grand Rapids model. A collaborative venture with the University of Minnesota–Crookston and Cooperative Solutions resulted in the university's providing space and a percentage of a professor's time to administer the program. Cooperation with the judges and a small panel of mediators designed an excellent program, which opened in fall 1994. Once again funding was sought from local foundations to provide office operations. This center in collaboration with the court created a more extensive Divorce and Parent Education Program for people seeking entrance to the court on family, paternity, and post decree matters. These differences from the original model made this center unique to its community. CSI also found that the advisory board wanted to provide only divorce and post decree mediation services and not expand to civil matters. Efforts to establish peer mediation in the schools needed to be slowed down while the idea caught on in the community. Again, CSI adjusted its model to fit the community.

When CSI was asked to work in Austin, Minnesota, in 1994 the advisory board chose a multifaceted approach to conflict resolution. After much careful planning, the Cooperative Solutions Center opened in January 1997 with initial funding from the Hormel Foundation and the Hormel Board. This center offers mediation services in family, divorce, post decree, and paternity issues as well as beginning to form a program in victim-offender mediation. It has

replicated the Grand Rapids model more closely, though it has greater ties with community agencies than any other center.

Cooperative Solutions has begun a new application of the model to provide mediation services to low-income families through a collaborative project in the city of St. Paul in conjunction with the Cambodian, Ethiopian, and Hmong community and cultural centers. CSI trained and established a panel of mediators from each culture who are committed to mediating the cases of anyone who seeks their services and particularly to low-income families. The primary focus is on families, with special emphasis on the conflicts between youth and their parents, which center around old and new cultures and issues of assimilation.

Although the new CSI centers deviate from the original model, each center is established with the same organization and structure. Each has built on the basic model but has been created differently according to the needs of its particular community, thereby becoming unique to it.

Conclusion

Cooperative Solutions board members believe that the unique aspects of its programs allow it to reach out and establish mediation services throughout the state of Minnesota, serving all families, including low-income, rural, and culturally diverse families. They believe that a mediation process is more constructive for all families during the divorce process and helps to reduce the negative effect on children years after the divorce has occurred. Mediation of low-income divorces will provide a better, more efficient divorce process to all families and have a constructive effect on the future parenting of their children. The establishment of mediation services through a cooperative effort with local communities enhances cooperation among various levels of human service providers. Divorce mediation is a first step. Other cooperative processes may be developed, such as school mediation, juvenile mediation, business or workplace mediation, and victim-offender mediation, as well as other applications that will begin to change the ways that neighbors and communities address conflict in the future.

Cooperative Solutions is working because communities are becoming desperate for a different answer to violence and alienation of people and families from each other. Hopefully the use of mediation methods will help communities rebuild some of their ability to rely on common sense and what is right rather than live in fear of violence and lawsuits. Smaller communities need to rely on personal integrity and care for each other and on taking responsibility for mistakes and for the well-being of those who are less fortunate. Mediation seems to be a way for communities to embrace abandoned values of honesty, forgiveness, empathy, and caring for others' shortcomings and misfortunes. Even if the mediation process only creates better, more constructive outcomes for divorcing families and especially their children, and for workplaces, it will

have a positive effect on communities. It is a beginning, and one that should be accessible to all communities, particularly those rural, low-income, and culturally diverse peoples who grasp these concepts so well.

Reference

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