



# Dispute Resolution Center Newsletter

## May 2017

### NYSAMP: Mediation for Farming Communities by April Rando



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Upstate New York is well-known for its idyllic countryside and agriculture. Agriculture plays such an important part of our economy and in our daily lives, that we may be unaware of the unique set of challenges farmers face in their efforts to provide agricultural goods for the consumer. When farmers run into difficulties, the New York State Agricultural Mediation Assistance Program (NYSAMP) can help.

On April 5<sup>th</sup>, Claudia Kenney, NYSAMP Statewide Director, and Christine Tauzel, NYSAMP Program Director, gave a presentation to the DRC staff on the mediation services available to farmers and agricultural communities. NYSAMP was established by the United States Department of Agriculture (USDA) and the Office of Court Administration to provide mediation services to the farming community. According to its 2015 Annual Report, NYSAMP had 366 cases that were mediated with an 88% agreement rate. In that year alone, 931 people were able to find help with their agricultural dispute.

There are two categories of agricultural disputes that are referred to the DRC. The first kind involves USDA contracts, loans and conservation programs. If the USDA determines that a producer or land owner has violated a regulation or contract, an adverse decision will be issued. The farmer can appeal the decision, and NYSAMP will refer the case for mediation. The second category called, “Community Agricultural Mediations” (CAMs), include a wide range of disputes, including small and large claims, agricultural services, and agricultural family disputes. Depending on the type and nature of the mediation, the DRC may be reimbursed for the work done on an agricultural case. It was recommended that coordinators contact NYSAMP for information on whether a case is recorded as credit or non-credit under the USDA requirements.

In addition to mediation services, NYSAMP offers basic mediation training to rural communities, recruits volunteers with agricultural experience, workshops, outreach, and case management. For more information about NYSAMP, go to <http://nysamp.com>.



### From the Program Director

It feels like the staff of the Dispute Resolution Center (DRC) are settling into their positions and gaining ground. Our team has such a wide array of interests, skills and experiences that I believe we will be able to do a lot together as a team. We are working on a training plan/calendar so that we can bring in-service trainings to both staff and volunteers, offer roundtables and also plan for larger trainings as well. We are interested in your needs and interests but also want to make sure we are offering training that will allow both staff and volunteers to offer the programs that are needed in our area, such as restorative practices and peer mediation trainings for schools.

With the change in the law designating the age of criminal responsibility as age 18 rather than 16, there will be changes in the way that youthful offenders are handled. These individuals will no longer go through the town or city criminal courts, they will be handled in family court and then sent through probation and preventive programming. This opens a perfect place of our DRC programs to offer restorative justice practices. But we will need to make sure that we have our ducks in a row with our policies and the people to facilitate these events. This is an area that I and several of the staff are interested in developing. I have also heard from several volunteers that they are interested in being involved. This will mean that when we get to a point that we have a commitment to explore this avenue, we will need to train everyone who will be involved.

Another training that I am hoping to be able to offer soon is a divorce mediator training. We normally offer our trainings for no cost to those who mediate at our center. It is highly unlikely that we will be able to do that with a divorce mediation training. We will likely have to charge approximately \$300 for the training. Before we plan that type of training, we need to know what the interest is and who would commit to attending the training. If this is a training that you have been interested in and would likely attend, and are willing to pay up to \$300 for the training, please send me an e-mail and let me know. My e-mail address is [chouck@charitiesccdo.org](mailto:chouck@charitiesccdo.org). Once we know that we have enough interest, we will begin planning the class. We have seen a slight rise in interest from parties in divorce mediation and are assuming if we were to advertise, these cases may

increase.

I also want to take the opportunity to highlight our policies as they pertain to things that volunteers need to be aware of and that may be different from what people are familiar with. This month, I would like to look at our policy for volunteer mediators, as well as staff, to maintain their certification with our program is that annually, between January 1 and December 31, volunteer mediators must:

- Attend 6 hours of mediation related training
- Co-mediate 3 actual mediations
- Complete a self-evaluation form
- Be observed by DRC staff member during an actual mediation

Upon submitting a completed self-evaluation form, each mediator will receive one hour of training credit.

We have many ways for individuals to get their training. We offer a 6-hour advanced training each year, as well as shorter in-services. We offer several take home trainings that include movie trainings. With prior approval from the Program Director, community or work trainings that are related to mediation issues can be used to complete training requirements. To have such trainings approved, you will need to submit a synopsis of the training from the organization or trainer who presented the training as well as something that shows the length of the training. Additional information may also be required to show the appropriateness of the training content and length.

Often volunteers are interested in doing more than mediating for the program. There have been some volunteers who have shown interest in conducting outreach or presentations on behalf of the program, some who are interested in presenting an in-service training, those who would like to volunteer to conduct phone conciliations and follow-up calls and those who are interested in being involved in advocacy efforts or in writing articles for the newsletter. We have the need for all of those things. If you are interested in being involved in any of those ways, we want to know! Please contact Lois Hubbard at [lhubbard@charitiesccdo.org](mailto:lhubbard@charitiesccdo.org) and let her know the things that you are interested in volunteering for that are in addition to mediating. Lois updates mediator records and will be able to add these things to the types of mediations you are able to do on our mediator

From the Program Director (Continued)

list so that we will know who to call on when we are in need of a volunteer.

As we work to establish good communication with you through this newsletter, we are happy to hear from you. We are considering establishing an advisory council for the program via Skype or a similar program. This is the only way we can think to have an involved advisory council that will not involve traveling long distances for an hour long meeting. If you are interested in being involved with this, please contact me directly. We will decide where to go with this based on the feedback received. My e-mail address is [chouck@charitiesccdo.org](mailto:chouck@charitiesccdo.org) . Until next time, enjoy the spring. ~Christy

**Divorce Mediation: “Do Grandparents Have Rights in New York?”**, by Don Sinkov , Your Divorce Mediator.[com](http://yourdivorcemediator.com) (Blog article submitted by John Graham)

When parents get divorced, decisions have to be made regarding custody and visitation. Visitation agreements should include when grandparents can see their grandchildren. New York State law recognizes the importance of grandparents maintaining their relationship with their grandchildren., and they have visitation rights under the law. Ex-spouses cannot deny visitation simply because their relationship with their ex-in-laws is poor. Don Sinkov concludes, “Remember, the kids did not make the decision to divorce. The kids also did not make a decision to divorce their grandparents and extended family.” To read this article, go to: <http://yourdivorcemediator.com/do-grandparents-have-rights-in-new-york/>



**“Email and Text Messaging: A Greater Source of Conflict Than We Realize”** by Mervyn Malamed, Mediate.com (Article submitted by Melissa Capone)

In an April 2017 article from Mediate.com, Mervyn Malamed writes about email and text messaging not always being the greatest source of conversation, especially when dealing with people who may already be in conflict or have tensions between them. He says that email “obstructs the natural flow of discourse between people, stifling communication”. Words only make up 7% of communications, so when we send emails or text messages, we are already starting out with a sizeable disadvantage. When emails or texts are sent, people can’t see or hear what the other person is actually feeling. When you are communicating face-to-face with someone, it’s easier to see if there is a problem, through body language such as a nod or even a change in the tone of the speaker. “Communication stripped of eye contact, body language, tone and gestures is prone to miscommunication”. Malamed suggests waiting until you’ve calmed down before sending a hostile email, and turn off the Caps Lock. He also believes that in some cases, just picking up the phone instead may be the better option. To read the whole article from Mervyn Malamed, go to: <http://www.mediate.com/articles/MalamedMbl20170414.cfm#>

## **Promoting Restorative Justice Initiatives in New York State** by Alice Rudnick

### **NEW YORK'S COMMUNITY DISPUTE RESOLUTION CENTER PROGRAM**

Restorative Justice (RJ) seeks to build and sustain thriving communities, encourage personal responsibility and improve public safety. The core principles of Restorative Justice reflect some of the most current wisdom and science concerning human development, conflict management and trauma informed care. Restorative Justice has great potential to improve the way people of all ages connect and communicate. In particular, efforts to use RJ principles to promote juvenile justice and educational equity have been on the rise.

In New York State, the Community Dispute Resolution Centers Program (CDRCP) partners with state and local agencies, schools and community based organizations to offer RJ in a wide array of initiatives. The CDRCP, a unit of the New York State Unified Court System's Office of Alternative Dispute Resolution (ADR Office), contracts with and funds community-based, non-profit organizations to provide convenient statewide access to ADR services. ADR Office funding allows for services to be offered at minimal or no cost to more than 70,000 individuals each year. For more than 35 years, CDRCs have offered ADR programming services that help individuals, families, and communities improve communication and relationships, manage interpersonal differences, and address minor criminal behavior, and school disciplinary issues and conflict.

Depending on the specific situation and preferences of the parties, ADR services may include mediation, conciliation, arbitration, group facilitation, conflict coaching, and conflict management training. The CDRCP service delivery model relies on more than 1,300 CDRC staff and community volunteers. Quality CDRCP services are ensured through statewide requirements for initial training, continuing education and ongoing case activity. Centers serve as active partners in multi-disciplinary efforts, which depend on collaborative relationships and trust building at the local level. These partnerships create a durable network of support, where CDRCs focus on the unique value of ADR services. Community Dispute Resolution Centers also provide public trainings, present at professional gatherings, and serve on local task forces and committees dealing with emerging community needs.

Staff and community volunteers understand that conflict is natural and can be an opportunity for sharing different perspectives in respectful discussion and deliberation. They also maintain the core values of safety, self-determination, impartiality, voluntariness, and confidentiality that are fundamental to any effective interpersonal process. Beyond the inherent similarities, these experienced practitioners, trained by national experts, also understand that RJ services require unique skills, process design, and theoretical frameworks.

### **WHERE RJ IS USED**

The following section highlights the variety of RJ services that CDRCs provide in their communities. Most program services address harm involving youth, with referrals primarily coming from schools and probation departments. Community Dispute Resolution Centers also provide school staff training and pro-active RJ informed approaches to community building and social emotional development.

### **CRIMINAL COURT**

In New York City, some CDRCs have developed programs to mediate misdemeanors and Desk Appearance Tickets (a summons to appear in court for arraignment on a future date) for lower level crimes like shoplifting, neighbor disputes and assaults. These collaborative projects between District Attorneys and the local CDRC offer an RJ-based process in which defendants and complainants have an opportunity to address the impact of what happened. Together, parties discuss and decide how to make amends and determine a mutually agreeable recommendation to the judge about criminal charges before trial or case disposition. More than 80% of these cases involve family members and result in settlements that include a preference to dismiss the charges. Infusing RJ principles into these Criminal Court cases helps parties resolve disputes and preserve relationships. One parent told us, *"The process gave us both an awakening. We may not fix everything, but it was good that we came and tried to make things easier for both of us."*

### **VICTIM OFFENDER DIALOGUE**

In other partnerships with District Attorneys, some CDRCs offer Victim Offender Dialogues. One service, offered to victims and surviving family members of serious or fatal injury by a moving vehicle, provides an alternative to court hearings. In separate interviews and preparation meetings, facilitators help victims identify what they want the



## **(Promoting Restorative Justice, continued)**

### **VICTIM OFFENDER DIALOGUE**

offender to know about how they have been affected, and what questions they would like answered. Offenders are prepared to take responsibility and understand the impact of their choices and actions. After this preparation, the victim and offender may meet together with a facilitator in the dialogue process. Both victims and offenders find these challenging and emotional conversations help them transition through and even transform their experience of harm. While offenders receive no tangible benefits related to sentencing, they express great benefit from giving whatever they can to help those they have harmed.

### **RE-ENTRY CIRCLES**

Some CDRCs are providing RJ circles that help incarcerated men and women prepare for reunification with their families and communities. In cooperation with local jails and correctional facilities, CDRCs conduct re-entry circles for inmates expecting release within a year. In these circles, participants are given space to talk about the harmful consequences for everyone affected by their extended separation and to discuss plans for their release. Circle members find these programs help them to restore family connections and improve communication skills.

### **PROBATION PARTNERSHIPS FOR JUVENILE DELINQUENCY AND DIVERSION**

Throughout New York State, probation departments refer young people to CDRCs for petition diversions, which result from truancy and other habitually disobedient behavior. Probation also refers youth through juvenile delinquency diversion following arrests for incidents like petty larceny, assault, property damage and reckless endangerment. Community Dispute Resolution Center staff first meet with young people and their parents to discuss program expectations so they can decide whether to participate in this program. Community Dispute Resolution Centers then coordinate an array of collaborative responses with probation, schools and social services. Some options include educational seminars about making better choices and parent-child mediation to talk through concerns and issues together. One parent said of her experience, "Thanks to you, this was the first time in three months that I was able to talk with my daughter."

Some CDRCs also offer a community conferencing model for cases involving youth under the age of 16 who are involved in the justice system. Participants in the conference may include anyone affected by an incident of harm, along with the young person's supporters, to have a deliberate conversation about what happened, the impact it had, and what can be done to make the situation better. These conferences have been used as part of pre-trial diversionary programs as well as after court processes. Referrals come mainly from the Department of Probation and Family Court.

### **JUVENILE DRUG COURT**

In addition to an identified problem of drug and/or alcohol abuse, youth referred to drug court may have been officially charged with a crime or have an active Persons in Need of Supervision (PINS) case due to their pattern of behavior(s) such as truancy, fighting, or running away. Working in concert with a problem-solving Youth Drug Court, the local CDRC hosts weekly peer circles with at-risk youthful offenders. As part of this 12-month court program, which includes family meetings and classes that support learning about making healthy choices, RJ circles bring peers together regularly to discuss challenges and share strategies for successful change. The circles build a community of support and help develop social skills and leadership. Recognizing the value of relationships for successful transitions and sustainable change, CDRC staff also facilitate family group conferences and offer parent-child mediation to address harm and restore family and community relationships. Participants appreciate the opportunities this program offers: "I love having the chance to express myself without being judged, and that I am not going through this alone."

### **YOUTH COURT**

Community Dispute Resolution Center Youth courts can be effective responses to trespassing, property damage, and other similar incidents, through positive peer influence and RJ-based sanctions. Alternative responses can include accountability/competency circles, education classes, victim impact statements, community service, and referrals for alcohol and substance abuse services. Supported by their local communities, schools, law enforcement, court magistrates and other agencies are making referrals to this program. This comment is typical of the personal responses of youth who have gone through the program: "I understand the impact of my actions a little better. Now I notice things that I should change for myself."

*(Promoting Restorative Justice, Continued)*

### **SCHOOL-BASED SERVICES**

Last year CDRCs served more than 12,000 young people and trained 8,386 youth as peer mediators or in conflict resolution skills. In the 2016-17 school year, some CDRCs have expanded their services by launching the Community Mediation School Corps (CMSC). An AmeriCorps-based program funded by the Corporation for National and Community Service, the CMSC places full-time members in high-need schools around the state. Through this and other programming CDRCs provide the following services:

#### **Circles**

Community building circles conducted in classrooms, during lunch, or after school, help students connect and communicate with each other. By regularly “circling-up,” they improve social-emotional capacities and develop a stronger sense of togetherness that supports a positive school climate. Responsive circles can inclusively address discipline issues and some schools utilize circles as part of a re-entry process for students who have been in detention or suspended from school. One student who participated in circle activities said, “I think this would help all students in our school and I think we should keep using circles to learn more about handling drama and to process incidents that happen in school.”

#### **Conflict Coaching**

Conflict coaching can help students positively engage with conflict and school discipline. While useful in many situations, coaching is particularly effective when a mediation is not appropriate or a RJ circle is not feasible. Meeting one on one with a trained coach, students gain awareness of their actions, consider the perspectives of others, and are supported in addressing their situation.

#### **Social Skills Education**

Community building efforts include youth development programs that promote specific positive social skills and conflict management. These CDRC programs are developed and delivered to encourage youth to explore the dynamics of relationships and discuss personal implications. Depending on school preferences, they are offered as supplemental after-school programs, or are built into the academic programming with scheduled classroom attendance. Bullying Prevention programs, also provided by trained CDRC staff, are another example of community building efforts for improving school relations and communication among all students. A typical response to these experiences: *“I have never*

*experienced something like this before. Had we been given the opportunity to actually understand each other a little better I think we would have acted differently towards each other.”*

#### **Attendance Mediation and Circles**

Some CDRCs offer facilitated mediations, conferences and circle conversations about school attendance issues. Students, parents, and school personnel meeting together create a support system to help young people participate in classes. Additionally, offering circles for students with attendance issues helps build a community of peer support for sharing challenges and strategies for improvement. One parent noted, “This was the first place someone really listened to my concerns about my child and helped me think about different approaches.”

#### **Peer Mediation**

For more than a decade, schools have been turning to CDRCs for guidance in developing peer mediation programs and training teams of students to provide formal and informal conflict resolution responses in their school community. As one principal said, “We want to be able to help our students learn from their mistakes and move forward, not just punish them.” As peer mediators gain experience and knowledge, these students contribute to training new members and take leadership roles to improve school climate. In addition to handling minor daily incidents, peer mediation is an effective alternative to punitive discipline and exclusionary practices in schools.

#### **School Staff Development**

Seeking more congruence between their discipline and education goals, schools are turning to CDRCs for professional development of administrators, teachers and staff members in RJ principles and practices. These schools seek to build their own capacity for use in classrooms and staff meetings to improve relationships and learning environments. As one staff member told us, “I came away with new understandings of the student perspective and believe the converse to be true as well. My relationship with the students has changed and I have recommended other faculty members consider this is an option to resolve teacher-student conflicts.”

Staff members find their communication and relationships with students improve after being trained to conduct informal restorative chats. These restorative chats are timely, effective and efficient interventions for school encounters that require immediate attention. These conversations derive from a concern for student well-being, and encourage

personal engagement during classes, reduce disruptive behaviors and improve school climate.

With extensive experience, knowledge and skills in conflict resolution and restorative justice, CDRCs are committed to building RJ capacity and competency. As applications increase, so will the need for service providers.



**About the Author:** ALICE RUDNICK is an administrator, educator and mediator with the New York State Unified Court System’s Office of Alternative Dispute Resolution Programs. She coordinates and provides technical assistance with Juvenile Justice and Education Initiatives, Elder Adult Dialogue and Mediation, and Restorative Justice program development. The views expressed in this article are hers alone and do not reflect those of the New York State Unified Court System.



**Mediation Around the World: Turkey** “*Mediation in Legal System to Help Spread Reconciliation in Turkey*”, *Hurriyet Daily News*, March 16, 2015 (Article summary by April Rando)

In June 2012, the Turkish Parliament enacted the “Turkish Mediation Act on Civil Disputes” to help ease the burdensome caseload in the judicial system. It can take years for civil cases to be resolved in court, especially if a decision has been appealed. According to Dilek Yumrutas, the Director of the Istanbul Mediation Association, the goal of mediation is to “help spread a culture of reconciliation in Turkey,” especially for a multicultural society that has become more polarized. In 2013 and 2014, the Justice Ministry’s Department of Mediation saw an increase in the number of disputes mediated, especially employer-employee disputes. Any written agreements are just as valid as those written in court. To read the English version of the article, got to: <http://www.hurriyetdailynews.com/mediation-in-legal-system-to-help-spread-reconciliation-in-turkey.aspx?pageID=238&nID=79708&NewsCatID=341>

### **Fulton, Montgomery and Schoharie Counties: Mediator “Meet & Greet”**

On April 6<sup>th</sup>, volunteer mediators Ken Hotopp, Harry Abrahamsen, Agnes Rodd, Ellie Mack, MaryAnn Louison came to our very first “Meet & Greet” held at the Catholic Charities office in Amsterdam. During our time together, we talked about our interests, shared ideas for promoting the DRC, and enjoyed light refreshments. If you missed it, we will be having another “Meet & Greet” in Cobleskill on Thursday, May 11<sup>th</sup> at 2:00-4:00, Catholic Charities, 489 W. Main St., Cobleskill, NY.



## Catholic Charities Thrift Store “Spring Festival” by Allison Briggs

Catholic Charities Cobleskill office has a Thrift Shop open to the public Wednesdays-Saturdays 10:00am-2:30pm. The Thrift Shop accepts donations of household goods, such as dishes and bake ware, craft supplies, décor, gently used furniture and much more. Anybody who is doing some spring cleaning and would like to donate household items please feel free to drop off said items during shop hours.

On Saturday May 6<sup>th</sup> Catholic Charities is hosting a Spring Festival at the Thrift Shop! We will have food, raffle items, kids’ activities, and in store sales! The festival will be held during shop hours starting at 10:00am.



### Save the Date!

- Saturday, May 6<sup>th</sup>, 10:00 AM-2:30 PM, Catholic Charities Thrift Shop “Spring Festival”, 489 W. Main St., Cobleskill, NY. Raffles, food, kids’ activities, fill-a-bag for \$5 (selected clothing only), and in-store specials. Proceeds will help fund Catholic Charities’ emergency assistance programs.
- Thursday, May 11<sup>th</sup>, 2:00-4:00 PM, “Meet & Greet” for Fulton, Montgomery, and Schoharie County Volunteer Mediators, Catholic Charities, 489 W. Main St., Cobleskill. Please R.S.V.P. April Rando at [arando@charitiesccdo.org](mailto:arando@charitiesccdo.org), or (518) 842-4202, ext. 3133.
- “Agreement Writing: Using the Laptop” In-service Training for Fulton, Montgomery, & Schoharie County Volunteer Mediators. Learn how to use the laptop to write agreements and become familiarized with our new forms. Mediators will need to attend just one session.
  - Session 1: June 9<sup>th</sup> , 2:00 p.m.-4:00 p.m., Catholic Charities, 1 Kimball St., Amsterdam
  - Session 2: June 16<sup>th</sup>, 2:00 p.m.-4:00 p.m., Catholic Charities, 489 W. Main St., Cobleskill



Everyone is invited to be of interest to mediators. If you have something you would like to share for the newsletter, please email your article by May 19<sup>th</sup> to April Rando at [arando@charitiesccdo.org](mailto:arando@charitiesccdo.org). Thank you!





*Each month we will feature articles about staff and volunteer mediators.*



**Ken Hotopp-** Hi, my name is Ken Hotopp, and I'm a mediator. On March 26<sup>th</sup>, 25 years ago, I started mediation training. "It seemed like a good thing to do," was my answer when asked how I got involved in mediation, but I guess it's a little more than that. There are memories of an aunt helping family members find their own solutions to their problems, and my father getting conversations going with strangers. There were times also in discussing post-retirement plans with fellow extension agents and discovering many looking forward to counseling and advising families going through difficult times. And for me, there is also the Beatitude on

peacemakers in the Sermon on the Mount.

So, what do I like about being a mediator? I believe it's beyond the feeling of helping people or fulfilling a social conscience. It is satisfying when parties share their facts and feelings, get to understand the other side and agree on answers to their dispute, and you realize the process works again. Even more, I feel the process itself, its energy flow, the emotional electricity of the variety of conflict parties have and the complex problems arising from face to face voicing of feelings, is amazingly powerful.

Going through co-mediation makes me humble when I see the talent, introspection, professionalism and skill of the men and women I have worked with. Community mediation is what I do, including land-lord tenant, parent-child, homeowner-contractor, FHA-homeowner, interfamily, neighbors and agricultural. I have also done arbitration in Lemon Law, Financial Industry, Marital Fee and Lawyer-Client Fee. In my other life, I am a Certified Forester working with woodland owners.



## **Thrift Shop Spring Festival!**

**When: May 6<sup>th</sup> 10:00 am- 2:30 pm**

**Where: 489 West Main Street Cobleskill, NY**

- Raffles
- Food
- Kids' activities
- Fill a bag for \$5 (selected clothing)
- In store specials!!!
- And MUCH MORE!!

# SPRING