



# ROSTER MEDIATOR QUALITATIVE REPORT

Fairfax County Juvenile & Domestic Relations  
District Court

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Research and Development Unit

Lex Bailey

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## Executive Summary

### *Background*

In order to gain insight into how the Mediation Program could be improved, ten roster mediators participated in individual 20-minute interviews to discuss various aspects of their work.

### *Findings Overview*

Below are some themes that emerged out of the interview responses.

#### **What Mediators Enjoy About the Program:**

- Positive Experiences
  - o Flexible scheduling/virtual option
  - o Interaction with other mediators
  - o Helping/serving families
  - o Enjoying the challenge
  - o Improving skills
  - o Opportunity to help Spanish speakers
- Alternative Approach
  - o Providing an alternative to court involvement
  - o Child-centered approach to solving issues

#### **Challenges That Mediators Experience:**

- Administrative/procedural difficulties
  - o Inaccurate/incomplete client info
  - o Cases assigned to multiple people
  - o Client screening issues
  - o Inaccessible case information
  - o Intensive administrative process
- Scheduling and Caseloads
  - o Higher than typical caseloads
  - o Court dates close to mediation dates
- Technological Issues
  - o Connectivity problems
  - o Troubling logging in to databases/opening files
  - o County website going down
- Other Themes
  - o Making mediation child-focused
  - o Feeling undervalued

#### **Mediation Characteristics:**

- While several participants indicated they struggled with inconsistent caseloads, 60% reported they typically had 1-3 cases per week, while the remaining 40% reported 4-6 cases per week.
- Running out of time, scheduling constraints, and corresponding with clients were reasons for more than one session per case (which was rare).
- Most mediators were flexible with scheduling to accommodate clients.

#### **Looking Toward the Future of Mediation:**

- Most interviewees were interested in remaining a mediator if there were no major changes to the program, especially to the current hybrid options.
- Most were open to returning to in-person, however, they typically prefer the virtual option because it affords them more flexibility and the ability to take on more cases.
- Mediators noted that there was better client response when Mediation staff scheduled their appointments, but more than half preferred the convenience of scheduling their own.
- Respondents expressed frustration with the lack of consistent training structure.

***Recommendations***

1. Program staff and leadership need to decide how services will be delivered (in-person vs. virtual) and who will schedule mediations (staff vs. mediators).
2. Develop a structured training curriculum to be consistently followed by new mediators.
3. Review program requirements to ensure mediators have necessary resources.
4. Take steps to ensure accurate and complete client information is readily available to mediators.
5. Identify possible cause(s) of caseload fluctuations and consider adjustments to the scheduling process (e.g., scheduling mediation cases 3-4 weeks out).
6. Identify and address communication gaps between program leadership, administration, and staff.
7. Conduct further research regarding best practices of successful mediation programs in comparable jurisdictions.



# Roster Mediator Qualitative Report

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## Introduction

To gain a better understanding of how the Juvenile and Domestic Relations District Court (JDRDC) Mediation program can be improved, Fairfax County Roster Mediators were interviewed to collect feedback on various aspects of the program, including challenges they experience, aspects of the program they enjoy, and service delivery.

## Data & Methods

Over a period of three weeks, ten semi-structured interviews were conducted via Microsoft Teams. Interviews lasted an average of 20 minutes. Responses were captured via the transcription function and cleaned for ease of analysis. During the initial round of analysis, responses were analyzed and manually color-coded according to emerging themes based on the questions developed by Domestic Relations (see Appendix) and the responses of the participants.

## Findings

In general, analysis of the interviews revealed several main themes discussing positive experiences with the JDRDC Mediation program, the service delivery process, and future directions of the mediation program.

### **WHAT DO ROSTER MEDIATORS ENJOY ABOUT THE JDRDC MEDIATION PROGRAM?**

#### Positive Experiences with JDRDC

Many of the mediators highlighted their positive experiences working with the Fairfax County JDRDC. Mediators seemed to enjoy the current flexible scheduling, with virtual mediation sessions being so prevalent. Mediators reported feeling in control of their own schedules. Some mediators also highlighted interaction with other mediators as a source of enjoyment from the program.

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*"I really enjoy the bi-monthly meetings, or touch points, we have collectively as roster mediators. That allows us to share different things that we're seeing and dealing with, any glitches or things that we may be encountering within the system as we're processing cases. It's a really good resource to be able to network with the other mediators."*

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A few of the mediators interpreted the question as asking them what they enjoy about mediation more generally. For some, they enjoyed being able to help and serve families who are going through a difficult time trying to work out child custody, visitation, co-parenting plans, and child support. Others felt that mediation was rewarding in other ways, *"There's no feeling like when people who you don't think are going to agree end up agreeing. They're like, 'There's no way I'm going to agree on anything.' Then after working with them for a bit, they agree."* A small portion of the mediators also focused on how they enjoyed the challenge of mediation and the opportunity the program gives them to hone their mediating skills. There are a wide variety of cases that mediators see, and each presents its own challenges to overcome, *"Each person, each dynamic of the relationship and the mediation, even the issues, they're all different. It kept it very interesting."*

Numerous Spanish-speaking cases come through the JDRDC mediation program. Mediators who speak Spanish seem to appreciate the opportunity to help Spanish-speaking clients mediate in their native language, *"I was hired because I speak Spanish, and it was mentioned to me that they were having a lot of Spanish speaking cases where they needed a Spanish speaking mediator. I'm virtual, and there aren't even*

*really a lot of cases like that in my area, so it's the fact that it's just a different clientele, and it's just a different court, that I enjoy."*

### Provides an Alternative to Court-Involvement

Most of the roster mediators expressed that the JDRDC Mediation program provided an excellent alternative to litigation and court-involvement for families they interact with. Many of the mediators have experience in the legal field, and do not feel that court-involvement is always appropriate for cases concerning custody, visitation, and support. Thus, most of them appreciate the opportunity to help families through a non-adversarial process and resolve their issues on their own terms. Some mediators also mentioned that working as a roster mediator has allowed them to provide a service that could lead to better outcomes for the child(ren) due to reduced conflict and improvement in the parental relationship, *"What I love about it is the opportunity to give the child, both in the short term and long term, a better future if their parents aren't in court all the time. Making it so that they're able to look at this through the lenses of a child; a child-centered approach to resolving their issues."*

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*"There are a lot of people that already have a very negative history with the court. They don't have good experiences when you go in person, where you go through a metal detector, you pay for a babysitter, you pay for parking, you take off work. So, mediation is a chance to empower families. I think it offers an alternative if people choose it."*

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### **WHAT CHALLENGES DO MEDIATORS EXPERIENCE WHEN WORKING WITH JDRDC?**

Mediators were specifically asked about challenges they encounter when mediating with JDRDC. Participants frequently mentioned administrative and procedural difficulties, scheduling and caseload challenges, and technological issues. Additionally, they expressed issues with a lack of focus on the child and feeling undervalued.

#### Administrative and Procedural Difficulties

Mediators highlighted issues with preparation occurring before they received cases. They reported instances where client information would be inaccurate or incomplete. Examples included missing or incorrect contact information, inaccuracies concerning the nature of the clients' issues, and missing information about previous orders that have been filed. On the case assignment spreadsheet that mediators use, cases have sometimes been assigned to multiple mediators, which has caused confusion for the mediators and their clients. A few of the mediators also believe that some of the cases they received were inappropriate for mediation, indicating possible issues with client screening.

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*"I think recently there were some issues with the accuracy of the data in some of our files. It's a challenge because now, when I open the file and I look at everything, I don't always assume that it's correct. So, I'll verify by looking at other documents to make sure that the issues are what I think they are."*

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An additional concern noted by mediators was inaccessible case information. Mediators do not have access to certain case records and documents containing information that would be relevant and helpful to the

mediation process (e.g., child support documents). As such, mediators must rely solely on their clients to provide accurate information and documentation regarding any previous court orders or how much they pay in child support, *“I work with other jurisdictions and the mediation coordinator can get copies of all the orders, including support. Here, I'm having to have the parties provide their own orders and they don't necessarily even know what an order is.”* However, of the few mediators who also work in other courts, all feel that client contact information is more readily available with Fairfax JDRDC.

While not a common theme across responses, it was also noted that compared to other jurisdictions, the Fairfax JDRDC seemed more administrative heavy for mediators than necessary, *“From a mediator standpoint, our core function is to get a case, schedule a session with the parties to see if they can come to a mediated agreement, draft up that agreement, and hand that off to the court if there is one. Right now, with Fairfax, we have to have an e-mail that we get cases sent to, then we have to log in to pull files or records, then save the records in a certain folder on a certain drive, then upload documents a certain way and send certain emails to the party through the server. It's just very labor intensive, and I think that can be streamlined to where we don't necessarily have to be on the Fairfax system to turn in documents.”*

### Scheduling and Caseloads

Some of the mediators discussed recent scheduling difficulties they have experienced. The issues typically begin when mediators receive an influx of cases. The number of cases they receive can deviate greatly from their typical caseload. One mediator mentioned getting ten cases in one week, which is drastically different from their typical caseload of at most two cases per week. Mediators are further hindered when their cases have court dates that fall close to when scheduled mediation appointments should occur. This short time frame does not allow mediators to spread out their cases, give parties adequate notice in scheduling mediation appointments, or leave time for clients to adequately prepare for a mediation appointment. Another mediator commented that the more time they have for scheduling the mediation with the parties and to have them engage in mediation before their court dates, the better.

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*“It was very stressful for the families and for me - not having that notice, not having much control over my schedule or their schedule, not having about three weeks out to schedule some people and being able to give them some notice too. These are people who have other commitments. They've got to still arrange daycare, time away from work, having their lawyer review it. It just it was too much.”*

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### Technological Issues

Since roster mediators currently conduct mediation virtually, a few mediators discussed some of the issues they have had while teleworking with Fairfax County. This included connectivity issues, trouble logging in to databases and opening files, and the Fairfax County website going down. There were mediators who mentioned having issues logging into the system on the day of the mediation, making it difficult for them to retrieve case information. As a precaution, these mediators write down case notes one or two days before the scheduled mediation.

### Other Themes Present

- Clients Getting Off Topic – According to some of the mediators, cases where the clients are not focused on the children are the hardest to mediate. Similarly, some mediators expressed frustration

with receiving clients who treat mediation as a “venting session.” A few mediators mentioned that participation in the parenting class is not enforced, which they feel might have an impact on how productive the mediation is, *“An observation I’ve brought up in some meetings with judge Sotelo is that when people do attend the coparenting class in the midst of mediation or between sessions, I see an amazing change in the parties as to how they focus on the children and not their own differences.”*

- Feeling Undervalued – A few of the mediators discussed feeling as if they, and the Mediation program in general, were not valued by JDRDC. This is evidenced by the how much staff is dedicated to the program, how much money and resources are put toward administering the program, and how much mediation is valued for their role in helping people stay out of court, *“For several years, three or maybe four years, I mediated through Multi-Door down with the DC superior courts. Their commitment to the mediation program was vastly superior to the County’s commitment, when it comes to staff, spaces, training, all of the above.”*

## **MEDIATION CHARACTERISTICS**

### **Case Loads**

During the interviews, roster mediators were asked to provide details about their mediation schedules. This included questions about their current caseload, how long and frequent their sessions are, and the time of day they typically schedule sessions. Slightly over half of the mediators (n=6) accept 1-3 cases per week from Fairfax County, while remaining mediators (n=4) accept 4-6 cases per week. However, as referenced previously, their recent caseloads have been inconsistent, with some mediators having an influx of cases that are hard to manage, and others receiving fewer than before. There are some mediators who believe that staffing issues have led to confusion around who is assigning cases. This could also be the reason for inconsistency in mediation caseloads. A few mediators also mentioned that busier courts and switching to virtual mediations has led to fluctuations in their caseloads.

### **Sessions**

Nearly all the mediators indicated that they typically conduct one session per case, which lasts around 2 hours. Cases which require more than one session are infrequent but do occur occasionally. Mediators provided numerous explanations for why this is the case:

- Since most of the cases only involve one set of issues, usually the mediation occurs in only one session. For cases that have two or three issues to address, another mediation session may need to be scheduled if they do not have time to get to all the issues in the first mediation session.
- Time constraints were a factor for a few of the mediators. The ability to schedule more than one session was dependent on how close to their court date the mediation was scheduled. One mediator mentioned that they have been getting mediation cases in closer proximity to their court dates. As a result, there is usually not enough time to have a second session. Another mediator mentioned that if their clients’ court date was further off, and they needed more time to make progress on another set of issues, they would schedule a second session.



- For some of the mediators, cases can be resolved in one session due to the time they spend outside of the scheduled session keeping contact with clients and preparing them for the mediation. A small number of mediators have an orientation process for their clients. This process takes place before the actual session and helps clients prepare themselves, as well as any materials they need to have a productive mediation. A few other mediators mentioned that they have contact with their clients by phone, text, email, or zoom to answer any questions they may have before and/or after their mediation session has occurred.

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*“Besides going over the agreement to mediate, I do put together a little PowerPoint for each type of issue. I have found that when they use that, it seems like there are fewer questions. And I always tell them the same thing, ‘Look, I don’t know what you were told when you filed or didn’t file, but I want us all on the same page.’”*

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### Scheduling

Most roster mediators indicated that they typically schedule their sessions in the morning or afternoon, followed by scheduling during the evening. Half of the mediators indicated that they also typically schedule sessions during the weekend. None of the mediators indicated that they schedule sessions for the late evening or nighttime and nearly all the mediators said that it is rare for a mediation session to wrap up after 9PM. A few commented that if they were working on mediation past 9PM, it was usually because they were drafting agreements and filling out paperwork related to the case. Overall, it appears that most of the mediators are flexible when it comes to scheduling so they can accommodate their clients, *“I’m very flexible. I tell folks that I don’t want them to miss work if they don’t have to. I work around their schedules. I’ll start as early as 9AM or as late as 7PM, but I won’t do anything on the weekends.”*

## **LOOKING TOWARD THE FUTURE OF MEDIATION**

### Retention

An overwhelming majority of interview participants indicated that they are interested in continuing to serve as a Fairfax County roster mediator. However, a small number of mediators seemed concerned about possibly retuning to in-person services and wanted to understand what direction mediation is going regarding in-person or virtual services before completely committing to remaining as a roster mediator. The program is currently utilizing a hybrid approach, but having all mediations occur in person at the courthouse may not be feasible due to many of the roster mediators having additional jobs.

A few of the mediators are willing to continue if there are no major changes to the program. One change some would find unacceptable is returning to completely in-person services, *“I would not want to come in person. I live in South Alexandria, so it can take me anything from an hour to an hour and a half each way to get to the courthouse. It’s more flexible to do it online and some of the dynamics with the clients can be different online as opposed to in person. There are pluses and minuses to both.”*

### Delivery of Services

During the interviews, mediators were asked how willing they were to conduct mediation sessions face-to-face at the Fairfax County Courthouse. The responses from the mediators were mixed. While most of the mediators would consider working in person, they appeared to prefer continuing virtually for several

reasons: attendance seems better virtually, it limits their travel time (especially for the mediators who do not live in Fairfax County), and they have more control over their own schedules.

Of the mediators willing to conduct face-to-face sessions, most had conditions for doing so. For some, if sessions are to be conducted face-to-face, they would most likely reduce the number of sessions they would take per week or require advanced notice when assigned mediation clients. One mediator stated that they would not take face-to-face mediations unless there was two-week's notice, *"My experience is that sometimes the mediations come at the last minute - so like a week before the court date or something of that nature. It makes it very hard for scheduling purposes to say, 'Yes, I can be at the Court on this day at this time to do a mediation or status hearing or whatever it may be'."* There were a few mediators who said they would not be willing to conduct cases face-to-face, due to concerns over the distance they would have to travel and the COVID-19 pandemic.

### Scheduling Mediations

Mediators were asked to identify the benefits of the Mediation staff scheduling the mediations versus scheduling their own mediations. One common theme across the responses is that it saves the mediators time if staff schedules appointments for them. Mediators would not have to take time to coordinate with clients, going back and forth between the different parties to establish a suitable time. Another benefit that was identified by the mediators was that clients seem more likely to respond, and in a timelier manner, if Mediation staff was contacting them first. Some mediators explained that this could be because they view contact from the court as more legitimate than contact from an independent party.

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*"Sometimes you can easily schedule it, but other times you would back and forth, and just one person would respond right away, and the other person would just drag their feet for a week or two. Then I'm having to remember I've got three new assignments, but I've got to keep going back and trying to schedule this person. For me, it took a lot more time and just got harder to do the admin stuff and to do the mediation work that we do. I preferred it when they scheduled, and they would just say 'we've got a mediation for you on Monday and Wednesday at 9:00 AM or 12:00 PM.'"*

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Although some benefits for staff scheduling the mediations were identified, slightly more mediators (n=6) seemed to prefer scheduling their own mediations. Some mediators believe it leads to less confusion if they schedule their own mediations, *"I could schedule on my own, as opposed to the staff scheduling them, telling me what the time is, and then it doesn't work out. I think it's just easier to reach out to them and have that conversation."* Other mediators simply find it more convenient for themselves and the parties if they can consult their calendars and schedule on their own.

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*"The benefit in my doing it is that I can offer much more flexibility than the staff would. If I were to give open slots to the staff to schedule the mediation, I'm very certain they would not be able to fill all of them, at which point, it's wasted time for me. I can schedule cases in evenings, weekends all the time, many times, simply to meet the clients' work schedules."*

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## Resources and Training

Some mediators commented on the lack of training and guidance they received when first working with the JDRDC Mediation program. They feel that there is inconsistency in when training is offered to new mediators (some mediators have been fully trained and others have not). They also pointed out the lack of infrastructure in place to ensure they receive the appropriate training and resources, *"I had to figure out where I find the forms, what needs to be filled out, how I close the case, who I send it to, and all that stuff, by myself. I also haven't seen examples of what others have done...It would be helpful for me to see what the other mediator agreements are like."*

## Summary and Recommendations

### Summary

Overall, the roster mediators expressed a variety of opinions and shared valuable feedback. Many referenced positive experiences with the mediation program. Areas for improvement primarily focused on procedural and administrative difficulties and challenges with scheduling. Additionally, roster mediators also discussed technological difficulties, feeling under-valued, and expressed a noticeable difference in mediation being more productive with clients who took the parenting class vs. those who didn't. Other concerns primarily focused on service delivery and mediator retention.

### Recommendations

1. Program staff and leadership need to decide how services will be delivered (in-person vs. virtual) and who will schedule mediations (staff vs. mediators).
2. Develop a structured training curriculum to be consistently followed by new mediators.
3. Review program requirements to ensure mediators have necessary resources.
4. Take steps to ensure accurate and complete client information is readily available to mediators.
5. Identify possible cause(s) of caseload fluctuations and consider adjustments to the scheduling process (e.g., scheduling mediation cases 3-4 weeks out).
6. Identify and address communication gaps between program leadership, administration, and staff.
7. Conduct further research regarding best practices of successful mediation programs in comparable jurisdictions.

## Appendix A: Survey Questions

### Roster Mediator Survey Questions

1. What do you enjoy about mediating with JDRDC?
2. What challenges do you experience when mediating with JDRDC?
3. Are you interested in continuing to serve as a Fairfax County Roster Mediator?
4. On average, how many mediation cases do you currently accept from Fairfax County per week?
5. On average, how many sessions do you conduct per case?
6. What time of day do you typically schedule your mediation sessions?
  - a. Mornings (before 12pm)
  - b. Afternoons (between 12pm and 4pm)
  - c. Evenings (between 4pm and 8pm)
  - d. Late Evenings/Nights (after 8pm)
  - e. Weekends
7. How many mediation sessions wrap up after 9pm?
8. Moving forward, are you willing to conduct mediation sessions Face-to-Face at the Fairfax County Courthouse?
9. What are the benefits to Mediation staff scheduling the mediations versus scheduling your own mediations?
10. Is there anything else you would like us to know?

## Appendix B: Response Counts by Theme<sup>1</sup>

Response Theme	Count
<b>1. What do you enjoy about mediating with JDRDC?</b>	
Positive Experiences (e.g. flexible scheduling, helping families, etc.)	7
Alternative to Court Involvement	7
<b>2. What challenges do you experience when mediating with JDRDC?</b>	
Administrative and procedural difficulties	4
Scheduling and Caseloads	3
Technological Issues	3
<b>3. Are you interested in continuing to serve as a Fairfax County Roster Mediator?</b>	
Yes	6
With Conditions	3
<b>4. On average, how many mediation cases do you currently accept from Fairfax County per week?</b>	
1-3 cases per week	6
4-6 cases per week	4
<b>5. On average, how many sessions do you conduct per case?</b>	
One session per case	8
<b>6. What time of day do you typically schedule your mediation sessions?</b>	
Morning	5
Afternoon	7
Evening	5
Weekends	5
<b>7. How many mediation sessions wrap up after 9pm?</b>	
None	8
<b>8. Moving forward, are you willing to conduct mediation sessions Face-to-Face at the Fairfax County Courthouse?</b>	
Yes	4
Maybe	3
No	3
<b>9. What are the benefits to staff scheduling the mediations versus scheduling your own mediations?</b>	
Saves mediators time and work	4
Prefer staff to schedule mediations	3
Prefer to schedule my own mediations	6
<b>10. Is there anything else you would like us to know?</b>	
<i>No major themes emerged from responses to this question.</i>	

<sup>1</sup> This table only includes themes where the response count was greater than or equal to 3.