



Mission:

The mission of the Nebraska Office of Dispute Resolution is to enhance and to advance the use of mediation and ADR (alternative dispute resolution) in courts and communities by partnering with ODR-approved mediation centers and others involved with ADR.

ODDR

NEBRASKA OFFICE OF DISPUTE RESOLUTION

2009-2010 Annual Report

Submitted to the
Nebraska Supreme Court
Nebraska Legislature and Governor
Citizens of Nebraska

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ODR Statutory Authority:

Nebraska Dispute Resolution Act, N.R.S. §25-2901, et seq. (1991)
See also Related Statutes
Nebraska Uniform Mediation Act, N.R.S. §25-2930, et seq. (2003)
Nebraska Parenting Act, N.R.S. §43-2920, et seq. (2007, 2008)

Dear Nebraska Citizens:

This past year has been phenomenal! Over 8,500 individuals have chosen to work with the Nebraska mediation centers to try to resolve their problems face-to-face, through mediation, rather than through fighting or litigating. In the largest jump in nearly two decades, new mediation case numbers increased 37% over the prior year.

Why are so many people now turning to mediation? A significant reason is that both the public and the legal community have increasingly understood that especially in family-related disputes, such as divorce, parenting, family business, and estate issues, people are often better served by using mediation as an informal, confidential, and accessible problem-solving process.

Another reason for the increase in mediation last year is the Nebraska Legislature's passage of the 2007/08 amended Parenting Act. Now all parents must submit parenting plans describing future arrangements for their children's well-being, including residence, parenting time, decision-making, and communication approaches. Mediation is encouraged to assist parents in negotiating a parenting plan. More and more lawyers and judges are referring parents to mediation to create an individualized parenting plan that will specifically meet the needs of each family. The data from this past year shows how family cases and referrals from courts to mediation have increased (see page 7).

Additionally, as of July of 2010, all parents who haven't submitted a parenting plan within the court's prescribed timeline will be ordered to try mediation. This is a way to encourage parents to work things out between themselves instead of litigating issues of custody and visitation. Litigation puts children in the middle of their parents' potentially harmful and negative conflict.

The court-fee based Parenting Act Fund has been invaluable in providing resources to the ODR-approved mediation centers and the Douglas County District Court Mediation Office. This Fund assists those court-connected groups to provide parenting mediation to indigent and low income parents.

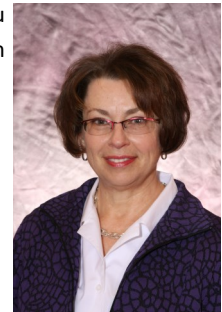
A list of qualified Parenting Act mediators as of July 1, 2009 is on page 10. An up-to-date list is maintained on the Supreme Court website at www.supremecourt.ne.gov/mediation.

An equally significant use of ADR (alternative dispute resolution) in the courts is the growing use of Pre-Hearing Conference Facilitation (PHC) prior to initial child welfare removal hearings, as well as for 12-month permanency review and termination of parental rights hearings. This approach has decreased the amount of time to adjudication for children and families, which helps to speed up decisions regarding the child's permanency. Nebraska Health and Human Services' resources that fund mediation centers' facilitators have been invaluable to make PHCs available for judges in juvenile court.

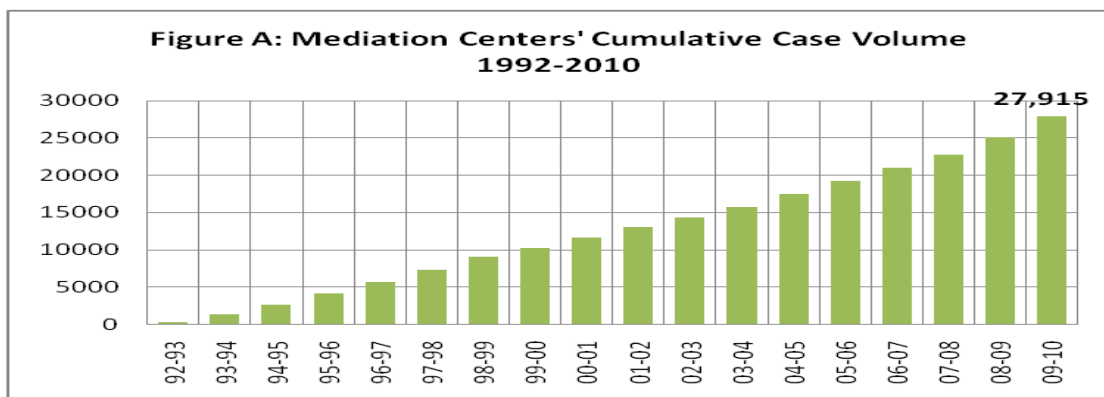
Mediation in small claims courts cases and in juvenile delinquency cases is also an active arena for mediators. Restorative justice practices of holding the offender accountable and restoring the victim to a sense of wholeness are used.

All-in-all, mediation centers have made a difference to thousands of Nebraska's residents involved in the 25,126 cases handled since 1992 (see Figure A, below).

I invite you to read the 2008-2009 Annual Report to learn more of the activities and progress of mediation in Nebraska. You are welcome to contact me or mediation center directors for additional information or if you have more questions about mediation and ODR.



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In his 2009 State of the Judiciary Address to the Nebraska Legislature, Chief Justice Michael Heavican

(photo, right) noted the important work that the “Through the Eyes of the Child” Initiative has been doing in front loading the child welfare system. Front loading has reduced children’s time in foster care and increased extended family in caring for children. Pre-hearing conferences (PHCs) are convened just prior to the initial removal hearing to have the parents, attorneys, and child welfare workers address critical early questions for the child. Facilitators of the PHCs are primarily staff and affiliates of the ODR-approved mediation centers. PHCs are held in nearly a third of all the courts across the state, including the high volume juvenile courts in Douglas, Sarpy, and Lancaster counties. The ODR-approved mediation centers are partners with the Initiative, having participated in training, policy and procedure work, continuing education, and research on pre-hearing facilitation and front-loading. In his speech, the Chief affirmed: “. . . front-loading [using pre-hearing conferences] is providing positive results around the state. Foster care numbers have been reduced. We think our



Ini-

**Figure 1. New Mediation Cases by County (n. = 2,190)
Nebraska ODR-approved Mediation Centers, 2008-09**

New Mediation Cases by County 2009-2010



Nebraska’s mediation centers had a significant 37% increase in mediation activity this past year, opening 2,190 new mediation cases. During the prior year, 1,598 new mediation cases were opened. Specific details about the types of cases and outcomes are shown on page 7. **Figure 1**, above, shows the distribution of the new mediation cases by county of requesting party. The number of requesting parties per county closely tracks Nebraska’s population density by county, with Douglas and Lancaster Counties being the most numerous, served by Concord Center and The Mediation Center, respectively. The distribution of cases also reflects the location of rural mediation centers’ offices in Scottsbluff (Mediation West, formerly Center for Conflict Resolution); North Platte, Kearney, Grand Island (Central Mediation Center); Beatrice (The Resolution Center); and Fremont (Nebraska Justice Center). Each of those mediation centers serves a multi-county region, see map on

the Supreme Court website at <http://www.supremecourt.ne.gov/mediation/mediation-map.shtml?sub7>.

Annual case volume, shown in **Figure 2**, page 6, represents the volume of active (both newly opened and carried forward opened) mediation cases that the mediation centers worked on during the program year. 08-09 totaled 2,389 cases, which is over a third more cases than the prior year’s number of 1,765. Serving this huge influx of people was accomplished through dedication and hard work, hours of individual conferences and mediations with each party, scheduling mediation sessions during the day, evenings, and weekends, and, for the rural mediation centers, mediators driving many miles to a convenient location to mediate with the parties. Data reports that over 8,500 individuals were served this year by the six mediation centers.

Recognition for Nebraska’s Mediation Center Directors — ODR 2008/2009 Report

The success and worth of any public service is due to the leadership and innovation of those who are committed to the vision and mission of the endeavor. Helping people engage in constructive conflict and solve problems effectively, peaceably, and locally is what these six leaders—mediation center directors shown below— are all about. Each of these individuals are themselves experienced mediators who also have the focused expertise as non-profit leaders, working with administration, funding, volunteer and affiliated mediators, community outreach and education. They work long hours for modest pay, all in the effort to make a difference for Nebraska’s citizens, communities, and courts. Executive Directors of the six ODR-approved mediation centers are shown below, clockwise from top center: Judy Pingel, The Resolution Center, Beatrice; Jane Martin-Hoffman, Nebraska Justice Center, Fremont; RaeAnn Schmitz, Mediation West, Scottsbluff; Lynne Favinger, Central Mediation Center, Kearney; Mary Lee Brock, Concord Center, Omaha; and Casey Karges, The Mediation Center, Lincoln.



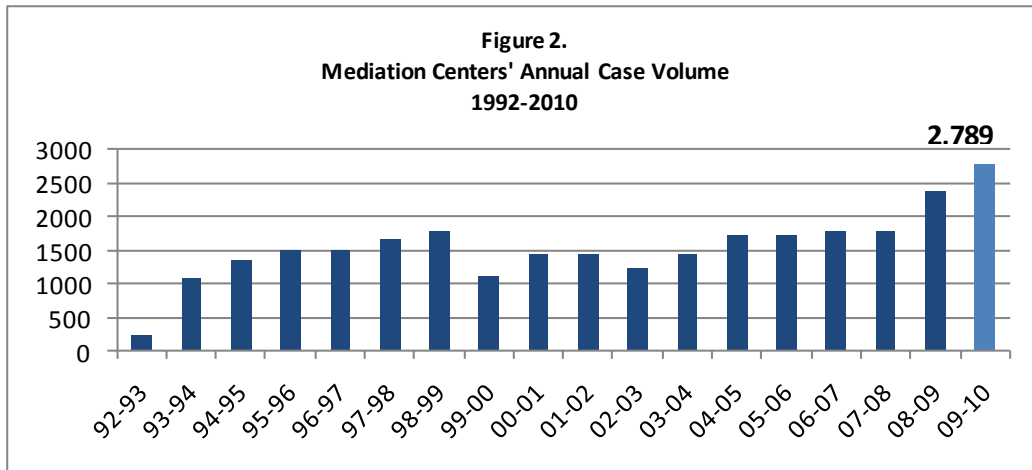
Casey Karges,
The Mediation Center,
Lincoln



Judy Pingel
The Resolution Center,
Beatrice



Jane Martin-Hoffman
Nebraska Justice Center,
Fremont



Cindy Tierney
Concord Center,
Omaha



Lynne Favinger
Central Mediation Center,
Kearney



Rae Ann Schmitz
Mediation West,
Scottsbluff

Executive Summary: The Nebraska Office of Dispute Resolution is pleased to present the 2008-2009 Mediation Center Data Summary of the six (6) regional non-profit ODR-approved mediation centers.

Since 1992, the mediation centers' combined **cumulative case volume** is **25,126 cases**. (Fig. A, p. 2) During this past program year annual case volume was **2,389 cases** (see Figure 2, p. 6).

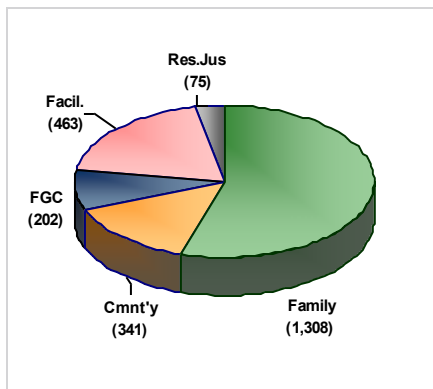


Figure 3. Mediation Case Types 2008-09

Figure 3, Mediation Case Types shows that in 08-09 the highest percentage of cases mediated were **family cases, comprising 55% or 1,308 cases** overall. This continues a long-standing trend of increasing numbers of mediation of parenting plans, divorces, and family disputes.

Court-based facilitation of **pre-hearing conferences (PHC) in juvenile neglect** and abuse cases is the second highest case type at **19% or 463 cases**. These are related to the Supreme Court's **Through the Eyes of the Child Initiative teams**. Family Group Conferencing (FGC) amounted to 202 cases. In both FGC and PHC, primary goals include achieving permanency, increasing connections between the child and safe, extended family members and decreasing the time the child is in the foster care system.

Mediation of community cases comprised **14% or 341 cases** statewide. A

significant portion of these community cases are mediation of small claims court disputes.

Restorative justice facilitation involves working with victims and offenders in a restorative, rather than retributive fashion. Offenders are held accountable for their wrong-doing, including restitution and apology, in a process that is sensitive to victims' concerns and addresses community safety. While comprising just 3% of the caseload, **75 cases** were successfully facilitated between victims and offenders.

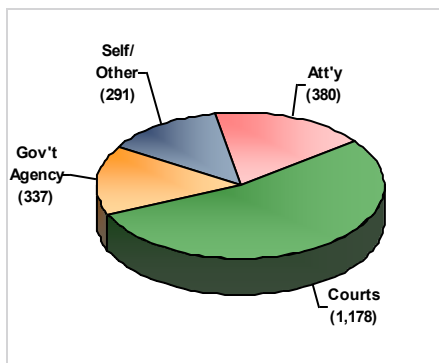


Figure 4. Referral Sources 2008-09

Figure 4, Referral Sources shows the percentages for the four primary referral sources. Following the trend over the past few years, referrals from courts continue to grow. During the 08-09 program year, **nearly 54%, 1,178 cases, were court-referred**.

Another large source of referrals (17%) is from attorneys. Combined with courts, over 70% of the cases are those connected with active legal proceedings. **This tracks with the high numbers of family and parenting plan mediation cases and prehearing conferencing facilitations.** Just over a quarter, or **27% of all referrals come from parties themselves or their attorneys**, amounting to over **475 cases**. This shows a continuing interest of people wanting to informally resolve problems themselves. Included as referral sources

are family members, friends, and returning mediation clients.

Figure 5, Center Case Volume reflects the distribution of cases among the six (6) ODR-approved mediation centers. Highest is Central Mediation Center, Kearney, serving 35 counties, with 560 cases. Concord Center serving Douglas and Sarpy is a close second with 536 cases. Third is The Mediation Center serving Lancaster County with 466 cases. The other three rural centers serving large geographical areas are Nebraska Justice Center, Fremont, with 382 cases; The Resolution Center, Beatrice, with 303 cases; and Center for Conflict Resolution (now Mediation West)

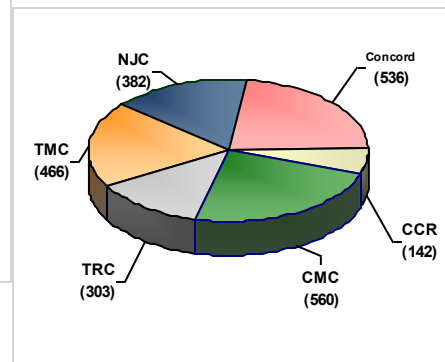


Figure 5. Center Volume 2008-09

Scottsbluff, with 142 cases.

Figure 6, Percent Resolved reflects that during this program year, **83% or 1,218** of mediated cases reached resolution. This rate reflects the high quality work that the ODR-affiliated center mediators provide to Nebraska's citizens. Affiliated mediators must meet Nebraska's *ODR Mediator Standards and Ethics*, and parenting mediators must also adhere to

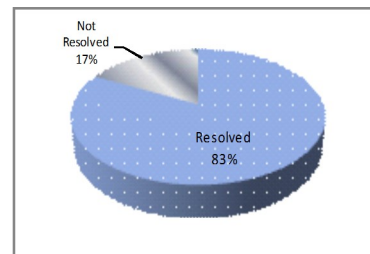
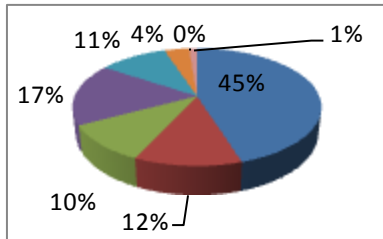
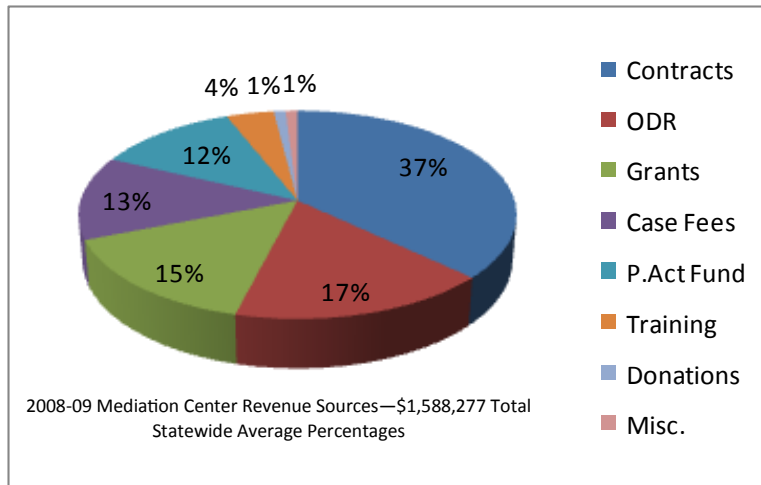


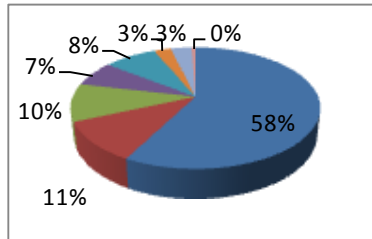
Figure 6. Percent Resolved 2008-09

ODR 2008-2009 Report — Mediation Centers Leverage Financial and In-Kind Resources

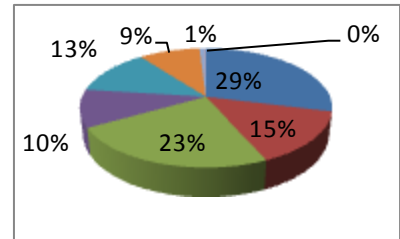
Each of the six ODR-approved mediation centers serve a specific region of the state, and serve those counties' residents, businesses, communities, and courts. Each of the mediation centers are Nebraska nonprofit organizations, with local boards of directors, staff, and affiliated mediators, many of whom volunteer their time and expertise. As nonprofit organizations, they balance their budget through a variety of revenue sources and efficiencies in controlling expenses. During the 2008-2009 program year, their combined revenues amounted to over a million and a half dollars: \$1,588,277. Contracts with private and public agencies amount for the highest percentage of average revenue: 37%. Grants and case fees amount to 28% of the mediation centers' revenues. The Nebraska Supreme Court, through the Dispute Resolution Fund and the Parenting Act Fund, is the source for 17% and 12% of revenues, respectively. A small percentage of revenue (6%) is from training, donations, and miscellaneous sources. Cumulative volunteer mediator time amounted to over 6,350 hours which conservatively amounts to nearly \$100,000! Volunteer mediators represent a wide spectrum of backgrounds: therapists, lawyers, ministers, businesspeople, educators, counselors, legislators, and farmer/ranchers. See the legend below for each center's proportionate revenue source.



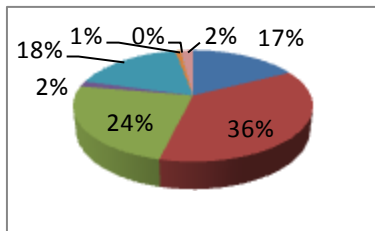
Central Mediation Center, Kearney



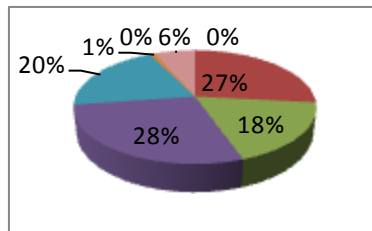
Concord Center, Omaha



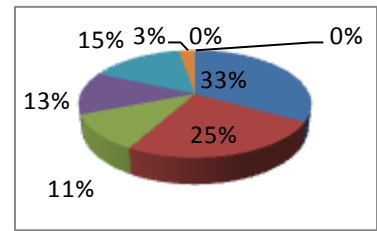
The Mediation Center, Lincoln



Mediation West, Scottsbluff



Nebraska Justice Center, Fremont



The Resolution Center, Beatrice

Implementation of the Parenting Act—Mediator Standards and Ethics; Approval Policy



Policy for Approval of Parenting Act Mediators Adopted by State Court Administrator. As directed by the Parenting Act, Neb. Rev. Stat. §43-2940, the State Court Administrator approved a Policy for Parenting Act Mediators on October 31, 2008. The policy has three sections: (I) Approval of Mediators; (II) Training and Education; and (III) Mediator Status and Grievance Process. Section II Training and Education contains three parts: Training, which describes required training, curriculum learning objectives, core values, training methodology, training program approval; Apprenticeship, which includes minimum standards and the role of supervisory mediators; and Continuing Mediator Education (CME), which requires mediators to have eight hours of CME every two years. The Policy is on the Supreme Court website at: <http://www.supremecourt.ne.gov/mediation/mediation-rules.shtml?sub7>.

Nebraska Family Mediator Standards and Ethics Approved by ODR Advisory Council. On October 30, 2008, the ODR Advisory Council voted to approve new standards and ethics that apply to all family mediators practicing under the Nebraska Parenting Act. The Project Team (below) submitted its recommendations to the Advisory Council, having adapted the 2001 *Model Standards of Practice for Family and Divorce Mediation*, approved by the ABA House of Delegates and the Association of Family and Conciliation Courts (AFCC). Its three primary goals are: (1) to serve as a guide for the conduct and practice of Parenting Act and family mediators; (2) to inform mediating parties about mediation practice; and (3) to instill public confidence in the mediation process. The document includes the following definitions and is located at: http://www.supremecourt.ne.gov/mediation/pdf/Standards_and_Ethics_Revised_10-31-08.pdf.



Definition of Mediation: *Mediation is a confidential process of dispute resolution in which one or more trained impartial neutrals assists the participants without coercion or the appearance of coercion to define and clarify issues and interests, reduce obstacles to communication, explore possible solutions, and where desired, reach a mutually satisfactory agreement. Party self-determination is a core value of mediation, in which the decision-making authority rests with the participants themselves.*

General Principles: Mediation is based on principles of communication, negotiation, facilitation, and the technique or method of solving problems. It emphasizes:

- Party self-determination;
- The needs and interests of the disputing parties;
- Fairness and merits of the issues as defined by the parties;
- Procedural flexibility;
- Privacy and confidentiality;
- Full disclosure.

Nebraska Mediator Standards and Policy Project Team convened in June 2008 and four subcommittees worked through October of that year to submit recommendations for the Parenting Mediator Approval Policy and Standards and Ethics to the ODR Advisory Council and the State Court Administrator. Dedicated and hard-working members of the steering committee were: **Laura Dendinger**, Wayne; **Carl Eskridge**, Lincoln; **Alan Frank**, Lincoln; **Paul Galter**, Lincoln; **Lorin Galvin**, Omaha; **Casey Karges**, Lincoln; **Debora Brownyard**, Lincoln; **Patricia Kelley**, Omaha; **Linda Sanchez-Masi**, Lincoln; and **Rick Vest**, Ashland. The Project Team included the following high caliber group of professionals:

Lynn Anderson DeMott, LCSW, LIMHP	Omaha	Hon. Patricia Lamberty, District Court Judge	Omaha
Marian Beethe, Program Administrator	Lincoln	Susan Martinez, Mediator / Case Mgr	Scottsbluff
Kay Bergquist, Mediator	Lincoln	Jane Martin-Hoffman, Mediation Exec. Dir.	Fremont
Shereen Bingham, Prof. of Communications	Omaha	Ann Moshman, Attorney	Omaha
Kimberly Booth, Attorney	Omaha	Jan O'Brien, Mediator	Cook
James Brown, LIMHP	Lincoln	Lisa PytlikZillig, Mediator	Lincoln
Mary Bruning, Mediator	Lincoln	Patrick Reefe, Mediator	Gretna
Mike Burns, Attorney	Hastings	Kelly Riley, Training Institute Manager	Eagle
Suzanne Carney, Program Dev. Director	Grand Island	Hon. Patrick Rogers, District Court Judge	Norfolk
Jan Einspahr, Attorney	Norfolk	Hon. John Samson, District Court Judge	Fremont
James Gordon, Attorney/ Mediator	Lincoln	Rae Ann Schmitz, Mediation Exec. Dir.	Scottsbluff
James Harvey, Mediator	Lincoln	Jim Shaul, Mediator	Omaha
David Hubbard, Mediator / Program Dir.	Lincoln	Dick Stafford, Attorney	Norfolk
Ramona Hunt, MC, MS	Omaha	Beverly Truttman, Owner / Mediator	Bellevue
Hon. John Icenogle, District Court Judge	Kearney	Gary Weiss, Mediator	Omaha
		Reginald Young, Attorney	Omaha

Nebraska's Court-Connected Mediation Resources

A. Douglas County District Court:

Douglas County Conciliation and Mediation Office*: District Court-based mediation office in the Hall of Justice, 1701 Farnam Street, 1st floor, Omaha. Lorin Galvin, Director. 402-444-7168; www.dc4dc.com/conciliation/

B. Nebraska Office of Dispute Resolution-approved Mediation Centers

Mediation West, Scottsbluff

(formerly, Center for Conflict Resolution)

info@conflictresolutioncenter.com

Rae Ann Schmitz, Executive Director

Arthur, Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Grant, Hooker, Keith, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux

800.967.2115

308.635.2002

Central Mediation Center, Kearney*

info@centralmediationcenter.com

Lynne Favinger, Executive Director

Adams, Blaine, Buffalo, Chase, Clay, Custer, Dawson, Dundy, Franklin, Frontier, Furnas, Garfield, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes,

Hitchcock, Howard, Kearney, Lincoln, Logan, Loup, McPherson, Merrick, Nuckolls, Perkins, Phelps, Red Willow, Sherman, Thomas, Valley, Webster, Wheeler

800.203.3452

308.237.4692

Concord Center, Omaha*

contact@concord-center.com

Cindy Tierney, Executive Director

Douglas and Sarpy Counties

402.345.1131

Nebraska Justice Center, Fremont

jmarhof@qwestoffice.net

Jane Martin-Hoffman, Executive Director

Antelope, Boone, Boyd, Brown, Burt, Cedar, Cherry, Colfax, Cuming, Dakota, Dixon, Dodge, Holt, Keya Paha, Knox, Madison, Nance, Pierce,

Platte, Rock, Stanton, Thurston, Washington, Wayne

866.846.5576

402.753.9415

The Mediation Center, Lincoln

info@themediationcenter.org

Casey Karges, Executive Director

Lancaster County

402.441.5740

The Resolution Center, Beatrice

trc@bvca.net

Judy Pingel, Executive Director

Butler, Cass, Fillmore, Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Saunders, Seward, Thayer, York

800.837.7826

402.223.6061

* In English and En Español

ODR Advisory Council Members (2009)

Members:	Term Expires
Carl Eskridge, Chair, Lincoln	12-11
John Ballew, Lincoln	12-10
Michael Baumfalk, Beatrice	12-11
Hon. Michael Offner, Hastings	12-11
Prof. Alan Frank, Lincoln	12-11
Michael Mullin, Omaha	12-12
Prof. Arthur Pearlstein, Omaha	12-12
Michael Pirtle, Omaha	12-10
Hon. John Samson, Fremont	12-12
Carrie Sheldon, Grand Island	12-11
John Slowiaczek, Omaha	12-10

Ex Officio Members:

Jane Martin-Hoffman, Fremont	12-10
Lynne Favinger, Kearney	12-09

Nebraska Supreme Court Liaison:

Justice Mike McCormack

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