

North Carolina's Unified Family Courts Best Practices and Guidelines

Court Programs and Management Services Division



TABLE OF CONTENTS

	Page	
Section I	Introduction	3
Section II	Unified Family Court Concept	4
Section III	Purpose and Scope of Document	4
Section IV	Best Practices	5
Section V	Conclusion	11
Appendix A	Family Court Advisory Committee Recommendations 2000-2001	12
Appendix B	Family Court Training Guidelines	14
Appendix C	Pre-Implementation Strategies for Family Court Principles	15
Appendix D	Family Court Time Standards	17
Appendix E	Evaluation of Family Court Pilots	21

This document is available online at
<http://www.nccourts.org/Citizens/CPrograms/Family/Documents/unifiedfamilycourts-guidelines.pdf>



SECTION I INTRODUCTION

In December 1996, the Commission for the Future of Justice and the Courts in North Carolina published its report, *Without Favor, Denial or Delay*, recommending a design for the court system of the future and strategies for how to achieve it. One of their significant recommendations was the implementation of unified family courts across the state. The Commission members recognized that families were changing and facing new challenges and stressors making their court cases more complex, and that there were growing numbers of juvenile and domestic cases crowding district court dockets. Because of heavy caseloads, judges had little option other than to handle these sensitive matters in much the same as other cases – “that is, as an isolated matter, in which the speed of resolution is largely determined by attorneys and litigants.”¹ Commissioners went on to describe specific problems brought about by such case processing:

- Numerous judges handling various parts of the same case resulting in lack of communication and inconsistent court orders
- Delays used by one party to create hardship for the other
- Children in foster care remaining longer than was necessary
- Juveniles punished for crimes without having issues (e.g. psychological, personal, family) that brought them into delinquency court addressed; and
- Family problems resulting in juvenile offenders and ultimately leading to growth in criminal court caseloads.²

The Commission concluded that the courts could improve the most by changing their handling of domestic cases. The commission recognized there were issues with juvenile cases as well. They recommended that a new way of dealing with family-related cases was necessary, one that “respects the rights of each individual family member, promotes the best interest of the family and helps families structure their own solutions.”³ They further suggested that “this forum should be fully accessible to citizens, regardless of economic status, and should encourage the non-adversarial resolution of disputes whenever possible.”⁴

The Futures Commission made the following specific recommendations:

- Establish a specialized “Family Court” with jurisdiction over all disputes involving intra-familial rights, relationships and obligations and all juvenile matters;
- Make available mediation or other forms of alternative dispute resolution for all family cases;
- Provide mediators, judges and other decision-makers with specialized training in family and juvenile law and the psychological factors affecting families and children;
- Make available the full range of the family court’s services on a meaningful level to all citizens, regardless of economic wealth; and
- Resolve all cases as soon as possible but no later than one year after filing.⁵

The 1998 enabling legislation establishing the Department of Juvenile Justice and Delinquency Prevention authorized the Administrative Office of the Courts (AOC) to establish family courts on a pilot basis, incorporating the above recommendations into the design. Because the report recommended family courts incorporate juvenile as well as domestic cases, North Carolina’s model is called a Unified Family Court.

¹ Without Favor, Denial or Delay: A Court System for the 21st Century, Commission for the Future of the Justice and the Courts in North Carolina, December 1996, page 45.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

SECTION II THE UNIFIED FAMILY COURT CONCEPT

The concept at the heart of Unified Family Courts is the consolidation of all issues before the court that affect a single family. Prior to Family Court, under North Carolina's calendaring system, in a domestic action, one judge might hear the child custody issues, another might hear the child support claims a few weeks later, and a third judge could dispose of the equitable distribution of the marital property months thereafter. And, if there were pending charges of domestic violence or child abuse, those matters would be set on other calendars, likely before other judges, and would not be addressed as part of the entire crisis facing this one family.

A major goal of Family Court is to coordinate all the case management of court events and service agency efforts for a single family in distress, in order to better serve that family and provide more consistent, efficient use of trial court time. Thus, in a Unified Family Court any issue relating to a family - juvenile delinquency charges, neglect and abuse charges, termination of parental rights and adoptions, domestic violence, child custody and visitation rights, divorce and related financial issues like child support, alimony, or equitable distribution of property, and involuntary commitments - will be assigned to one case management team of judges and court staff.⁶

The task of developing this complex model to assist pilot Family Courts in their early growth was given to a group of court officials and professionals acting as a steering or advisory committee in the fall of 1998. Their goal was to draft operational guidelines based on the recommendations of the Futures Commission Report. By 2000, the Chief Justice appointed an official Family Court Advisory Committee (FCAC). Their mission is to advise the Chief Justice and the Director of the Administrative Office of the Courts on all aspects of North Carolina's Family Court model. Topics addressed by the FCAC include training (subject matter as well as number of hours), mandatory cases included in Family Courts, appropriate time limits for events and issues, caseloads for staff and judges, statutory changes, court rules, self-represented litigants services, domestic violence cases, monitoring and evaluation, and pre-implementation of family court activities (see Appendix A, *FCAC Recommendations*; Appendix B, *Family Court Training Guidelines*; and Appendix C, *Pre-Implementation Strategies for Family Court*). The FCAC produced two specific guiding documents: *Family Court Time Standards* (see Appendix D) and *Evaluation of Family Court Pilots* (see Appendix E). Both documents, modified by the Committee over time and with experience, have guided the growth and development of Family Courts in North Carolina. The FCAC continues to advise the Chief Justice and the AOC Director on all aspects of North Carolina's Unified Family Court model.

SECTION III PURPOSE AND SCOPE OF DOCUMENT

The purpose of this document is to identify specific, essential, and successful practices identified in the sixteen years of Family Court experience in North Carolina. These best practices are based on recommendations from the Futures Commission report and grounded in the Time Standards and Evaluation documents produced by the FCAC. Time and experience with Family Courts also lend significant insight and information on best practices for implementing and operating Family Courts in North Carolina.

Ten (10) critical elements provide the framework for an efficient and effective Family Court. These elements are central to planning, designing, and implementing Family Court. The practices provide the structure and the process by which families are offered more timely court proceedings, more access to services aimed at underlying issues that have brought them into the court environment, and a more consumer-friendly approach. They are intended to be used from the time Family Courts are conceptualized and planned, through various developmental stages over a multi-year period, and through implementation. They may also be used as measures of success for existing Family Courts.

For many families, the changes brought about by Family Court practices may not be noticeable except that they will feel more confident that they understand what is happening and when events will occur because of

⁶ Ibid.



staff who assist them. Because of opportunities for alternative dispute resolution, more meaningful court events, and a timelier resolution to all issues before the court, they will likely experience a less adversarial resolution and a court system more attuned to the importance of their time and money. For experienced observers, after the initial turmoil of significant system changes, the new way of doing business is apparent in an orderly, more productive day in court. Such efficiencies belie the volume of work behind the scenes by Family Court staff whose job is to see that cases remain within the times standards and that available court and community services are made known to families as appropriate.

SECTION IV BEST PRACTICES

The ten best practices for a successful Family Court in North Carolina are:

1. Judicial Leadership
2. One Judge (or Judge Team)/One Family
3. New Local Rules
4. Time Standards for Events in All Cases
5. Active Case Management by the Court
6. Maximum Use of Alternative Dispute Resolution (ADR)
7. Focus on Customer Service
8. Additional Court and Community Services
9. Specially Trained Judges and Staff
10. Collaborative Local Family Court Advisory Committee (FCAC)

1. Judicial leadership is the cornerstone of Family Court. The best practices described in this document are significant changes in the way in which courts have historically operated. Therefore, leading a district through these changes requires courage, vision, and a willingness to shepherd a cultural shift in the district. To implement Family Court, the chief district court judge and designated Family Court judges assume a proactive and collaborative role within the court community and offer guidance and support to all parties whose roles are affected by Family Court policies and procedures. Stepping outside the traditional judicial role is essential to creating a family-focused court.⁷

The Family Court bench must be “specialized, committed, and in place long enough to master the subject matter and mobilize community support.”⁸ Generally speaking, two years are required to incorporate these changes and to stabilize a new Family Court. Judicial leaders must communicate to their employees, practicing attorneys, child welfare agencies, and others that timely dispositions are a top priority. The axiom “prior planning prevents poor performance” holds especially true with respect to the need for collaboration in Family Courts. The judges’ ability to enlist the support of the local bar, social services agencies, and others based on shared values is fundamental to the Family Court’s success.

Judicial leadership includes hiring well-qualified Family Court administrators and case coordinators to manage the daily business of Family Court. Under the supervision of the chief judge, administrators oversee daily operations (case management, personnel administration, and statistical reporting and evaluations); implementation of new court services and programs, which may include seeking and managing grant funds; and, serve on local court and community committees. Case coordinators drive daily processes and customer service in Family Court; they start the time clock when cases are filed, assign judges to cases, communicate with lawyers about calendaring cases, make everyone aware of how that case is progressing in relation to time standards, and document the work and accomplishments of the court. Committed, organized, people-focused staff who are willing to enforce policies and procedures provide the internal structure for Family Court.

⁷ Carol R. Flango, Victor E. Flango, and H. Ted Rubin, “How Are Courts Coordinating Family Cases?” (Williamsburg, Va.: State Justice Institute, 1999), page 111.

⁸ Ibid.

2. One Judge/One Family describes the assigning of a single judge to a family whether that family is in domestic court for a divorce, in juvenile court for abuse, neglect or dependency issues, in domestic violence court for assault charges, or in delinquency court for a truant or criminally-involved youth. The Family Court judge and his/her assigned case coordinator manage all issues of one family's case assigned to that judge for the life of the case. A concern from the legal community may be that the assigned judge will be too familiar with the case and not as impartial. However, having all of the pertinent information about a family allows Family Court judges to better address the family's multiple needs, and judges will continue to recuse themselves from a case when they feel they may be unfairly biased.

A significant benefit of the one judge/one family case assignment is that a judge assumes ownership of each case assigned to him/her. Efficient processing of cases toward resolution becomes a critical part of how judges approach each scheduled event. Working in concert with their case coordinator, the Family Court team becomes responsible for ensuring that every case progresses through each stage to resolution in a timely manner. Continuances are no longer granted so that another judge will hear that difficult case later. For a Family Court judge, that case will remain on his or her calendar until that judge has dealt with the issues before the Court.

In some larger districts, chief judges assign judges and case coordinators to specific content areas, such as domestic cases only. In these cases, it becomes even more important that the case coordinator, immediately after filing of the case, searches any and all court data bases to identify "cross-over" cases, those families with more than one active case in a Family Court arena. For example, a couple involved in a divorce case may also have a child in delinquency court. A Family Court judge handling one part of the family's case pairs with a judge handling the other part of the case. Communication and coordination must occur as to how to proceed with each of the remaining pieces of the case. Should both cases be assigned to only one of the judges? Which part of the case takes precedence? What happens to the other part of the case while the primary issues are dealt with? What issues might this process create for the family? What services, court or community, are available to support the family while they are in the court system? What procedures might need to be implemented in order to consistently address these kinds of cases? Family Court attempts to answer these difficult questions.

A frequent concern of judges is how long they will be in the Family Court rotation. National standards suggest a minimum of two years is necessary in order to have well trained, seasoned judges on the Family Court bench. Also, Family Court judges would say it takes a minimum of one year to revise their own approach to fit the new model and a second year to begin to feel a level of confidence and expertise that maximizes successful management of their case load.

Attorneys often ask "will I be able to choose my judge?" or "what happens if I'm stuck with a judge for the entire divorce case, for example, who is very good at child custody issues, but less attuned to the nuances of an equitable distribution case?" The answer to the first question is "no." Family Court judges are assigned randomly with the expectation that they all will be assigned the same number of cases, thus equalizing the work load for both judges and staff. In response to the second question, Family Court judges indicate that random assignment balances cases out over time. Frequent and required Family Court training also provides a stronger base of knowledge in all matters surrounding family cases than in non-family court districts.

3. New Local Rules are needed specific to Family Court. Local rules generally exist in most districts in North Carolina. When planning for Family Court, it is essential that the chief district court judge appoint committees representative of all stakeholders in Family Court. The judge appoints a chairperson of the rules committee, sets deadlines for products, and provides for a local vetting process that is inclusive. Usually, the existing rules (domestic, juvenile, and domestic violence) are reviewed by a committee and re-drafted to incorporate the Family Court Time Standards, and required Family Court programs (Custody Mediation, Family Financial Mediation, and Parent Education). They develop specific procedures to ensure that upon filing, cases continue through the system in a timely, predictable, and effective manner. No small part of the effectiveness of new rules, and one of the more laudable successes touted by existing Family Court districts, is that everyone is held to the same standard of accountability. That is, everyone plays by the same rules: the

rules that are drafted by those involved in that court; the same rules that become the very foundation for accountability. With the addition of case coordinators, funded with Family Court implementation, it is finally possible to more closely manage cases by these rules.

4. Time Standards for events in all cases provide for the pace of the case, as well as the length of time families can anticipate their case will require to resolve, both best and worst case scenarios. Time Standards by definition are the bench mark events in the life of the case that provide for effective and efficient case management and resolution. The Futures Commission recommended that all family cases should be concluded within one year. While this is not possible in 100% of the cases due to the complexity of issues, lack of judicial resources, geographic locations of the parties, and other such factors, the expectation is that most cases will resolve within that time frame. Families need closure and expect the Court to be responsive and timely in its handling of their case(s). Experience confirms that these standards are realistic, predictable and that they:

- a. promote prompt justice;
- b. provide motivation to achieve timely resolution;
- c. serve as a yard stick for measuring effectiveness of case management, programs, and individuals;
- d. serve as a starting point for development of management procedures; and
- e. promote use of information systems to monitor judicial and staff caseloads and provide performance data.⁹

The Family Court Advisory Committee develops specific Time Standards for the resolution of events related to each case issue (see Appendix D, *Family Court Time Standards*). The Committee's goal is to develop time frames that are legally relevant and achievable given the structure and staffing in Family Court. For example, in juvenile abuse/neglect/dependency cases, the time lines reflect North Carolina's Juvenile Court Improvement Program (CIP) efforts, which began in the mid-1990's, and federal standards of the Adoption and Safe Families Act. The Committee recommends time standards to the Chief Justice and the AOC Director. The current Standards, revised and adopted in late 2005, 2006, and 2016 are the fourth revision since the inception of Family Court.

For many in the legal profession, court-determined Time Standards are a major adjustment from the prior culture of waiting to proceed with court events until the case is "ripe." Many attorneys in Family Court districts indicate that they are now able to answer their clients' questions about how long a case will take in court with more clarity than ever before. With disposition of most cases within a year, attorneys are closing more cases and thus freeing up time to assume new cases. Clients are also pleased to be able to conclude their court business and move on with their lives.

5. Active case management by the Court rather than attorneys is a new concept for North Carolina's court communities. Application of this principle means that when the case is filed, the case coordinators capture those filings, assign a judge, and schedule a first event in each case before the court and continuously calendar each case. This process may happen in a variety of ways in any given district, but the outcome is the same: cases move through the system and from event to event in a timely, predictable, and continuous manner. Key strategies of case management in Family Court include the following:

- a. *Elimination of backlog* involves identifying the reason cases more than a year old are still "open," and then acting on that information to move the case to disposition. This might mean working with the Clerk's office to close cases that have remained open due to data entry glitches. It might mean producing an administrative calendar to determine from attorneys if there are still pending issues and, if not, requiring an order to close the case. For still others, it may mean setting the

⁹ Without Favor, Denial or Delay: A Court System for the 21st Century, Commission for the Future of Justice and the Courts in North Carolina, December 1996.

case for a hearing of the unresolved issues. Such tasks are labor intensive and best undertaken prior to Family Court opening, either when existing staff can be identified prior to the time Family Court-funded staff is available, or between the times Family Court staff are hired and opening day. It has been suggested that a district identify any other resources available to work through the backlog. For example, a district may seek support and assistance from interns who could cover the Family Court office in order to free up court staff to review files.

- b. *Early court intervention*, from the point of filing, ensures that “no case is left behind.” In non-Family Court districts, cases are only scheduled when an attorney determines he/she would like the case to be calendared. Many attorneys suggest the need for a “cooling off period” after filing. Family Court judges insist that attorneys and parties must be ready to proceed with the case upon filing. In Family Court, at the time of filing, the case is assigned to a judge team, and the case coordinator immediately schedules the first court event, per the Time Standards. This requires a dramatic change of local legal culture when Family Court becomes a reality.

A term often associated with early court intervention is “front-end loading.” This means that more events are scheduled earlier in the case than has been the habit prior to Family Court. The success of this strategy is based on the knowledge that parties begin negotiating whenever the case is calendared for a court event, and are thus more likely to settle early without further court intervention.

- c. *Continuous court calendaring* is the process by which Family Court staff schedule the next court event at or immediately following any given court event. Such scheduling continues until that issue is resolved and helps to ensure that no case will be lost in time or in the system. An example is the use of form orders in juvenile court that can be filled in at the court hearing, enabling all parties present to be provided notice of the next court event. In contrast, in many non-Family Court districts, fewer court events are held prior to trial and court event scheduling is at the request of the attorneys.
- d. *Written policies that limit unreasonable interruptions in the case* are the responsibility of the court. Continuances are a good example. Case coordinators and judges are tasked with full and productive calendars in Family Court, with a minimum of “non-events.” When cases are continued as a matter of practice, usually upon request and agreement of both parties and their counsel, valuable court time is lost. In Family Court, the premise of “truth in calendaring” is that when cases are calendared, parties should be prepared, expect the event to occur, and the event will be a real and meaningful event, not a “dress rehearsal.” Adhering to a written continuance policy assures that requests are considered based upon the same objective standards that apply to all parties. Therefore, only specific, valid reasons for continuances, such as illness, are granted by the Court in Family Court districts.
- e. *Date (and/or time) certain on the court calendar* ensures that cases are reached when scheduled. The expectation is that 75% or more of calendared cases will be heard on the day scheduled. Some Family Courts actually give a specific time on a specific date. For example, temporary hearings might be scheduled at 9:00, 10:00, 11:00, and so on. Many Family Court districts limit the time per issue for temporary hearings. Such effective scheduling requires significant dialogue and coordination between judges and their case coordinators in order to learn how many of which types of events can be managed on any given calendar. The outcome is more efficient use of available court resources, including attorney time and talents, and better use of parties’ time and money.
- f. *Frequent monitoring of pending case age, percent of cases over one year, and clearance rates* means that Family Court teams, led by the chief judge and the family court administrator, review statistical reports and problem solve on a regular basis.



- 1) Since the goal of most cases is resolution within one year, *pending case age* becomes a critical benchmark for success. Moving each case/issue through its particular schedule of events in a timely manner ensures that the composite pending case age will be as low as possible. Family Court districts routinely result in a significantly lower median age of pending case than non-Family Court districts; at the end of FY 2014-2015, 97 days versus 350 days in non-Family Court districts. (Rev. 03/16)
 - 2) *Percentage of cases over one year* assesses the overall impact of individual case management. Typically, not more than 15% of cases should be over one year old.
 - 3) *Clearance rates* compare the number of cases filed to the number of cases disposed. The goal is that the number of cases resolved equals or exceeds the number of cases filed in a given year.
6. Maximum use of Alternative Dispute Resolution (ADR) is founded on the use of two mandatory programs. Custody Mediation and Family Financial Mediation. These two programs mandate that families sit down with a trained mediator and attempt to work out their conflicts. They are required to attend but may not resolve the case. Should they resolve the conflict in mediation, a court order is usually the final outcome. Especially for Custody Mediation, there are a number of statutorily defined reasons cases may be more appropriately waived from mediation and proceed directly to trial. Domestic violence cases are an example. Resolution rates are promising for each of these programs.

When Family Court is implemented, a third required program, Parent Education (PE), is also implemented. The goal in Parent Education is to provide parents in contested custody cases with information about how parental conflict can negatively impact their child(ren), and strategies to prevent such harm. Parent education can assist in the settlement of some of these cases.

As ADR's popularity has grown and successes have been documented, it has been creatively used in other arenas. For example, permanency mediation is used in juvenile abuse, neglect and dependency court for permanency planning. Use of the Family Law Arbitration Act and Collaborative Law in divorce cases are also growing in popularity.

7. Emphasizing Customer Service is a hallmark of Family Court. The court system is often viewed as a huge, unwieldy, confusing, and unfriendly system filled with legal jargon and lengthy procedures. Staff focused on the needs of the users has allowed Family Courts to alleviate some of the stress and chaos for families. Family Court districts produce brochures that cover many aspects of their programs and services, as well as contact information for staff. These districts also develop web sites linked to the www.nccourts.org web site for ease of informational access. Seemingly small responses, such as promptly returning a voice mail message, offering a listening ear at a critical time, providing directions to a courtroom, or helping people understand the process are often remembered positively by litigants when they look back on their Family Court experience. Attorneys often comment, after Family Court has opened, that having the case coordinator to facilitate court business between the attorney and the judge is very helpful.

8. Additional court and community services tailored to the individual needs of each district are designed and implemented from a menu of innovative programs and tailored to the individual needs of each district. The premise is that when families are in crisis and in the court environment, Family Court should provide them with information to assist them in locating services appropriate to their underlying needs. These services are offered via Family Court, either in collaboration with community partners, or through referrals.

Identifying existing community services is the first step, and provides the mechanism for case coordinators to offer information about community resources to litigants through a published directory, should one not already exist. The next step is the targeting of one project, such as supervised visitation, that the community and courts commit to and develop together.

A spirit of collaboration and a team approach are essential to the success of these endeavors. Teamwork infiltrates all levels of Family Court work and requires almost constant effort to ensure that all critical

stakeholders are at the table for planning meetings. Undergirding this principle is the concept that all relevant stakeholders will have a voice in planning.

Following is a list of the most frequently offered court services:

- a. *Child Planning Conferences (CPCs) or Day One Conferences (DOCs)* are meetings facilitated by court staff and held either the day following the filing of an abuse/neglect/dependency petition (DOCs), or within a few days after a petition has been filed (CPCs), and children are removed from the home. The purpose of the meeting is to determine if placement can be found with family or friends, what services need to be initiated immediately to expedite resolution of the problems that necessitated the removal of the children, and to establish a visitation schedule appropriate to the developmental needs of the child(ren) and the circumstances of the family.
- b. *Truancy Diversion Programs* focus on prevention. They are informal courts held in ten-week segments each school semester and are offered to children and youth who have a growing pattern of truancy. The students, their families, and school representatives meet with the judge weekly in the school for accountability purposes. Most programs target elementary and middle school children.
- c. *Truancy Court* is a special court that combines the adult criminal case against parents with the undisciplined case of the student so that the problem(s) can be identified and all parties held accountable in a relevant and cohesive manner. Families meet regularly, as often as bi-weekly, with the judge in order to monitor progress.
- d. *Access & Visitation (A&V)* is a federal grant administered through the Department of Health and Human Services to non-custodial parents unable to spend time with their children. The A&V Coordinators work predominantly with the non-custodial parent, but also with the custodial parent, to identify and eliminate problems that prevent children from spending time with both parents. The premise of the program is that children are healthier and better adjusted when both parents are involved. (Rev. 02/15)
- e. *Family Drug Treatment Courts (FDTC)* supervise chemically dependent parents whose children were removed from the home because of allegations of abuse, neglect, and/or dependency. The Court holds these parents accountable for attending substance abuse treatment by bringing them to court weekly and by using sanctions and rewards. For many substance abusing parents, this behavioral approach is their last, best chance to get their children back.
- f. *Permanency Mediation* brings all relevant parties in an abuse/neglect/dependency case to the table at one time to discuss and negotiate such issues as the allegations in the case, the Department of Social Services' plan of required activities for re-unification, visitation, relinquishment possibilities, and/or other issues in conflict. For many parents, it is a place to be heard. For many professionals, it is a place to clarify perceptions and work toward permanence for the children - both in a less adversarial environment than a contested trial.
- g. *Services to Self -Represented Litigants* can take the form of printed Self- Represented Litigants (SRL) Packets, most often for divorce or visitation, clinics offered by law schools or community lawyers who volunteer to provide information on how to fill out the packets and file the case or a Self-Serve Center staffed by court employees or volunteers.
- h. *Domestic Violence Court's* best practice is to separate domestic cases from other civil and criminal cases. This can be accomplished by implementing a separate civil domestic violence court and separate criminal court or by implementing a *combined* Civil/Criminal Domestic Violence Court. Some court officials have been hesitant to combine criminal and civil cases because of the different burdens of proof, but they can reduce the number of times families must come to court.
 - i. *Parenting Coordinators* can be appointed by statute in any district in North Carolina. Their purpose is to intervene in and reconcile conflict that sometimes arises for families after entry of an



order in a custody case. Such resolution may end with the parenting coordinator or should the conflict be serious enough in nature, a stop-gap measure until such time as the family can be scheduled before their assigned judge. In Family Court districts, the administrator and case coordinators provide an essential link between parenting coordinators, the court, and referred families. The Family Court staff maintains a list of approved parenting coordinators and ensures that procedures are incorporated into the local rules. They often work collaboratively with trainers to provide professionals an opportunity to attend mandatory training locally.

9. Specially trained judges and staff work together in teams to bring an understanding of the impact of child development and family relations to the legal arena. This means that judges study such subjects as substance abuse and domestic violence while staff studies such topics as the unauthorized practice of law and domestic/juvenile legal procedures. The FCAC has established a widely respected policy outlining the expectations of Family Court judicial education and staff continuing education (see Attachment B, *Family Court Training Recommendations*). Policies address number of hours per year, frequency of training, content, and criteria to choose other training provided by sources outside the North Carolina Family Court system.

10. Collaborative Local Family Court Advisory Committees provide an opportunity for community and court partners to work together on visionary planning. They also serve as an all-important venue for stakeholders to bring their concerns to the attention of Family Court as well as to suggest strategies for negotiating these and any other issues the Court may bring to their attention. Most advisory committees meet two to four times a year for at least the first several years of Family Court. Membership often includes representatives from the Clerk of Court, the domestic and juvenile bar, Department of Social Services and their counsel, Juvenile Justice, Guardian ad Litem, health department, schools, law enforcement, service providers, community college and/or college and law school faculty, and the faith community.

SECTION V CONCLUSION

Family Court is a vibrant, complex, and rewarding process. In addition to the best practices described in this document, the success of the Family Court model in North Carolina can be attributed to the following:

1. the vision of the Futures Commission;
2. the commitment and broad base of knowledge and experience that constitutes the membership of the Advisory Committee;
3. the collaborative nature of Family Courts;
4. the methods tested in the real world of local courthouses; and
5. the dedication of the staff and judges.

Despite the huge cultural shift required for both the courts and its stakeholders, Family Court is now accepted as a better way of doing business for families and as the direction courts should take in the future. As of this writing, more than half of the State's population and family court cases either have implemented Family Court (14 districts) or have requested funding for Family Court implementation (5 districts). This active interest in Family Court is a testimonial to the support for and expected growth of family-focused courts in North Carolina. (Rev. 3/16)

APPENDIX A

FAMILY COURT ADVISORY COMMITTEE RECOMMENDATIONS: 2000-2001

- The minimum staffing level for each Family Court district should be:
1 Family Court Administrator
1 Case Manager for every judge who spends at least 75% of time in Family Court
(September 15, 2000)
- Family Court training should consist of three basic types, in the following proportions:
(1) training on substantive law (20%)
(2) training on social issues, like child development and substance abuse (40%)
(3) training on more global areas, like leadership, team building & managing change (40%)
No consensus was reached on Family Court certification.
(October 27, 2000)
- Mandatory cases to include in any Family Court:
 - Abuse/neglect/dependency
 - Termination of parental rights
 - Delinquent/undisciplined juveniles
 - Adoption
 - Child custody/support
 - Paternity
 - Divorce/annulment
 - Equitable distribution
 - Post separation support/alimony
 - Domestic violence civil protective orders
 - Emancipation
 - Abortion waivers
 - Adult protective services
 - Mental health commitments

The Committee also agreed that child support enforcement should be heard by a Family Court Judge, but individual assignment of these cases would not be required.

The Committee agreed that it is logistically impossible to require the inclusion of criminal domestic violence in all family courts. However, the case managers need to know about existing criminal DV issues to provide the best treatment services to the family.

The Committee agreed that other family-initiated criminal cases should not be part of Family Court.

A motion was passed to endorse the concept of a child support “hearing officer”, preferably an attorney, to hear child support enforcement cases.
(December 15, 2000)

- Training requirements for Family Court judges and staff:
Offer quarterly trainings of six hours minimum, with staff and judges required to attend two of these. The total of 24 hours would be part of the mandatory 30 hours every two years of CJE.
Use the summer and fall judges’ conferences as two of the annual training sessions.
At a minimum, every other year there should be one mandatory session designed just for staff.
(March 11, 2016)
- The Committee recommends that the Supreme Court revisit Rule 3 of the General Rules of Practice, and consider revising that rule to place Family Court at a higher priority.



- The Committee asked the Chair to send a letter to Director of the Office of Indigent Defense Services, to share the Family Court Advisory Committee's objections to public defenders determining indigent representation in non-criminal cases including juvenile and civil contempt, areas in which they have no legal expertise or understanding. (Rev. 03/16)
- Regarding assistance to litigants without lawyers, the Committee recommends that Family Courts be encouraged
 - 1) to develop community means to assist self-represented litigants (Rev.3/16),
 - 2) to have a (simple) divorce packet available,
 - 3) to provide information to litigants about court processes and procedures, after they access the system,
 - 4) to compile a list of local attorneys, with descriptions of their law practice, and
 - 5) to prepare a legal glossary for self-represented litigants (Rev. 3/16).

Additionally, in training for expansion Family Courts, each district should be given a list of things that current sites are doing to assist litigants who do not hire an attorney.

(June 1, 2001)



APPENDIX B

FAMILY COURT TRAINING GUIDELINES (Rev 03/16)

Rule II (C) of the North Carolina Rules of Continuing Judicial Education was amended effective February 2004 to include the following language:

“For District Court Judges designated as Family Court Judges, at least twenty-four (24) of the thirty (30) hours shall be continuing judicial education courses designed especially for Family Court.”

Of these twenty-four (24) Family Court hours, eighteen (18) hours should be from programs sponsored by the NC Association of District Court Judges, the School of Government/Judicial College or the Administrative Office of the Courts. The remaining six (6) hours may be obtained from programs sponsored by the North Carolina Bar Association, the American Bar Association, the National Council of Juvenile and Family Court Judges, the National Judicial College, law schools, local family courts, local bar associations and similar organizations approved by the Rules of Continuing Judicial Education.

The recommendation of the Family Court Advisory Committee, adopted by the Chief Justice of the North Carolina Supreme Court in October, 2000, is that these Family Court hours be divided as follows: 20% should address substantive law; 40% should address other issues such as leadership, customer service and team building and the other 40% should address the area of social issues, such as child development and substance abuse. The Advisory Committee also strongly encourages Family Court judges to frequently attend training sessions with judges and staff from other North Carolina Family Court districts because such interaction is vital to the successful development of the family court program.

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APPENDIX C

PRE-IMPLEMENTATION STRATEGIES FOR FAMILY COURT PRINCIPLES

As Drafted by the Family Court Advisory Committee (Revised 03/16)

Mandatory programs

1. Custody Mediation
2. Parent Education - can be added to Custody Mediation Orientation
3. Family Financial

Other Strategies

- a. Review Local Rules
 - Limited time for temporary hearings
 - Use of affidavits in lieu of live testimony in temporary hearings
 - Exchange of juvenile reports prior to day of hearing
 - Confidentiality and sharing of information
- b. Encourage local bar to utilize Alternative Dispute Resolution programs where resources are available
 - Including Family Law Arbitration
 - Including Collaborative Law
- c. Involve Bar and other key stakeholders in planning
 - Develop local steering committee for juvenile and domestic courts
 - Round table discussions
 - Develop focus groups including bar, agencies and community to review various topics and areas of courts
- d. Provide CLE opportunities on the local level - Lunch and Learn programs
- e. Provide programs for legal assistants on local rules and procedures
- f. Create a Children's Waiting Room
- g. Develop Children's Group during Custody Mediation Orientation, where resources are available
- h. Case Management without additional staff
 - Review of cases (clean up backlog)
 - One judge/one family
 - Email court calendars (function of CaseWise)
 - Split general civil and domestic calendars
 - Implement use of CaseWise/ JWise
 - Combine Civil and Criminal domestic violence
- i. Juvenile
 - Assign one judge to all cases in 1 county (multi-county districts) or one judge to juvenile court (single county district) for set period of time
 - Assign cases to specific judges
- j. Technical Assistance
 - Request assistance from AOC to review how court is currently scheduled and how to improve scheduling



- k. Use of interns and /or volunteers
 - Review status of cases
 - Compile list of programs in county (directory of existing community resources/services)
 - Relieve judicial assistant of clerical functions
 - Use law student interns for assistance in drafting self-represented litigant orders

- l. Marketing and Funding
 - Local and state grants, even for small grants such as equipment
 - Court Improvement Project grants
 - Partner with other agencies to seek additional community resources

- m. Develop Community Awareness
 - Speaking to civic groups
 - Legal column in local paper
 - TV show
 - Radio interviews

- n. Services for Self-Represented Litigants



APPENDIX D

FAMILY COURT TIME STANDARDS

Originally Adopted: September 1999

Amended by the Family Court Advisory Committee: March 2001

Amended by the Family Court Advisory Committee:

December 2005 Domestic and Juvenile Delinquency/Undisciplined

March 2006 Juvenile Abuse/Neglect/Dependency

March 2016 Domestic and Juvenile Abuse/Neglect/Dependency

1. **Domestic Cases:**

- Unless otherwise specified, “days” are calendar days.
- These time frames represent **maximum** time limits that are “goals.”
- All orders should be filed within 15 days following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases but all orders must be filed within 30 days following the hearing.

For (Permanent) Alimony and Equitable Distribution Matters:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
a. First Status Conference	120 days
b. Completion of ADR*	210 days
c. Final Pretrial Conference	240 days
d. Order Entered:	
(1) in 75% of cases	Within 270 days
(2) in 100% of cases	Within 365 days

*Completion of mediation session(s) – not when report is filed

Post-Separation Support:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
Orders entered:	
(1) in 75% of cases	Within 90 days
(2) in 98% of cases	Within 150 days

Child Support: NCGS 50-32 requires that all child support cases be completed within 60 days

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
a. <u>Temporary</u> orders entered, if requested by one or both parties and do not involve paternity determinations:	
(1) in 75% of cases	Within 45 days
(2) in 100% of cases	Within 60 days
b. <u>Permanent</u> orders entered:	
in 100% of cases	Within 365 days



Child Custody:

Event:

Time from Filing of Complaint:

- | | |
|---|------------------------------------|
| a. <u>Temporary</u> Orders Entered, if requested by one or both parties:
(in 98% of cases) | Within 90 days |
| b. Mediation Orientation Session Scheduled
(in 100% of cases) | Within 45 days |
| c. Mediation Sessions(s) Completed:
(1) in 90% of cases
(2) in 98% of cases | Within 90 days
Within 150 days |
| d. <u>Permanent</u> Orders Entered:
(1) in 90% of cases
(2) in 98% of cases | Within 180 days
Within 360 days |

2. Juvenile Delinquency/Undisciplined Cases:

- Unless otherwise specified, “days” are calendar days and are counted from the date the petition is served on the juvenile.
- These time frames represent maximum time limits that are “goals.” All orders should be entered within 15 days following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases but all orders must be filed within 30 days following the hearing.

Event:

Time from Service on Juvenile:

- | | |
|---|--|
| a. Adjudicatory Order Entered for Misdemeanor Charges:
(1) in 75% of cases
(2) in 100% of cases | Within 60 days
Within 90 days |
| b. Adjudicatory Order Entered for F - I Felony Charges:
(1) in 50% of cases
(2) in 75% of cases
(3) in 100% of cases | Within 60 days
Within 90 days
Within 120 days |
| c. Adjudicatory Order Entered for A - E Felony Charges
(1) in 50% of cases
(2) in 75% of cases
(3) in 100% of cases | Within 120 days
Within 150 days
Within 180 days |
| d. Dispositional Order Entered
(1) in 90% of cases
(2) in 100% of cases | Within 30 days of adjudication
Within 60 days of adjudication |

3. Juvenile Abuse/Neglect/Dependency Cases:

- Unless otherwise noted, “days” are calendar days and are counted from the date the petition is filed.
- Not all of the stages listed below will occur in every case; e.g., the child may not be taken into non-secure custody or the petition may be dismissed.
- These time frames represent **maximum** time limits that are “goals.” In every case, the child’s best interest is the paramount goal.



- These time frames are intended to be consistent with the Federal Adoption and Safe Families Act provisions and North Carolina statutory provisions.
- **All orders should be filed within 30 days following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases.**

<u>Event:</u>	<u>Time from Filing of Petition:</u>
a. Non-secure Custody Order Entered	Same day petition is filed
b. First Non-secure Custody Hearing	7 days (second non-secure custody hearing no more than 7 business days after first; subsequent non-secure custody hearings at intervals of no more than 30 days)
c. Adjudication Hearing Completed (1) in 100% of cases	60 days
d. Disposition Hearing Completed (1) in 100% of cases	90 days
e. First Placement Review Hearing Completed	180 days
f. First Permanency Planning Hearing Completed	330 days
g. Reunification (1) in 75% of cases (2) in 100% of cases	330 days 510 days
h. Implementation of Other Permanent Plan (1) in 90% of cases (2) in 100% of cases	330 days 510 days
i. Termination of Parental Rights (TPR) (1) in 100% of cases	TPR petition/motion filed within 390 days
j. TPR Hearing Commenced (1) in 90% of cases (2) in 100% of cases	90 days from filing of TPR petition 180 days from filing of TPR petition

4. All Family Court Cases:

All orders should be filed within **(30) days** following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases.

According to the National Center for State Courts, regarding the relationship between Time Standards and Resources: Courts must have an adequate and stable source of funding to execute their constitutional and statutory duties: to protect citizens' constitutional rights, to provide procedural due process, to provide timely justice, and to preserve the rule of law.

As a matter of principle, “Courts should be funded so that cases can be resolved in accordance with recognized time standards by judges and court personnel functioning in accordance with adopted workload standards.”¹⁰

Resources for Providing Prompt and Affordable Justice In order to dispose of the court’s caseload within established time standards, courts must have a sufficient number of judicial officers and administrative and courtroom staff, and must have the facilities, equipment and technology needed to schedule, hear, monitor and dispose of cases. The inability of courts to dispose of cases within the adopted time standards can be used as an indicator of the need for additional resources, but may also be the result of ineffective case management practices. Therefore, courts should use their inability to resolve cases within their time standards as justification for their request for additional resources only after they have assured themselves that they are managing their available resources in an efficient and effective manner.¹¹

¹⁰ 123 National Center for State Courts. Principles for Judicial Administration: Governance, Case Administration, Core Functions and Dispositional alternatives, and Funding. January, 2011 Draft.

¹¹ *Ibid.*



APPENDIX E

EVALUATION OF FAMILY COURT PILOTS

March 2016

Goals:

1. To assure the assignment of one family to one judge or judge team.

Measure:

- Development of an individual case assignment system (rather than using a master calendaring plan)
- List all exceptions to assignment, by issue type (e.g., uncontested divorces, emergency matters)
- Number of “cross-over cases” (i.e., number of cases involving a juvenile file and a domestic file for the same family)

2. To increase judicial expertise by providing specialized training and continuing education for family court judges and staff.

Measure:

- Development of core training topics for all new Family Court judges and staff, as adopted and monitored by the Family Court Advisory Committee
- Regularly scheduled training sessions held and attended by new family court judges and new family court staff
- Topics covered
- Number of hours of training and whether current judges and staff meet the minimum Family Court training hours set by the Family Court Advisory Committee

3. To improve case management of the family court cases, in order to provide prompt resolution of issues/conflicts.

Measure:

- Impact of additional staff/court resources;
- Proactive court scheduling and monitoring of interim activity in the case
- Frequency with which the time standards are met [Note: the Futures Commission goal = all cases disposed within one year of filing]
- Percent of cases on a calendar that are resolved, continued, or not reached (calendar productivity measure)
- Percent of cases resolved without a court hearing
- Impact of Self Represented Litigant Cases

4. To maximize the use of non-trial intervention, or Alternative Dispute Resolution (ADR) programs.

Measure:

- Number of issues sent to ADR by program type, especially child custody mediation and family financial mediation
- Number of issues resolved at ADR stage
- Length of time from filing to disposition of custody and equitable distribution issues
- Comparison of mediated cases versus non-mediated/tried cases

5. To maximize the use, and availability, of community resources

Measure:

- Available services now versus services available before Family Court implementation
- Specialized programs, e.g., truancy courts and family or youth treatment courts

- Development of community outreach programs that educate the public about Family Court and facilitate the development of prevention programs (like parenting classes, sexual abuse prevention workshops, alcohol/drug addiction programs)
6. To protect those at risk, such as adult or juvenile victims of abuse, and to prevent future harm.
Measure:
- Qualitative descriptions of protective efforts and services provided for these persons
 - Development of special domestic violence prevention measures
 - Use of child planning (or “Day One”) conferences
7. To provide the services from Family Court to everyone, regardless of their ability to pay for such services.
Measure:
- Description of procedures allowing all families, if needed, to access services for free, or at a reduced fee
 - Development of rules/procedures/policies and Self-serve centers that make the system more user-friendly for litigants so all have easier access to the court system (examples = development of self-represented litigants forms and explanatory pamphlets)
8. To improve and expand the use of technology
Measure:
- Developing and improving current case tracking/reporting systems, like CaseWise and J Wise
9. To provide civil, courteous service to all persons using the Family Court
Measure:
- Surveys of litigants, attorneys, court staff, and service providers
 - Training provided for judges and court staff
10. To improve the quality of justice provided to families
Measure:
- Anecdotal information from participants
 - Survey of attorneys to see if number of contested hearings is reduced

