

Minutes of December 21, 2006 Mass. UMA Working Group

The committee met at Boston Law Collaborative, LLC, 99 Summer St., Suite 1600, Boston, MA. David Hoffman and Israela Brill-Cass facilitated.

After introductions, David Hoffman reported briefly about the meeting he and Chuck Doran had on December 14, 2006, with Uniform Laws Commissioner, Stephen Chow. The Commissioner sees the value in having a training component added to the UMA, according to David and, based upon the discussion, David believes that the Commissioner would likely be favorable to adopting the legislation that has the support of the mediation community.

The individual committees then made their reports.

Process Committee: Report by Lynda Robbins

Since the individual committees had moved forward so quickly, the Process Committee's role could be to take on some of the administrative responsibilities including:

- 1) pulling together individual committee reports;
- 2) helping coordinate timelines and meetings;
- 3) organizing greater outreach to the various groups that might be willing to help support the process (MCFM, NE-ACR etc...); and
- 4) identifying groups that aren't in attendance and invite them to participate.

Regularly scheduled monthly Working Group (WG) meetings were also proposed and Lynda will send an email to the WG to poll what days of the week and times of day work best for the group and whether group members would attend a meeting scheduled in Worcester or Springfield. It was recognized that participation from members of the mediation community north and west of Boston was important and that if possible, facilitating a meeting in those regions should happen sooner rather than later.

Cindy Bauman suggested CDSC space if meetings were held in Worcester and Mass Bar Association space was identified as a potential meeting location in Springfield.

David Mendelsohn suggested advancing the idea of a New England version of the UMA and will act as liaison to NE-ACR to explore other states' interest in supporting this effort.

Training and Definition of a Mediator: Robin DiGiammarino and Doug Sweet reported on behalf of the Training Committee.

The Training Committee's proposed language and minutes from the discussion with the Working Group can be found on the Mass UMA website Training Committee page at <http://www.massuma.com/trainingcommittee.html>

Confidentiality: David Hoffman and Stephanie Craig reported on behalf of the Confidentiality Committee.

Proposed language regarding confidentiality that was received from Jeff Stern, as well as comments regarding individual practices from John Fiske, Ros Cresswell and Les Wallerstein and David's own practice was distributed. The BBA's ADR Committee draft language was also distributed.

There was discussion about the distinction between the creation of a privilege of confidentiality and a bar to disclosure. There was also discussion about the distinction between a privilege of the mediator to assert confidentiality and protection of the parties' rights of confidentiality. The group agreed that the failure of a mediator to meet a training requirement should not impact the process as it relates to the confidentiality afforded the parties.

The next meeting will be Monday, January 22, 2007 from 3-5 p.m. at the Federal Mediation and Conciliation Service offices, 99 Summer Street, 5^h floor, Boston, MA