

School Budget Mediation

Three Cases from 2004

By Stephanie Coplin and John B. Stephens

In 2004 three boards of county commissioners and their respective boards of education went to mediation to address disputes over the county's funding of public schools. These three mediations built on the experience of eight other counties that have used this process of dispute resolution since 1997.¹ (See sidebar.) This article examines what happened in each of these three cases and offers guidance that may help other boards of county commissioners and boards of education to avoid this method of handling their budget differences or—if they find that mediation is essential—to use that option effectively.

The article first provides background on budget mediation as it has developed in North Carolina since 1997 and briefly takes note of previous reports and research on the process. Next, it describes the mediations held in Cabarrus, Iredell, and Moore counties in 2004. Analysis of the trends and lessons from these experiences follows, building on the study of two 1997 mediations described in an earlier issue of *School Law Bulletin*.² The article closes with a few points of practical guidance.

Stephanie Coplin is a second-year student in the Master of Public Administration Program at UNC Chapel Hill. John B. Stephens is Associate Professor of Public Administration and Government at the School of Government. He specializes in public dispute resolution and citizen participation and is also the editor of *Popular Government*.

1. The N.C. General Assembly amended the prelitigation system to resolve budget disputes in 1997, creating a two-stage “facilitated-mediated” process. For details, see C. Thomas Powell, “School Funding Disputes: Development of the Law,” *School Law Bulletin* 29 (Spring 1998): 20–28. The past issues of *School Law Bulletin* referenced in this article are available online at <http://www.sogpubs.unc.edu/books.php?cat=20>.

2. John B. Stephens and Matthew J. Michel, “Mediate, Don’t Litigate,” *School Law Bulletin* 29 (Spring 1998): 29–44. See also Jill R. Wilson, “Anatomy of a School Funding Dispute: Guilford County 2000,” *id.* 32 (Spring 2001): 1–10.

Use of Mediation since the 1997 Amendment of G.S. 115C-431

1997 Pamlico County, Wake County
1998 Burke County, Moore County, Union County
1999 Dare County
2000 Guilford County, Northampton County
2001 Cumberland County, Northampton County, Pamlico County
2004 Cabarrus County, Iredell County, Moore County
2005 Burke County, Scotland County, Wayne County

Source: Public Dispute Resolution Program, School of Government, University of North Carolina at Chapel Hill, September 18, 2005.

Background

The North Carolina statute governing funding dispute resolution for county public schools dates back to 1909 and has been revised many times since then.³ The latest revision occurred in 1997 with support from the North Carolina School Boards Association and the North Carolina Association of County Commissioners. The two associations sought a prelitigation system that could address budget disputes promptly and yield resolution before the school year began in August.

The boards of county commissioners (BOCCs) and their respective boards of education (BOEs) work under parallel budgeting processes. By July 1 both must adopt budgets for the fiscal year July 1 to June 30.

The superintendent of each school unit in the county (if more than one) must propose a budget no later than May 1; the BOE then reviews the proposed budget, approves or revises it, and submits the entire budget to the BOCC no later than May 15.⁴ By around June 1 the BOCC budget

3. Powell, “School Funding Disputes.”

4. Laurie L. Mesibov, “Elementary and Secondary Education,” in *County Government in North Carolina*, 4th ed., ed. A. Fleming Bell, II, and Warren Jake Wicker (Chapel Hill: Institute of

officer must submit a county budget, including an allocation for public schools, to the commissioners. Although the county budget officer may recommend funding levels different from those approved by the BOE, state law requires that the BOE's actual request be submitted to the BOCC.⁵

After the BOCC adopts its budget, the BOE has seven days to determine whether the amount appropriated for schools is adequate. According to Section 115C-431 of the North Carolina General Statutes (hereinafter G.S.), the BOE can begin a legal process against the county commissioners if the BOE determines that the amount appropriated to the local current expense fund, or to the capital outlay fund, or to both, "is not sufficient to support a system of free public schools."

The two boards initiate mediation by selecting a mediator; if they cannot agree, a superior court judge appoints one. The mediator's expenses are shared equally by the two boards.

There are two phases to the mediator's work. First, during a joint public meeting of the two boards, he or she acts as a "neutral facilitator." If the public meeting does not yield an agreement, the mediator meets with four-person working groups from each side in closed sessions.⁶ All eight negotiators may meet together with the mediator, or the mediator may meet separately with one working group to explore ideas, proposals, and possible areas of compromise. The mediator then meets privately with the other side, maintaining the confidentiality of the separate discussions unless authorized to share a proposal or other information.

Mediation proceeds until an agreement is reached, until August 1, or until the mediator declares an impasse. Mediation can continue beyond August 1 if the two sides agree. The mediator may not disclose information about the mediation nor make any recommendation or statement of findings.

Methods

Since the 1997 amendment of the budget dispute resolution law (G.S. 115C-431), *School Law Bulletin* has published three articles on this area of law and mediation. This article builds on the study of two 1997 cases discussed in the 1998 article by John Stephens and Matthew Michel.⁷ The present research focuses on the statutory budget mediation process as it was used in 2004 by three North Carolina counties:

Government, University of North Carolina at Chapel Hill, 1999), p. 843.

5. *Id.*, p. 844.

6. For additional details of the mediation process, see Stephens and Michel, "Mediate, Don't Litigate."

7. *Id.*, pp. 31–40.

Iredell, Moore, and Cabarrus. Data were drawn from public documents, media reports, and confidential interviews with members of each county's mediation working group.

Interviewees were chosen because of their participation in the working groups. The following individuals from the working groups of the three boards of county commissioners were contacted for interviews: the board chair, county manager, finance officer, and county attorney. Interviews were requested with the following members of each county's school board working group: the board chair, superintendent, finance officer, and attorney. Out of the twenty-seven possible interviews (counting the mediators), eighteen were completed. Nine interviews out of a potential twelve were completed with members from the three boards of education; two finance officers and one attorney were not able to be reached for an interview. Nine interviews were also completed with members of the three boards of county commissioners; missing interviewees from these boards included one board chair and two attorneys. The mediators for the counties were also contacted but declined to be interviewed.

The semi-structured interviews consisted of ten core questions and employed an open-ended format to encourage interviewees to expand on their answers. Each interview lasted for between twenty and forty-five minutes. The goal of the interviews was to gain multiple perspectives on the effectiveness of different parts of the mediation experiences and elicit interviewees' reflections on mediation as a technique of budget dispute resolution. On the issue of confidentiality, interviewees were assured that the information they provided would not be attributable to them as individuals. Further, they were encouraged to divulge only information that did not violate the confidentiality of the closed mediation sessions. The content of this article was distributed to interviewees to assure them that the remarks quoted in it are nonattributable and that the content is consistent with the viewpoints they expressed.

Iredell County

Background and nature of the issues

Despite progressively tighter fiscal constraints, Iredell County had maintained steady school-funding growth for nearly ten years. Until the 2004–2005 fiscal year, schools had been receiving approximately a 5-percent increase each year, plus a per pupil allocation for the growth of the student population. As the 2004–2005 fiscal year approached, it was clear that continuing this rate of increase would have pushed the county's debt to a level the commissioners were not willing to allow. The proposed allocation for the 2004–2005 year was a 2-percent increase over the previous year, plus a proportionate amount for student population growth. The difference between the BOE's request for the

Iredell–Statesville School System and the BOCC’s allocation was \$700,651.⁸

Distrust between the two boards mounted due to a series of miscommunications and politically charged exchanges. Tensions increased after a media report cited the superintendent’s plan to spend \$124 million on school construction, a plan he had not discussed with the county commissioners.⁹ In January 2004 the boards had met at an annual joint retreat. At this point there was an understanding that the lean economy could affect the Board of Education’s budget allocation, but a final estimate could not be made until May. When the boards met again that summer, the school board was surprised to learn that the county’s estimate was much lower than the figure discussed in January. The school board then turned to mediation to seek a higher allocation.

Selection of the mediator

The boards agreed on Richard Tyndall of Mooresville as the mediator for the budget dispute. According to interviewees, they selected Tyndall because, in part, of his reputation as a fair, but resolute, mediator. Once the sessions began, participants found him to be hard-nosed at times but also someone who used humor effectively and respected the need to reach resolution. Interviewees pointed to Tyndall’s ability to balance advocacy of both groups’ positions as his most effective mediation strategy. According to one participant, “He would typically take the other group’s side when he talked to you, but I was confident that our ideas were being represented also. We felt that he advocated for their side a little more than our’s, but when all is said and done he was very fair.”

Mediation

Approximately fourteen hours were split evenly between two private mediation sessions; the entire process lasted more than two weeks.¹⁰ During that time, the parties spent almost all the mediation time in separate caucuses while the mediator went back and forth between groups. One-on-one conversations between specific participants from each board did take place on occasion. Most of these exchanges were arranged and/or facilitated by the mediator, though a few occurred informally during breaks. Both kinds of conversations were cited as factors contributing to an expeditious resolution.

8. Michelle Harrison, “Funding Battle Rages On,” *Statesville Record and Landmark*, June 30, 2004.

9. Katie Beaver, “I-SS Budget Mediation a Success,” *Statesville Record and Landmark*, July 7, 2004; confidential interview with author.

10. Beaver, “I-SS Mediation.”

Outcome

Although no additional funds were appropriated to the Iredell County Schools, both sides remained optimistic about a productive working relationship in the future. The mediation agreement required the two boards to create a Joint Facilities Task Force. The task force was to consist of each board chair and his or her five appointees—one member from the board and four citizens. This twelve-member committee was required to meet on or before August 31, 2004, and then had ninety days to submit “preliminary recommendations involving the general scope of the project to be undertaken and the type of consultants needed.”¹¹

The settlement provided that both boards were to hear the task force report and make a joint decision regarding the choice of consultants and the scope of their work. The board of commissioners would then be responsible for hiring and paying the consultants. “After formal submission of the consultants’ reports, both boards will meet within thirty days in joint session[,] with the Joint Task Force members invited to attend. At this meeting the boards will develop a joint facilities plan for the school district, which shall include the timetable and method(s) of financing.” The settlement was approved by a unanimous vote of the board of commissioners.¹²

The school board appointed four citizens—a realtor, a developer, a former county commissioner, and a parent—to serve on the new joint facilities task force formed as part of the mediation agreement with the commissioners.¹³ At its August 17, 2004, meeting, the BOCC appointed Chairman Steven Johnson, Commissioner Marvin Norman, and four private citizens to the task force.¹⁴

According to one interviewee, the task force met in the fall of 2004. The interviewee described the work done at that meeting: “[The task force] has developed an excellent prioritization of capital projects to be taken between now and 2010.” The interviewee also described formation of a finance committee designed to find a different method or formula for projecting school funding needs. A meeting with the finance committee also took place in the fall of 2004. One participant noted that “our lines of communication are really improving.”

11. “Minutes of Special Meeting of the Iredell County Board of Commissioners, July 7, 2004,” at www.co.iredell.nc.us/Commissioners/minutes/Regular/July_7_2004_Special_Meeting_Minutes.pdf.

12. *Id.*

13. Iredell–Statesville Board of Education, Minutes, August 9, 2004, at <http://www.iss.k12.nc.us/board/boeminutes804.htm>.

14. Iredell County Board of Commissioners, Regular Minutes, August 17, 2004, available at http://www.co.iredell.nc.us/Commissioners/minutes/Regular/August_17_2004_Regular_Minutes.pdf.

A school board member provided the following update to the Iredell County outcome in late April 2005.

The BOE and BOCC agreed on a funding plan for Phase I facilities. Also, the BOCC agreed on a funding formula for local current expenses. The joint committees on facilities and funding paid enormous benefits in improved communication and understanding. The BOE and BOCC have passed several joint resolutions encouraging the local legislative delegation to improve funding and funding formulas for school construction and operating budgets.¹⁵

Moore County

Background and nature of the issues

For the 2004–2005 school year, the Moore County School Board requested a budget increase of 10 percent over the previous year. The county commissioners denied the request, which amounted to a \$2.1 million increase, and appropriated an increase of \$358,000—2 percent above the 2003–2004 allocation.¹⁶ Officials from the school board claimed that the appropriated increase was insufficient to meet the requirements of Adequate Yearly Progress under the federal No Child Left Behind Act. Other respondents believed that the dispute stemmed from a lack of communication and was exacerbated by the rehashing of political issues surrounding the former superintendent. According to one news report, “[s]chool officials made the case that the county is not funding them to the extent that it can. The county in turn attacked the school board’s credibility, saying the board can’t be trusted with additional money.”¹⁷

Selection of the mediator

The parties were unable to agree on the choice of mediator. Therefore, the senior resident superior court judge appointed Rick Greeson, a retired superior court judge from High Point. This was Greeson’s first experience mediating a budget dispute between a school board and a board of county commissioners. While some interviewees found his performance as mediator acceptable, others believed that he was insufficiently familiar with the county and with school budgeting in general.

Mediation

Approximately twenty-five hours were spent in mediation. Participants interviewed agreed that two full days and one half day were spent in closed mediation. Participants gave various responses, however, to the question about the time spent meeting jointly before going into separate caucuses. Everyone agreed that the mediator’s initial meeting with both working groups lasted less than thirty minutes. The mediator used that joint time to establish some ground rules.

Outcome

No additional funds were appropriated in the resolution of this dispute. The county commissioners agreed to put a bond referendum for new school facilities on the November 2004 ballot. Ultimately, the BOE chose not to pursue further legal action. Although holding more regular meetings of key staff members was discussed as part of the resolution, only one interviewee noted that communication between the boards had been more regular since the mediation.

Cabarrus County

Background and nature of the issues

According to interviewees and news reports, the Cabarrus County BOE pursued mediation as a means of securing additional monies, particularly for school construction. Early in 2004 school officials saw the commissioners’ formation of a citizens’ committee to study school construction—combined with the county’s lack of action on their own specific request for construction funds—as “disrespectful.”¹⁸

Selection of the mediator

The attorneys representing the two boards agreed to appoint Charles Tompkins Jr. as mediator. Because of the brevity of the mediation, participants interviewed had limited experience with Tompkins, but one did mention appreciating the fact that “he came in with a completely clean slate” and acted objectively. Tompkins was not a local man, and interviewees had mixed feelings about the importance or political ramifications of being from the area and having some experience in the field of school law. None of the interviewees from either side expressed the belief that Tompkins’s actions were responsible for the abrupt end of mediation.

15. Confidential interview with Author Coplin.

16. Michael Wagner, “Status quo on Moore County School Money—Sort of,” *Fayetteville Observer/Fayetteville Online*, August 14, 2004.

17. Wagner, “Moore School-Budget Talks Break Down,” *id.*, September 24, 2004.

18. Ronnie Glassberg, “Schools May Sue for Funds,” *Charlotte Observer*, March 4, 2004.

Mediation

On June 23, 2004, a joint public meeting of the BOE and BOCC was held. At this time, school board attorney Mark Henriques stated that the board was seeking \$7,458,000 in addition to the \$1.4 million the county had appropriated. One high school was already over core capacity in enrollment and other schools were expected to be in the very near future. He said that the BOE needed \$4.5 million just to purchase the land for a new high school and two elementary schools and claimed that the county allocation had overlooked other important needs, such as buses and technology maintenance.¹⁹

County Manager John Day presented the response. “He stated [that] the recommended school funding was below what was requested due to current economic conditions. However, he said it had appeared every one was in support of the recommended budget for the Schools.”²⁰ Immediately following this comment, Day read aloud earlier statements by the superintendent of schools and a member of the BOE that encouraged board members to consider and support the school budget.

Finally, Day reported on the progress of the Community Committee on Education Capital Planning and Financing. That committee had developed guidelines for new school construction and explored options for financing those projects over the next ten years. Day also indicated that a meeting of the county commissioners was scheduled for the following day “to make a decision regarding capital requests from the School Board.”²¹

Members of the school board continued to express concern over what they saw as the BOCC’s history of failure to take action on school construction needs. The county commissioners responded by reiterating the economic constraints they were acting under. The joint meeting ended after the school board voted unanimously to continue with closed-session mediation on July 7, 2004. The following day, June 24, the county announced that a \$98-million-dollar school bond referendum would be placed on the ballot in November.²² It is unclear whether school officials were aware of this action.

Closed mediation began on the morning of July 7, 2004. No agreement was reached, and Mediator Tompkins

declared an impasse between the two parties that same day.²³

Analysis: Trends and Differences among the Cases Need for better communication

The overarching theme that emerges from the research is that the disputes could have been resolved more quickly, or even avoided entirely, through better communication. In all three cases, participants cited a misunderstanding or a lack of quality communication between the boards as factors leading to the budget dispute. Yet only one of the mediation agreements specifically encouraged the boards to establish more regular communication by holding postmediation meetings. Most of the working group members in that county believe that efforts to improve relationships are working, although their optimism regarding more regular communication between the boards is guarded.

The North Carolina General Statutes specifically address the issue of poor communication. G.S. 115C-426.2 promotes joint planning by the two boards in the following language:

In order to promote greater mutual understanding of immediate and long-term budgetary issues and constraints affecting public schools and county governments, local boards of education and boards of county commissioners are strongly encouraged to conduct periodic joint meetings during each fiscal year. In particular, the boards are encouraged to assess the school capital outlay needs, to develop and update a joint five-year plan for meeting those needs, and to consider this plan in the preparation and approval of each year’s budget under this Article.

An earlier discussion of the importance of communication noted that “[r]egular meetings provide an ongoing exchange at times when tension is low and there is no immediate need to act. These meetings can create familiarity and raise the level of trust, which will be important for interactions during times of higher tensions and immediate decision making on budgets.”²⁴

Cross-county communication

Given the relatively close timing and geography of these mediations, one might expect that people in similar offices

19. “Minutes of the Board of Commissioners, Cabarrus County,” June 23, 2004, at <http://www.co.cabarrus.nc.us/Pages/BoardOfCommissioners/2004/min06232004.pdf>.

20. *Id.*

21. *Id.*

22. “Commissioners Place \$98 Million School Bond on Ballot,” press release, June 24, 2004, at www.cabarruscounty.us/Pages/News/2004/June/SchoolBond.html.

23. Charity Cline Mangan, “County, schools, can’t agree: Mediator declares impasse in dispute over school funding,” *Independent Tribune*, July 7, 2004, at www.independenttribune.com.

24. Stephens and Michel, “Mediate, Don’t Litigate,” p. 41.

in the various counties would have shared their experiences with one another. On the contrary, we found very little evidence of communication among colleagues in counties that were mediating school budget disputes in 2004. Only two of the interviewees in the three counties acknowledged having spoken with one another about their mediation experiences. This lack suggests that an expanded network among county and school board officials might help them develop more informed expectations of mediation. Further, a heightened understanding of past results may help board members frame their arguments and define their outcome expectations.

Caucusing as a universal method

In all three counties, participants spent most of the closed mediation sessions in caucuses and very little time in meetings with the mediator and both negotiation teams.²⁵ Nearly all the interviewees said that the ideal structure would have devoted more time to meeting together but that what looked like insurmountable barriers prevented them from creating a productive working environment for joint sessions. They believed that political circumstances and personalities were hindrances to effective communication in a large group setting; moreover, some working group members wanted time with their respective teams to discuss strategy, clarify positions, and unify their message. These sentiments were not, however, shared by all interviewees; one Iredell County official reasoned that having both sides in the same room in a cooperative environment would have long-term benefits for working relationships.

The Iredell mediator encouraged participants to take time out from caucusing by having one member from each board meet together under his guidance to discuss particular details. Overall, interviewees found the one-on-one technique a very effective way to gain an understanding of the opposite side's positions.

Does the public joint meeting of the boards help or hinder the likelihood of resolution?

The joint public meeting of the BOE and BOCC—with the mediator serving as facilitator—is the first session in which the boards meet and attempt to resolve the issue. None of the three counties resolved their dispute at this stage in the process. Like the participants in the 1998 study, most interviewees felt that the joint public meeting hinders the parties' ability to reach a settlement in subsequent media-

tion sessions because stating positions in a public forum entrenches opposing viewpoints and politicizes them. During the later meetings, our cases show, spokespersons from the working groups mostly restate the cases they presented in the public forum.

The current findings do differ from the previous study in one respect: the Moore County case challenges the idea that the joint public meeting necessarily favors the school board. In that instance, interviewees believed, the board of county commissioners began with significant support from the public and gained additional support as a result of their presentation at the joint meeting.

Interested citizens and the media play pivotal roles in the joint meeting of the boards. Both boards see this stage of the process as a time to appeal for public support rather than to resolve the issues at hand.²⁶ The political climate of the community clearly affects the degree of public support the boards gain from the joint meeting. In many cases, the public is sympathetic to the goal of providing good schools and may therefore be more likely to support the school board's budget request. But in Moore County, as mentioned above, the public favor apparently lay with the board of county commissioners.

Media quotes dominated by the school board

This study examined reports found in local newspapers and on county government and school system Web sites. Our research found that the majority of quotes printed in news reports were from members of the school board and that related information was easier to obtain from BOE than from BOCC Web sites. While this greater ease of access to BOE viewpoints may not necessarily skew a particular dispute resolution, it may affect public perceptions and, subsequently, the likelihood that school boards will pursue mediation with the county commissioners in the future. If not already doing so, county commissioners should consider their Web sites as another form of contact with the public. Including a clear explanation of the budget process and related events may help define citizens' expectations of public officials.

Mediation results not limited to funding

The statutory requirement for initiating mediation is the school board's determination that the funding contained in the county's budget is insufficient. This study found, however, that both parties frequently accepted mediation outcomes that did not directly change school funding. The outcomes of the 2004 mediations analyzed suggest that

25. In a caucus, the mediator meets with one party privately to explore ideas, information, and new proposals. The meeting is confidential. Then the mediator conducts a similar private meeting with the other party.

26. Confidential interviews with authors.

certain BOE goals were achieved, even though additional funds were not appropriated. In Cabarrus County, for example, the school board received no additional funding for the 2004–2005 fiscal year, but the BOCC did put a school construction bond referendum on the November 2004 ballot. (The \$94.7-million bond referendum passed.²⁷) So, while the Cabarrus mediation was far from successful, both parties were left somewhat satisfied with the final outcome. And in Iredell County, a Joint Facilities Task Force that may not otherwise exist was created as a result of mediation.

Mediation as a budget process innovation

In many of the interviews, an underlying theme was the structure of the budget process. Interviewees from both sides expressed an interest in redefining the school board's role in the budget process. While the agreements reached through mediation cannot change the legal requirements surrounding the budget process, some of the agreements communicated an intention to open up the process in several ways. First, one agreement put in writing the boards' intention to exchange information on budget matters more regularly and to hold joint meetings or attend each other's meetings. The school board's increased presence at county commissioners' meetings is likely to lead to increased influence for the board's perspective.

Second, creation of a citizen task force expands the budgetary process and invites an alternative form of public participation. Therefore, one motive—explicit or implicit—for pursuing mediation may be to alter the *de facto* budgeting process without changing the statutory requirements.

Attorneys choose the mediator

Either the board attorneys or a senior resident superior court judge were responsible for choosing the mediator, both in Wake and Pamlico in 1997 and in Cabarrus, Iredell, and Moore in 2004. Most participants were comfortable with this method. However, a few interviewees wished they had been more involved in the selection process. Because they may already have established connections from which to build a list of potential mediators, it may be best to leave this task to the two board attorneys, with the subsequent approval of the boards' members.

Guidelines and Recommendations

Communicate, communicate, communicate

As discussed above, boards should be in regular communication throughout the year, not only when budget deadlines

approach. Participants disagreed on whether formal or informal communication is best. While some interviewees thought informal communication among board members would remove accountability and encourage backdoor politics, others saw it as a useful tool in overcoming the “trench warfare” of later-stage budget battles.

Informal, but open communication may also be the best defense against reaching a situation in which mediation is necessary. Holding regular routine meetings to exchange information, ideas, and concerns in an environment of respect and shared responsibility may help to prevent mediation. Being proactive in building relationships may be the best way to avoid personality conflicts.

However, if the situation does proceed to mediation, school and county leaders should consider the productive effects of one-on-one dialogues. For example, if the mediator perceives that an issue dealing with a specific type of allocation is being discussed in different terms, he or she may decide to facilitate a separate conversation between the finance directors. The goal in this case would be for them to hash out the topic and return to their respective boards with a similar understanding of the issue.

Another option that may help solidify working relationships is to include in the mediation agreement language establishing reasonable expectations about open communication and the frequency of joint meetings.

Develop expectations and level of commitment before beginning mediation

Before proceeding to mediation, each board should evaluate its members' goals, expectations, and levels of commitment in regard to time spent, press coverage, and the possible ramifications of litigation, loss, or impasse. Beginning mediation with a board that is not unified may communicate to the other board a lack of resolve and obstruct both boards' ability to settle the dispute. And if it appears that one board is fragmented, press coverage is very likely to be unfavorable.

Find the appropriate balance between caucuses and joint sessions

A balance must be established between the isolation of caucusing and the inefficiency of large group sessions. Such a balance may help guard against the entrenchment of positions and maintain a focus on underlying compatible interests. The mediator possesses the authority to maintain this balance and should weigh all of the factors that may affect the choice of methods used in sessions—factors such as personalities, political concerns, and the history of the boards' relationship.

27. Melanie Chilson, “Cabarrus approves school bond,” *Salisbury Post*, November 17, 2004.

Recognize the effect of changes in board membership and administrators

Changes in board memberships and in top administrative personnel may affect whether a situation moves to mediation.²⁸ New players who have not had the opportunity to establish relationships and understand norms may be more likely to see budget differences as a reason to initiate mediation. Boards may therefore want to build in specific techniques for assimilating new members and establish similar orientations for new county managers, school superintendents, and other top personnel prior to the late stages of the budget process.

Research on earlier BOE–BOCC mediations yielded similar results. A study of the 1997 dispute in Wake County found that “[t]urnover was the most frequently cited rationale for why the Wake County agreement did not prevent disputes or improve relationships between the two boards in the long-term. Newly elected board members were reportedly less knowledgeable of and [less] committed to

provisions of the agreement than members involved in its development.”²⁹

Conclusion

Although the law specifies a uniform process of mediation for BOCC–BOE budget disputes, the context, group dynamics, and outcomes of such mediations are varied. Even when both boards see the value of regular communication and building good working relationships, the high-stakes and very political setting in which budget making takes place is ripe for conflict. Although prelitigation budget mediation seems to serve its primary purpose of preventing lawsuits, it has not been proven capable of consistently maintaining or improving relationships between BOE and BOCC members. Both groups see the budgetary process as essentially inequitable and conflict oriented, making mediation a necessary tool or option for school boards. Belief in this tool’s ability to correct those budget inequities varies from one board to another. ■

28. Personnel changes took place in two of the three counties examined. Confidential remarks from interviewees allude to these personnel changes as primary factors in the boards’ conflict relationships.

29. Erin S. Norfleet, “Agree to Disagree: An Evaluation of Wake County’s Response to Local School Funding Disputes,” MPA Program Capstone paper (April 2002), available at <http://www.mpa.unc.edu/pdfs/CapNor1.pdf> (accessed September 18, 2005).