FOSTER PARENTS & KIN CAREGIVERS IN CHILD PROTECTION MEDIATION

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Brief Bio – related to CP Mediation

- Professional - 30 years
- Director of PCCS Mediators & Counsellors – Peel, Halton, Dufferin, Guelph-Eramosa-Rockwood
- CP Mediation, Family Mediation, Separation & Divorce Mediation, Elder Mediation, Workplace Mediation, Mediation Internships and Supervision
- CP Mediation Trainer – OAFM
- Provided training for OACAS, IPCA, Peel CAS
- Clinical Auditor and Supervisor for Ministry of Children and Youth Services
- Facilitator - Peel CAS – Permanency Planning Conferences
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Introduction to Training

- **Focus:** The Mediator’s Role

- **Goal of Learning:** Foster parents and Kin caregivers can be an integral part of the mediation and its success. Their presence can also create power imbalances and conflict. Learn assessment of their involvement, obtaining buy-in, preparation of their role and management of the process.

- **Process of Training:** Review of Referral, intake, joint sessions and report.

- **MEDIATOR SENSITIVITY AND PREPARATION**
Definitions

**KIN CAREGIVERS**
- Extended Family Members providing care - placed in their care by the parents and/or as approved by CAS
- May or may not be receiving reimbursement from the agency
- Short-term, long-term care or adoption potential
- Could have multiple children
- May be new parents or experienced parents
- **Will have their own bias’, values, views, beliefs, family issues, need for information**
- Court or None

**FOSTER PARENTS**
- Persons hired by the CAS to provide care
- Screened, Orientated to CAS/Foster Parenting
- Receiving, long-term, or treatment foster home
- Could have multiple children in their home
- New or experienced
- Age of child, needs, and type of care
  - **May be whoever is available at the time of placement**
- **Will have their own bias’, values, views, beliefs, family issues, need for information**
- Court or None
What is a Successful Child Protection Mediation

- Starts with ensuring the parties understand what mediation is and is not, and how decisions are made - thorough preparation of the parties
- Mutual child-centred focus on the child’s best interests and well-being so that the child can value all of herself/himself
- Recognizes the value of all the adults who care about the child
- Helps each party recognize and appreciate/acknowledge the unique contributions that each adult can make to the child
- Trust is enhanced
- Allows the parties to be human beings together, not just playing out their roles
- A range of alternatives are explored and a plan is made
Success cont’d

- Starts with a clear statement/agenda of the issues and wishes of each party
- Is about what is good for this child in the moment and long term
- Identifies everyone’s strengths and challenges to enhance engagement
- Education is central - know the parameters of each party and the CFSA
- Shame and judgement are replaced with respect and empathy
- Connections and cooperation grow
- Where each person is actively listening
- Adults are important but the focus is on the child
- Speeds up outcomes
Success Cont’d

- Constructive problem-solving occurs, helping parties to frame their proposals, consider options
- Helps parties transcend their fears (at least about the mediation)
- Clear agreements that are reality based
- Does not focus on winning or losing but results in the child benefitting from the outcome and improved relationships
- Preventative (e.g. no litigation required)
- When the family reinterprets the CAS worker as human and caring
- Assessing common denominators
- When parties can express their frustration, fear and sadness
- Increased service provider compliance
Success Cont’d

- Heightened family engagement and empowerment
- Increased information gathering and sharing
- Joint decision-making occurs
- Comprehensive and creative agreements
- Increased compliance by all parties to the terms
- Decreased time to permanency for the child
- Self-determination by the parties stays in tact
- Not providing legal advice and encouraging parties to obtain the information they need
- Not constantly getting bogged down with issues that are not for mediation
- Future focused
- Acknowledge your personal bias to yourself and then keep it out of it!
Success depends upon the skills of the Mediator

- Need specific training on adoption, child welfare, foster parenting, abuse, neglect, etc.
- Problems can arise:
  - From people failing to understand the mediation process or the mediator’s role
  - When others try to usurp the mediator’s role and end up competing with the mediator
  - When parties feel forced to give up “custody”. (Case e.g.)
  - When planning for the child is seen as an event, not a process.
  - The plan doesn’t include next steps for ongoing issues or is not reality based (build in back up plan).
  - Did not identify common goals and individual needs
  - When each person does not feel heard or follow up clarifications are not done
  - When interruptions are allowed to continue
  - When corrections for power imbalance are not done
  - When terminology is not explained.
Power Imbalances

- HUGE!
- Society, Courts, CAS, Service Providers, Other caregivers, Parent - Multiple layers of overlapping power.
- May not feel mediation is truly an option when Court is only alternative.
- May never feel heard, respected or supported
- Often already a huge loss of self-esteem and traumatic backgrounds
- Lack of trust in processes or others
- Sometimes the only power parents feel they have is to have their day in Court or to refuse to sign over custody – self-determination.
- Foster parents and Kin also can feel powerless and overwhelmed with the “SYSTEM”, lack of information, dealing directly with a “difficult” child, “difficult” worker and/or “difficult” parents.
- CAS workers are often overwhelmed with their case load.
Referral Stage

- Can the kin caregivers or foster parents be an integral part of the mediation and assist towards its success?
- Should they be present at the mediation?
- What do you need to canvass with them in the intake?
- How might you manage the mediation with their presence?
- Are their objections to their presence?
In the case where Kin or Foster Parents are involved with the child, it is helpful to speak to the worker first and then the parents.

Valuable information for your assessment and management of Kin and Foster Parent involvement can be gained from doing it in this order.
Include

- Include in the Mediation:
  - Kin
    - Openness adoption;
    - Access Scheduling;
    - Reintegration with parents;
    - Concerns about the kin care; Information sharing; Planning
  - Foster Parents
    - Access;
    - Issues with the care of the child in the foster home or the foster parents’ parenting;
    - Issues the foster parent will need to participate in such as medical appointments
    - Where information is best to be direct rather than via the worker;
    - Information the foster parents can shed light on.
Do Not Include in the Mediation:

- **Kin**
  - Current allegations/Investigation against the Kin Caregivers. The mediation can be postponed until the investigation is complete and is still needed.

- **Foster Parents**
  - CAS’s “choice” of Foster Parents (Prejudice)
  - Allegation/investigation against Foster Parents

- **Parenting Capacity Assessment?**
  - If the issue to be mediated is one where the Kin or Foster Parents can be of assistance, include them and go ahead with those issues as the focus. Do not focus on the ability of the parents to parent the child as those issues will be addressed in the Parenting Capacity Assessment.
Preparing the CAS Worker

- Find out what complaints/concerns/issues the CAS worker, parents or Foster/Kin parents are likely to raise.
- Find out more about the relationships between the parties.
- Find out the CAS safety concerns and anything they cannot agree to so you don’t mislead the parties.
- How much flexibility do they have with possible outcomes?
- Explain that the mediation is confidential and explain what cannot be put in their records about it – don’t assume they know this.
- Help them understand their role at the mediation – can they come with ideas that may help?
Preparing the Parents

- Normalize that while every mediation is different, as a minimum, safety standards must be met in the agreement. Beyond that there is often room for flexibility.

- That the mediation cannot be about the “Child found in need of protection”.

- That the CAS worker will attend the mediation sessions to provide input as to safety concerns and assist with information about resources. The CAS also needs to agree to the plan.

- That the foster parent/kin will be at the mediation – what is the reaction here?

- Find out more about their issues and the relationships between the parties.

- Find out their challenges and concerns and encourage those to be addressed in mediation.

- Explain that it is helpful for Kin/Foster Parents to be there to ensure they can accommodate what is agreed to and provide information. They also need information about the child.
Preparing the Parents Cont’d

- Make a point that each person is attending with a focus on the child and to resolve issues.
- Make a point that it is an opportunity to discuss and settle issues with a focus on the future.
- Make a point that everyone at the table is important in the child’s life right now.
- Make a point that the child needs everyone to assist in developing a plan.
- Help them with coping mechanisms during the mediation.
- Ensure they understand what closed mediation means – help build trust.
- Bias, values, judgements?
- Help them identify the possible rewards of having everyone at the mediation.
Preparing the Foster Parents

- One American study showed only 64% of foster parents had information about mediation (pg. 33 Child Protection Mediation: An Evaluation of Services by Cook County Juvenile Court)
- Find out if they are willing to attend, – make every effort to include them.
- Prepare them for the issues at hand
- Ask if there are any issues they believe should be raised for mediation. Have they vetted those with the worker?
- Find out their challenges
- Prepare them for the process of mediation. Is their involvement around one issue or multiple issues?
- Not to discuss the issues with the child directly – but also that in a closed mediation what they say won’t be disclosed (with contract exceptions).
- Understand how flexible they are with regard to their scheduling for this child.
- Prepare them if the parents have issues with their parenting of the child. This is when you have to sensitize them to what may happen and how they can cope during the mediation.
- Bias, values, judgements?
Preparing Kin Parents

- Find out if they are willing to attend – make every effort to include them.
- Prepare them for the issues at hand and ask if there are any issues they believe should be raised for mediation.
- Find out their challenges.
- Prepare them for the process of mediation. Is their involvement around one issue or multiple issues?
- Not to discuss the issues with the child directly – but also that in a closed mediation what they say won't be disclosed (with contract exceptions).
- Understand how flexible they are with regard to their scheduling for this child.
- Prepare them if the parents have issues with their parenting of the child. This is when you have to sensitize them to what may happen and how they can cope during the mediation.
- Bias, values, judgements?
Preparing Foster Parents and Kin

- When not adoption - have them reassure the parents that they are not there to “take” away the child from them, but to take good care of them until they can be placed back in their parents care.

- Have them ask the parents (but not guarantee) if there are any routines or specific items that their child is used to which might make it easier for the child while in their care and that they will do their best to honour them.

- Have them refer to the child as “your child”.

- Have them bring pictures of the child and any other information that the parents may appreciate having.

- Discuss neutrality as a caregiver in terms of the parents – non-judgmental approach.
“Dear Parent:

We are your child’s foster parents and we will remain in your child’s life only as long as your child needs us. We will help your child deal with everyday life as easily as possible until your child goes home.

We may live in different neighbourhoods, come from different backgrounds, or prepare different types of meals, but we have one very important common interest: the well-being of your child.

We will provide for your child to the best of our ability, not losing sight of the fact that this is your child. We will explain that just because you are not with your child doesn’t mean that you do not love him or her.

We don’t have to be friends, but we can work together for the best interests of your child. You are still one of the most important people in your child’s life.

Sincerely,

A Foster Family”

https://www.dfps.state.tx.us/Child_Protection/State_Care/parents_guide_to_foster_care.asp#letter
Perceptions

- “This is a VERY emotionally charged process for everyone involved and that is why I am very nervous for the Mediation but hopeful at the same time that at least concerns for the children can be voiced in the open and examined and there will be some communication even if there’s no apparent resolution.” Mary - foster parent

- Identify the barriers and challenges to engaging birth parents; Develop strength-based approaches to minimizing these barriers; Formulate motivational approaches to elicit the birth parents involvement; Identify the roles and tasks of birth parents in assisting their children in adjusting to and accepting kinship care; Facilitate the tasks and interactions between relative caregivers and birth parents in order to stabilize the placement or adoption. Dr. Joseph Crumbley

- It is about bridging the gaps.
Seating arrangements

- Kin/Foster Parents across the table or beside the parents?
- Beside them provides a message they are a team working together for the well-being of the child. However if the conflict is really high and there is any history of volatility/physical aggression this is not wise.
- Across the table can increase the sense of us vs. them.
- Circle positioning is good where possible.
- The Mediator can sit besides the parents.
Mediator’s Communication Style

- Tone – warm, welcoming with respectful and firm communication style
- Firm with regard to managing the process itself.
- Act curious to flush out information.
- Ask for requests and proposals so it is future focused.
- When you provide for one, you provide the same to the others (e.g. empathy)
These mediations can be very difficult with multi-parties, multi-issues and different goals.

Typically there are multiple layers of issues, trauma, conflict, health issues, financial issues, housing issues, extended family issues, support issues, cognitive issues, ADD, ADHD, LD's, personality disorders or physical impairments, etc.

You must be sensitive and cognizant of these and adjust as necessary or you will miss the mark – need additional training?

No jargon - if jargon is used by others have them explain its meaning.

Simple language.

Cultural respect

Eye contact with everyone
Opening Statements are Key to Success!

- Start with an introduction of the bio parents and then ensure every one is introduced. Roles of each person are to be explained if they are CAS workers or other professionals.

- Explain the Role of the Mediator and the Mediation (Example):

  “I welcome you all here today. Today is an opportunity to discuss matters that are important to all of you and especially the child. The goal of mediation is to reach an outcome that everyone can agree to. And, there are lots of other ways mediation can be helpful, for example, getting to speak about the child when you are all together so that communication is direct. When you come to agreement, I can write those agreements for you and send them to each person who is part of the mediation. That agreement is not binding in that it is not a legal agreement without lawyers assisting you to make it binding. When it is made binding you follow it like any other legal document.”
...We may need more than one meeting to complete this. For today we are booked to be here until ___. Everyone will be able to bring issues forward to be discussed as long as they are issues that can be mediated. (E.g. not meeting to discuss the CAS’s position on a child in need of protection).

My role is Neutral. I am not here to pick a side or tell you what to do. I will assist you with discussion of the issues, managing the process, moving forward, and writing the agreement.

I do not give legal advice.

I do not work directly for CAS.

Mediation is very effective in helping people resolve issues...

You can reach a full agreement or partial agreements can be helpful too.
...Everyone here is important to the child and the child’s wellbeing which is ultimately what all of this is about. You are all important to the outcome of the mediation.

This is an opportunity for you to work together towards resolving issues that impact the child and work towards meeting the needs of this child. You are all voluntarily here today to do so. If anyone at any time wishes to not participate, please inform me.

You each have a different role in the child’s life and will bring your own issues forward. You will also bring ideas to resolve issues.

This is not so much about the past issues. Mediation is about moving forward. So if you resort to speaking about the past in a manner that is bogging down the mediation, I will move you forward. It is about how you all do things in the future because of what you learned from the past. It is not about who is right and who is wrong...
…Your child is ____ of age and needs all of you to work together. (Pic of child on table).

Communication – since you are all important to this child, it is important that each person can speak without interruptions. We all need to be respectful of each other’s differences as well. Every one may have different ideas or views which enhances the communication about the child.

Does anyone have any other communication ideas to mention?

If at any time any of you need a break please just let me know and we can take a break…

*the mediator needs to cognizant of all safety issues and have them in place*

*Point out bathrooms, smoking rules etc.*
...This child will in some way appreciate everyone working together.

We will start by creating an agenda and simply go around the circle to see what items each person would like to add to the agenda to be discussed in mediation. Please hold off on comments until the agenda is done.

Let’s start with the parents... (then CAS, then....)"

- Frame all agenda items in future context.
- Place them where everyone can see them.
Managing the process

- “What are the safety issues from the CAS perspective?” In this way, CAS is clear from the beginning.

- Ask the worker “What is the CAS’s hope for this child and/or family?” and do the same for the others.

- Ask the parents which item is most crucial for them to discuss and then do the same with the others. (* you want to ensure you have time for those items).

- Don’t start with the hardest. Try to do one or two easier agreements first.

- Tell each party to put their item in terms of a “request/proposal” or “what do you want the outcome of this to be?” (*People often get bogged down in the past and do not make their request clear. It is the request to be discussed, not so much the past.*)
Managing Conflict

- Re-focus – “Is this helpful to the mediation?”
- Help to summarize the issues
- Break issue down into steps to be resolved
- Re-frame, acknowledge feelings and concerns, or “so let’s talk about what can be done about that issue?”
- Take breaks, stay positive
- Reinforce behavior expectations for mediation and ask what would help them cope right now
- Establish standards that will help prevent conflict from arising.
- Respect unique differences in people and help others learn to see things from differing points of view
People are most comfortable dealing with those they trust and naturally gravitate towards. At times you may need to have communication flow directly through you as mediator to decrease conflict. You then have an opportunity to reframe to help move things forward.

Each party represents a unique opportunity for growth, development and people intelligence. Ensure input is not undervalued in the process.

Conflict involves emotion that makes it more difficult to manage. Address the adversity when it first became apparent. Explore.

Have the self-awareness and wisdom to confront and diffuse the tension.

Anticipate the unexpected. Trust yourself enough to take action.
Resources

- Mary’s Blog
- Portrait of an Adoption by Gina Sampaio
- Letter from a Foster Family – anonymous
  https://www.dfps.state.tx.us/Child_Protection/State_Care/parents_guide_to_foster_care.asp#letter
- Behaving Badly in Mediation: Parental Rights Termination Case Study – Aquila “Q” Jordan
- Clinical Mediation: Preventing and Resolving Adoption Disputes – Part I & II by Madelyn Freundlich MSW, MPH, JD. Published in The American Adoption Congress Newsletter Fall 1998
- Kinship Services and Kinship Care – Family and Children Services St. Thomas and Elgin
- Child Protection Mediation: An Evaluation of Services Provided by Cook County Juvenile Court. Resolution Systems Institute. 2010
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