

RSI SPECIAL TOPICS

CHILD PROTECTION MEDIATION



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SPECIAL TOPIC

CHILD PROTECTION AND MEDIATION BACKGROUND

Child protection mediation is not like mediation in other contexts. And its makeup and goals change as a case moves through different phases, from intake through the permanent placement of the child. This Special Topic explains the context within which mediation operates, provides evidence-based guidance on program design and implementation, and summarizes the research on the effectiveness of child protection mediation.

CHILD PROTECTION IN THE UNITED STATES

Children are brought into the child protection system when there is reason to believe that abuse or neglect has occurred. Children are taken into custody when it is believed that they are in danger from their parent or guardian due to abuse or neglect. When this happens, finding children a safe and permanent home is the main goal of the system. This is traditionally done through a combination of court hearings and case management to ensure the provision of necessary services for the natural parent(s) and children, as well as to ensure visitation between them.

In its ideal form, the child protection system would engender a non-adversarial process in which child welfare agencies, attorneys, family members, and the court work in concert to establish a safe and permanent placement for children as quickly as possible, whether that placement is with their natural parent(s) or elsewhere, while also protecting the rights of the family. Nonetheless, those involved in the child protection system agree that it tends to be adversarial rather than cooperative, [with some noting that it must necessarily be adversarial because of its fact-finding mission](#). Within this mission, the professionals¹ have different roles to play that often [put them at odds with one another](#). Further, the system is not set up to deal with interpersonal conflicts among family members and between family members and caseworkers that can stall progress toward permanency for children. The adversarial context also makes it difficult for caseworkers charged with ensuring the welfare of the children to collaborate with attorneys for the state, children, and parents.

MEDIATION IN THE CHILD PROTECTION CONTEXT

It was due in part to the impact of such issues on children that the United States Department of Health and Human Services created the Court Improvement Program in 1993, which funded initiatives to enhance family preservation, assist in child abuse prevention, and to provide services to

¹ Professionals include the attorneys, caseworkers, therapists, and all others who work with the families within the child protection system.

at-risk families. This program was reauthorized as part of the [Adoption and Safe Families Act of 1997 \(ASFA\)](#).

ASFA outlines three primary outcomes that the child welfare system should achieve: safety for the children in care, a permanent home for children in care, and child and family well-being. The emphasis in these three outcomes is on maintaining the family structure while ensuring the safety of the children in a permanent home that is preferably with their natural family. The achievement of permanency for children in the state's care in the shortest possible time is a part of this emphasis. In the context of child protection cases, mediation is a non-adversarial process facilitated by a neutral mediator (or two mediators in a co-mediation model) who encourages communication between those involved in a case while also leveling the playing field so that all have a say in the outcome. Those in attendance are generally the natural parent(s), other family members most involved in the child's life, the attorney for the child and the caseworker in charge of services and supervision of visitation (if needed). In many programs, parents' attorneys also attend, as does the attorney for the government. In mediations occurring post-adjudication, foster parents also often attend. Each is given the opportunity to share their view on the case, as well as express any concerns about issues going forward.

Generally, mediation has been found to be successful when focused on identifying an appropriate temporary home for the children, setting up services for the parent(s) and children, and resolving visitation and relationship issues among those involved in the case. Proponents of the use of mediation for these cases have argued that the process benefits families and, by extension, children. Research suggests that [parents often deal with the pain of loss of custody of their children by withdrawing from them](#), which causes the children to feel rejected and vulnerable. The theory behind child protection mediation is that the [introduction of a neutral party balances the power of the participants](#) and changes the communication dynamic in the case. In doing so, mediation allows all those involved in the case, including the parents, to give their point of view on an equal basis.

Giving parents voice – allowing them to present their point of view, discuss their concerns, and feel that others are listening to them – [has been found to involve them more in the case](#), reducing their feelings of isolation and powerlessness while also increasing their understanding of their treatment plan and their willingness to follow it. It is argued that this, in turn, increases the probability of children returning home, as well as reduces the time it takes to reach permanency, although the evidence of this is inconsistent. It has also been found that [giving parents voice can increase the amount of information available to all involved in the case](#), thus allowing for better decisions to be made about the families' needs and the placement of the children.

Beyond voice and communication, [mediation has been shown to successfully reduce the level of conflict among those involved in the case](#), particularly between parents and foster parents and between family members and social service providers. It is used widely, as well, to provide a collaborative framework for all involved to problem-solve issues surrounding visitation, placement, children's services, and other areas. It also used to improve case management and overview. Because of these benefits, mediation has been put in place in courts around the United States as one way to abide by ASFA. Significantly, most [Model Courts](#) around the United States have a mediation program. In addition, the [National Council on Juvenile and Family Court Judges has identified mediation as a best practice](#).

Nevertheless, some have raised concerns about the use of mediation in these types of cases. The main concerns are that the safety of children can be compromised through mediation agreements. Another is that natural parents' rights can be violated through mediation agreements. This is of particular concern prior to adjudication and at the termination of parental rights stage. The fear of some is that parents waive their right to trial if mediation is done prior to adjudication and they have not had the opportunity to defend themselves against the charges of abuse or neglect. On the other end, the objections to the mediation of the termination of parental rights are two-fold: that since this is the most difficult stage of the case, agreement is not likely to occur, as well as a certain reluctance on the part of those involved in the system to have parents voluntarily give up their rights.

PROGRAM DESIGN & IMPLEMENTATION

A number of design elements need to be decided upon when developing a child protection mediation (CPM) program. These include:

- The goals of the program
- Timing of mediation
- Whether mediation is mandatory or voluntary
- Who should do intake
- How much time participants should be required to block off for mediation
- Who mediates the cases
- Mediator training
- Participant education and preparation

Each of these elements has its own set of issues that could impact the effectiveness and efficiency of a program, as will be discussed below.

GOALS

The following are common goals for CPM programs:

- Give parents voice
- Improve communication among professionals
- Help parents understand their situation and the issues
- Address relationship issues and conflict between parents and foster parents
- Develop service plans for children and parents
- Find temporary placement for the child
- Create or refine visitation schedule
- Increase parental compliance with case plan
- Reduce time to permanency (the time from petition to the child having a permanent home)

Generally, when a goal can be achieved within mediation, that goal is likely to be achieved. For example, there is ample evidence that mediation in this context gives parents voice and helps them to understand their situation and the points of view of the others at the table. Previous evaluations have also shown that mediation improves communication among the attorneys and social workers. When a goal relies on actions outside of mediation, the situation is a little murkier. Mediation's impact on parental compliance with the case plan is not well-established, although the majority of studies that examined this found compliance to be greater when parents mediate. Additionally, study results varied widely as to whether mediation has an impact on time to permanency.

What this means is that courts can count on many of their goals being met, but should not rely on it to reduce time to permanency.

TIMING

FACILITATION AT INTAKE

Mediation can be utilized at the initial shelter care hearing when the child is first removed from the home. At this stage, parents are often disoriented by the process, and often do not have clear information about what is happening to their child. Utilizing mediation at this stage, through what is called a facilitation session, can be useful for providing parents an update on their child as well as an overview of the legal process which is about to commence. Facilitations also provide a good opportunity for parents to exchange contact information with their case worker and open communication between them so that they can avoid miscues and delays to their case.

EARLY MEDIATION

Early mediation usually has been used to identify an appropriate temporary home for the children, and to set up services for the parents and children in the interest of expediting return home. It is also used to orient the parent to the child protection process, their responsibilities in the process and the roles of those who will be involved in their case. In some courts, it can include the wording of the petition. Prior to adjudication (at which it is determined whether the parent has abused or neglected the child), it can also include the merits of the case with an eye toward reaching an agreement on the facts of the case in order to avoid trial.

For early mediation, its exact timing should take into account other case activities that take place at that time to avoid overlap of information and tasks. For example, if a family team meeting is required at the beginning of a case, the mediation should not be held too soon thereafter. [Professionals in Washington, DC, said that they preferred mediation to take place ten to 14 days after the family team meeting.](#) This allows for enough time to have elapsed between the family team meeting and the mediation for services to have been put in place and children and parents to have gone through the required assessment so that a productive discussion can take place about next steps. They also wanted it to occur no later than 30 – 40 days after the initial hearing so that progress on the case doesn't lag.

POST-ADJUDICATION/PERMENANCY MEDIATION

Mediation between adjudication and the determination of permanent residence for the child focuses on treatment plans, visitation, compliance with both of the above, and conflicts arising between the natural parent(s) and the foster parent(s) or guardian, or the natural parent(s) and the caseworker. Mediating these issues can [overcome roadblocks to the progress of the case](#) by helping the parent(s) to understand what they need to do in order to effect reunification and by dealing with conflicts that can delay progress toward permanency. It also [serves to provide all those involved in the case with more effective exchange of information.](#)

The timing issue at this age is primarily not to wait too long to mediate. In courts without early mediation, [previous research](#) shows that this mediation is the first time parents have had the chance to have voice and to feel a sense of control over a process in which they were generally a spectator. Therefore, programs may want to encourage mediation early in the post-adjudication or permanency phase of the case.

TERMINATION OF PARENTAL RIGHTS MEDIATION

Mediation of issues surrounding termination of parental rights is undertaken in order to facilitate the children's transition to their permanent home by having parents agree to the terms of this transition. If parents agree in mediation to relinquish their rights, an adversarial hearing is not required. In addition to termination of parental rights, mediation at this time can also negotiate post-adoption contact between the natural parent(s) and the child in those states in which this is permitted. This serves to help the natural parents to feel more comfortable with the termination of their rights as well as to allow the children to maintain contact with their parents.

The outcomes of mediation of the issues surrounding termination of parental rights have been mixed. In studies of the mediation of termination of parental rights in [Hamilton County](#) and [Lucas County](#), Ohio, 40% and 60% of cases reached agreement, respectively. Of these, approximately one-third of parents in one study and three-quarters of parents in the other voluntarily relinquished their rights. In the other cases, the agency either agreed to permanent custody without termination of rights or agreed to give the parents another chance at reunification.

MANDATORY V. VOLUNTARY

In general, mediation is mandatory in programs in which referral is early or late in the case. Mediation is almost always voluntary during the post-adjudication and permanency phases. It is also voluntary in some program with early and late referral. Mandatory programs often have specific objectives for mediation, such as the development of a service plan or the avoidance of trial. Voluntary programs have more diffuse objectives, such as repairing relationships, getting parents back on track for reunification or improving communication.

Mandatory and voluntary mediation involve distinct benefits and drawbacks. Mandatory programs have the obvious benefit of high participation rates. For early programs, this means that most parents have the opportunity for voice, understanding and engagement in the case. If professionals are involved in mediation at this point, they have the opportunity to see the parents in a different setting than in court and to demonstrate that they are not the enemy. On the other hand, mandatory mediation requires significant resources. Further, if professionals are required to participate in mediation, the process can become burdensome to them. Courts electing to have mandatory programs with professional participation should determine how best to relieve this burden while maintaining the integrity and effectiveness of the mediation process. This will be discussed in greater detail under "[Time in Mediation](#)," below.

Voluntary programs tend to lead to mediation happening late in the case, even when mediation is encouraged throughout the life of the case. They also often have low participation rates. Courts electing to make mediation voluntary will need to do three things: 1) educate judges about which situations merit mediation; 2) educate professionals about the benefits of mediation how to identify when mediation could be beneficial; and 3) continually remind judges and professionals of the mediation program. Courts should also keep in mind that they will need to have ongoing education opportunities as lawyers and caseworkers move on and new ones join. The use of instructional videos and manuals will help to do this.

INTAKE

When a case is referred to mediation, the intake process begins. This includes getting information from the participants that will be needed for the mediation and providing initial information about mediation. This sounds like a simple process, but it can become time-consuming.

Intake can be done in person or via email. Generally, in-person intake is done by a program administrator or mediator directly after the hearing at which the parties have been ordered to mediation. Each person involved in the case is asked to complete an intake form that includes contact information and questions about the issues to be discussed and special circumstances. Parents are also given information about the mediation at this time.

Because everyone involved in the case is together when intake is done in person, it is easier to get the needed information about the issues involved, as well as special needs for the mediation, such as intimate partner violence screening, phone mediation or a translator. It is also much more efficient for scheduling the mediation, as the professionals can compare their calendars and come up with a time and date then and there, rather than through an email exchange.

When in-person intake is not possible, intake and scheduling are generally done via email, with participants submitting intake forms to the program and providing their availability for mediation. This can take a significant amount of time, delaying the mediation and causing program staff to spend much more time tracking down and responding to those involved.

TIME IN MEDIATION

Mediation takes time, particularly for the natural parents to understand what is being said and to have the opportunity to express themselves and discuss their concerns. Participants don't have time. Parents may need to get to work or to pick up their children from school. Professionals may need to be in court or to have time to work on their other cases. Time spent in mediation is especially important in mandatory programs in which the professionals are required to participate. In these programs, there is a lot of pressure on both the program and the mediators to limit the amount of time spent in mediation.

The decision as to how much time to set aside for mediation is therefore a balancing act. Programs commonly require participants to set aside at least two hours for mediation, including time spent waiting for all participants to arrive. Others require more. This time requirement is supported by two studies. Both found that two-thirds of the mediations took at least two hours. [In the Washington, DC, study](#), the time needed for mediation included wait time. [In the Cook County, Illinois, study](#), wait time was not included, which may mean that the mediation process took longer there than in DC.

If mediation requires two hours or more if it is to be effective, what can be done to respond to the needs of professionals who are required to participate? One possibility is to work to reduce the amount of time spent waiting for everyone to arrive. In [the Washington, DC study](#), wait time averaged 31 minutes. Because the cause of the delayed start was often parents arriving late, the program

decided to require parents and their attorneys to arrive 30 minutes before the scheduled mediation. This allowed the attorneys to talk with the parents before the mediation, and for the mediator to conduct a screening for intimate partner violence, if needed.

The other way to address this is to take steps to ensure that mediation is productive. In focus groups RSI conducted during an evaluation of the DC program, the professionals saw mediation as providing benefits to themselves when it worked well. This included being able to get more information about the parent(s), the children's status and the case so that they could make better decisions and address issues. When mediation was productive, they were less likely to be frustrated about the time they spent in mediation.

Making mediation productive includes timing the mediation so that there is something to talk about. (See ["Timing," above](#).) It also includes ensuring the mediators are well-trained, the professionals well-educated and the parents well-prepared. (See ["Maximizing Effectiveness of Mediation," below](#).)

WHO THE MEDIATORS ARE

You will have two key decisions to make regarding mediators. One is whether your mediators will be staff, contract or volunteer. The other is whether to use co-mediators or single mediators. Although staff mediators are used by some programs, most use either contract mediators or volunteers. Thus, contract and volunteer mediators are the types that will be discussed here. The considerations for both types of mediators are:

- Turnover, leading to new mediators coming in over time
- Possible limited opportunities to mediate throughout a given year
- Limited interaction among mediators

Turnover and limited opportunities to mediate call for regular trainings and continuing education opportunities. (See ["Training and Supporting Mediators," below](#), for more on this.) This indeed was what mediators told us during a focus group in Washington, DC. The contract mediators were required to complete continuing education in order to remain on the court's roster, which they appreciated, but they wanted more information about how to deal with particular issues that they regularly faced in mediation. The mediators in DC also wanted more interaction with other mediators to discuss how they handled their mediations, as well as an opportunity to debrief their mediations with program staff.

Due to the large number of people who often participate in CPM, many programs use a co-mediation model. This helps mediators to manage the discussion and maintain the flow of the mediation, thus reducing the amount of time mediation may take. Generally, there is a lead mediator whose role is to facilitate the discussion, while the second mediator takes notes and watches the expressions and body language of the participants to gauge their reactions and emotions. The second mediator may also jump in with a particular participant if the lead mediator is having difficulty with them. The mediators may also confer about how to move forward with a tricky mediation, and can debrief after the mediation ends.

In terms of maintaining the flow of the mediation, the mediators may caucus with different individuals at the same time, thus making the mediation more efficient. The mediators commonly also divide duties for the mediation, with one wrapping up the mediation while the other types up any agreement that has been reached during the mediation.

There is little research that compares the effectiveness of co-mediation to mediation by a single mediator. The one evaluation that looked at this (a [2005 evaluation of the Washington, DC, program](#)) found no difference in settlement rate.

RESOURCES

AFCC's [Child Protection Mediation \(CPM\) Model Mediator Competencies](#) provide a roadmap to create and deliver quality training with the goal of providing mediators with the knowledge, skills and abilities of effective CPM mediators. They can also be used to guide programs in mentoring and supervision of mediators.

MAXIMIZING EFFECTIVENESS OF MEDIATION

Effective mediation depends upon well-supported mediators, well-educated professionals, and well-prepared parents and family members.

TRAINING AND SUPPORTING MEDIATORS

As discussed above, mediators need to be well trained and to have ongoing education. They also should be assessed regularly.

Training

No matter who you recruit to mediate your cases, you will need to train them. CPM programs are relatively uncommon, and it is unlikely that even seasoned mediators in your jurisdiction will have had experience mediating these cases.

CPM training should orient mediators to the child protection court process, including the particular contours of your jurisdiction. While a CPM mediator can look to the professionals in the room as the subject matter experts (and should in fact not be answering questions related to the court process – that could be seen as providing legal advice to parties), they should understand generally the context in which these parties are mediating their disputes. Additionally, if you are employing a co-mediation model, you will want to orient the mediators to that process, as many mediators do not have experience co-mediating.

CPM cases can be emotionally fraught and difficult to manage given the number of individuals in the room. For these reasons, we recommend using experienced mediators and/or those with strong familiarity with the child protection context. Additionally, while many mediators have backgrounds as attorneys, we strongly encourage you to consider drawing on a mediator pool of individuals with experience in social work, family therapy or child welfare. We believe these experiences provide many intangible skills and perspectives that will benefit your program.

The Association of Family and Conciliation Courts has published [a guide on mediator competencies for child protection cases.](#)

Continuing Education

Beyond an initial training, providing continuing education to your mediators is critical to the success of a program. This is particularly true if your mediators are volunteers or contractors. These mediators may mediate infrequently, depending on the number of cases referred to mediation and the mediators' availability; continuing education will refresh them on necessary skills on a regular basis. Additionally, there are certain topics, such as intimate partner violence and cultural competency, that merit further exploration beyond what is practicable under the constraints of an initial training. Having continuing education sessions several times a year also furnishes a good opportunity for your mediators to build rapport with one another and develop a learning community. This community is particularly beneficial for co-mediators as it will help develop rapport between those who will be co-mediating in the future. In addition, a strong learning community allows for a more robust and meaningful peer-review process, establishing a forum to address common issues and challenges faced by mediators.

Mediator Assessment

Instituting a system of peer review allows mediators to learn from each other and candidly reflect on one another's approaches and techniques. Additionally, review from a peer rather than court personnel can make the mediator more comfortable and more receptive to feedback. You will want to create a process that allows you to correct any urgent "red flag" behavior, while still being flexible enough to accommodate different approaches to mediation. For further guidance, please see [RSI's Model Tools for Peer Review.](#)

EDUCATING PROFESSIONALS

Effective mediation requires that professionals productively participate and cooperate with the mediator(s). This requires that they be educated on the purpose and benefits of mediation, the role of the mediator(s) and their role in the process. Regular continuing education should be offered, with Continuing Legal Education and Continuing Education Unit credit provided for attorneys and social workers, respectively, to encourage them to attend. Program administrators should actively seek out opportunities to speak with caseworkers and attorneys in a variety of forums, including regional child welfare meetings, related bar association functions and other professional gatherings.

PREPARING PARENTS

Parents must be prepared for mediation in order for them to participate fully. Some programs will do this via phone call not long before the scheduled mediation, preferably the night before. This preparation reminds the parents of their mediation and provides the program control over what the parent learns about what to expect in mediation and how they should take advantage of their opportunity to mediate.

If the program relies on the parents' attorneys to prepare them, the attorneys control what is said to the parents about mediation. This may not be the best message for an effective mediation. This was observed by one evaluator, who witnessed parents' attorneys telling parents not to worry, that the mediation would be short and they would be out of the room soon. The evaluator believed this left

the parents with the sense that mediation was just a hurdle to overcome, rather than their opportunity for voice and understanding.

For more information, see the Association of Family and Conciliation Court's [Guidelines for Child Protection Mediation](#).

CHILD PROTECTION MEDIATION STUDIES

Studies of child protection mediation (CPM) programs have found that most of the benefits touted by proponents of mediation for these cases are real. Further, common concerns that mediation could result in agreements that harm the children or impinge on the parents' rights have proven to be unfounded. Study results show that programs have high rates of settlement, thus reducing the number of contested hearings; have lowered costs to the courts; have reduced time to permanency; have increased parental participation and voice; and have increased collaboration and problem-solving among professionals and parents. At the same time, the studies have found that participants believe the process safeguards the children and the rights of parents.

SETTLEMENT

Almost all studies of CPM programs have found settlement rates to be high, no matter at what stage the case is mediated. A [2001 Michigan study](#) of programs in which mediation occurred at every stage in the case found that mediation resulted in agreement in more than 75% of cases over a three-year period. [A study of an early mediation program in Washington, DC](#), had similarly high agreement rates: 93% were resolved to some extent. In [a study of five programs in the California courts](#) in which mediation occurred at every stage of the case, each site attained agreements on at least some issues in more than 90% of cases, with full agreements in 60-80% of cases. This led to lower numbers of hearings for mediated cases: 88% of mediated cases did not require a contested 6-month review hearing, compared to 53% of control. A [2019 study in Michigan](#) found that 70% of mediations reached agreement (63% full agreement). [A cross-site comparison of 2,070 cases in ten jurisdictions across three states](#) found that settlements rates averaged between 70% and 90%.

Those studies that compared settlement rates among different issues point to services and visitation being the most likely to settle. [In New Mexico](#), services for the child were fully or partly settled in 93% of mediations in which they were discussed. This was followed by services for the parents (78%) and visitation (68%). At the other end were termination of parental rights (30%) and permanency (21%). Similarly, [RSI's evaluation of the CPM program in Cook County, Illinois](#), found that services were the most likely to reach agreement (83%), followed by communication (79%) and visitation (77%). Permanency was least likely to be settled in mediation (46%). However, as mentioned above, in the two Ohio programs that mediate termination of parental rights, resolution rates were higher than New Mexico, at 40% and 60%. In the [one study that looked at resolution of the legal issues involved](#), RSI found a resolution rate of 44% in 2013-2014. However, the resolution rate had dropped to 25% in 2017.

A few studies looked at the effect of particular case characteristics on resolution. A [study of a program in San Francisco](#), in which mediation can take place throughout the life of a case, found that no case characteristics were linked to whether the case settled or not. The same was found [in a study of mediation in Colorado](#). However, [a study of termination of parental rights mediation in Hamilton County, Ohio](#), found that cases involving physical abuse were more likely to settle.

TIME TO PERMANENCY

There is no clear evidence that mediation reduces time to permanency. Some studies have found mediation reduces time to permanency, while others have found it has no effect or even increases it. Two studies found mediation reduced time to permanency. [In a study of a program mediating termination of parental rights in Ohio](#), permanency was found to be achieved earlier when the case was mediated, even if mediation did not lead to agreement. Mediated cases that settled took 2.2 months to move from permanent custody filing to entry of agreement. Mediated cases that did not settle or in which the parent failed to appear took 3.7 months. Cases that were not mediated took 4.6 months. [In the 2019 Michigan study](#), which examined programs in which mediation generally occurred early in the case, counties that had mediation programs were found to have shorter times to permanency than those that didn't, at 559 days and 619 days, respectively. However, it is not clear that mediation was the causal factor for that difference.

Two studies found no significant difference between mediated and non-mediated cases. These were [RSI's 2018 evaluation of the Washington, DC, early mediation program](#) and [a study of CPM in Texas](#). In [New Mexico](#), mediation was found to have a negative effect on time to permanency: mediated child protection cases took 23 months to reach permanency compared to 18 months for cases that weren't mediated.

COMPLIANCE

The theory that CPM will lead to greater rates of compliance with treatment plans has been less often studied than other factors. Nevertheless, all but one of the studies that have looked at it have shown a positive impact, indicating that CPM may well encourage parents to comply with treatment plans. [In the study of three mediation programs](#) (in Hartford, Connecticut; Los Angeles; and Orange County, California), it was found that participation in mediation led to greater commitment to the agreement. [In the study of five programs in California](#), mediated cases showed better compliance with treatment plans than those that did not mediate: at six months post-disposition 42% of mediated cases had complete compliance, as compared to 25% of non-mediated cases. A 2001 [study of seven programs in Michigan](#), found there was full compliance 60-90 days after agreement in 73% of mediated cases. [In a program in San Francisco](#), cases settled in mediation were less likely to return to court with a contested review hearing 12-24 months following the disposition hearing (11% v 28%). [RSI's evaluation](#) of Washington, DC's, early mediation program found that CPM likely led to parents' greater compliance with the case plan. [In New Mexico](#), however, a study found that mediation did not have had impact on parental compliance.

COST SAVINGS

Reduced time to permanency, reduced number of hearings, and greater compliance all point to savings of court costs. Those few studies that have looked empirically at the impact of mediation on court costs have indeed found the costs to be reduced. [In a child protection mediation program in Colorado](#), the court's costs were reduced by \$637 per case, whether mediation resulted in settlement or not. [In the San Francisco program](#), savings from mediation were estimated to be about \$2,505 per case settled in mediation. [In Hamilton County, Ohio](#), cost savings for settling cases through mediation were estimated to be as much as 39%.

PARTICIPANT EXPERIENCE

Parents and professionals have consistently rated their experience in mediation highly. This includes feelings of voice, understanding, fairness and overall satisfaction.

VOICE

One of the main benefits of mediation is that it provides parents with voice. This is seen in every study in which voice was evaluated. All six studies (in [California](#), [Illinois](#), [Nevada](#), [New Mexico](#) and both the [2005](#) and [2018](#) Washington, DC studies) that asked about voice found that about 9 in 10 parents felt they had a chance to talk about what was important to them. A similar percentage of professionals felt the same.

UNDERSTANDING

Two studies looked at whether parents gained understanding through mediation. [In the 2019 Michigan study](#), the average of parents' responses about whether they gained understanding of the issues was 4.44 on 1-5 scale. [In the 2018 Washington, DC study](#), 9 in 10 parents said they better understood others' points of view and what to do next.

FAIRNESS

Five studies asked parents whether they thought the mediation process was fair. These included studies in [Michigan \(2001\)](#), [Nevada](#), [New Mexico](#), [Texas](#) and [Washington, DC, \(2018\)](#). Percentages of parents who said the process was fair ranged from 76% to 100%. Only New Mexico asked the professionals this question. It found that 92% of them thought the process was fair.

[The 2019 Michigan study](#) asked about the fairness of the outcome. It found that mothers were more likely to say the result was fair than fathers were, at 77% v 64%. Professionals were also asked whether the outcome was fair. Their responses ranged from 71% for fathers' attorneys, 79% for mothers' attorneys and 86% for prosecuting attorneys.

SATISFACTION

Seven studies ([Illinois](#); [Michigan \(2019\)](#); [Nevada](#); [New Mexico](#); [Hamilton County](#) and [Lucas County, Ohio](#); and [Washington, DC, \(2018\)](#)) asked parents whether they were satisfied with the mediation process or how their case was handled. These all found high rates of satisfaction,

from 78% to 90%. According to four of these studies, which surveyed professionals as well as parents, professionals also were satisfied, with their rates of satisfaction ranging from 80% to 98%.

Two of the studies, which looked at mediation of issues surrounding termination of parental rights in Ohio, found that parents' satisfaction was correlated with whether they reached agreement in mediation. In Hamilton County, 89% of parents who settled and 57% of parents who did not (69.6% overall) said that mediation was better than court. In a similar program in Lucas County, 87% of parents who settled and 40% of those who did not (68% overall) said mediation was better than going to court.

SAFETY OF CHILDREN

The concern that mediation would not properly safeguard the children was examined in three studies. [The 2005 Washington, DC, study](#) randomly assigned cases to mediation or to be handled through the traditional hearing process. It found that mediation, in fact, decreased the probability of future allegations of abuse or neglect over the two-year period following case closure. Seven percent of mediated cases returned to court with an additional petition, while 21% of cases that were not mediated returned to court after case closure.

[The 2019 Michigan study](#) found that the court fully accepted 73% of the agreements reached in mediation. [In the study of the Cook County, Illinois, program](#), all interviewed judges said they had never rejected an agreement because they believed it was not in the best interests of the child.

PERMANENCY OUTCOMES

Three studies compared permanency outcomes of mediated and non-mediated cases. Some have been concerned that what was said in mediation could be used later in the case to permanently remove children from their parents' home. The studies indicate that this has not happened. [The 2005 Washington, DC, study](#) found that 46% of mediated and 42% of non-mediated cases resulted in reunification. This demonstrates that mediation does not reduce, and may increase, the probability of reunification. [Another study of a program in San Francisco](#) found that placement outcomes were no different whether they were mediated or litigated. [The study in New Mexico](#), on the other hand, found that when mediation occurred, children were more likely to be reunified with their biological parents.