

**Dependency
Mediation: Benefits,
Outcomes and Cost
Savings**

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GOAL

Understand why
dependency mediation
should be a core function
of the court



**Just A Few Of The
Benefits...**

- Full or partial agreement
- Focus on specific needs
- Opportunity to be heard
- Cost effective
- Parental compliance



Why?

California Welfare & Institutions Code
350(a)(2)

California Rule of Court 5.518

Blue Ribbon Commission



W & I Section 350(a)(2)

Each juvenile court is encouraged to develop a dependency mediation program to provide a problem-solving forum for all interested persons to develop a plan in the best interests of the child, emphasizing family preservation and strengthening.



Recent Appellate Case

In re Mickel O., (2011) 197 Cal. App.
4th 586 (18-19) (concurring)

Encourage Legislature and Superior
Court to support mediation

Mediation could have saved court
time, resources and relieved stress
suffered by family



WHEN TO MEDIATE?

- Any/all issues in child protection cases can be mediated.
- Some courts choose to use mediation exclusively when dismissing dependency.



TERMINATION

- "When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent of the juvenile court, the juvenile court on its own motion may issue a protective order as provided for in section 213.5 ...and an order determining the custody of, or visitation with the child." (W & I section 362.4)



JUVENILE COURT CUSTODY ORDERS

- Some call these "Exit Orders".
- They are formally called juvenile court custody orders.



JUVENILE COURT CUSTODY ORDERS

- They are filed in the Superior court in any pending matter involving the parents or in a newly created file (at no cost to the parents).



HOW JUVENILE COURT ORDERS ARE UNIQUE

- Juvenile court custody orders are different from any other type of order.
- The most important case explaining the differences is *In re Chantel S.* (1996) 13 Cal.4th 196.




JUVENILE COURT CAN FAMILY COURT CAN NOT

- The California Supreme Court held that a juvenile court can make orders that a family court judge cannot.



ORDERS FOR COUNSELING


- The juvenile court can order a parent to participate in counseling until the therapist concludes that the parent is no longer a danger to the child.
- A family court judge cannot make this kind of order. Family Code section 3190.



CHALLENGES


However, as important as these orders are, there are many problems.

1. The family court judge may not know about the order.
2. The family court judge may not understand the reasons the family was in juvenile dependency court.



CHALLENGES

3. Most frequently, the order so brief that the family court judge has no guidance about many issues that the family may be struggling with.



EXAMPLE OF TYPICAL ORDER

"Physical custody to mother;
reasonable visitation for
father"

What problems do you see?



STARTING FROM SCRATCH

- After dismissal, as soon as the parents disagree about a custody or visitation issue, they will be in front of a family court judge.
- And the family court judge will have to start all over.



INEFFECTIVE USE OF RESOURCES

This is a terrible waste of superior court resources and it is an invitation for families to continue to use the courts for custody battles.



MEDIATION TO PRODUCE MORE EFFECTIVE ORDERS

The better answer is to have the parties (and their attorneys) participate in child protection mediation before the case is dismissed in juvenile court.



AGREEMENTS FOCUSED ON UNIQUE NEEDS

1. The parties are anxious to leave juvenile court.
2. Often, they are cooperative with each other at this point.
3. The juvenile court mediation process will produce a comprehensive agreement, touching all of the issues that might arise after dismissal.



UTILIZE EXISTING RESOURCES

- A strategy to consider involves the family court judges.
- They should support your request to have family court mediators provide mediation services for juvenile court custody orders.



