

ATTACHMENT 5
JUVENILE DEPENDENCY COURT MEDIATION
CORE CURRICULUM OUTLINE

SECTION 1: MULTI-PARTY MEDIATION SKILLS

Topics	<i>Initial Training</i> Professionals new to dependency mediation	<i>Continuing Education</i> In-depth, ongoing training for practicing mediators
A. Purpose & Goals of Juvenile Dependency Mediation	<ul style="list-style-type: none"> • Brief historical context of dependency mediation in California. <p>DEFINITIONS:</p> <ul style="list-style-type: none"> • Understand definition of <u>mediation, generally</u>. • Understand definition of <u>“dependency mediation.”</u> <ul style="list-style-type: none"> ○ Include state codes/rules and compare nationally. • Compare and contrast definitions • Scope of mediation varies with context: what the issue is, who is involved, when the mediation takes place. But there are core functions of mediation: Confidentiality, Neutrality, and skills in controlling the process and agreement writing. <p>CONFIDENTIALITY:</p> <ul style="list-style-type: none"> • Common definition of “confidentiality.” • Confidentiality in the context of dependency mediation <ul style="list-style-type: none"> ○ Purpose of confidentiality in mediation ○ Who keeps what matters confidential ○ Limitations (on mediator, parties, others involved) ○ Confidentiality, evidence, and the law ○ Confidentiality and conversations outside mediation process (legal issues and good faith efforts) ○ Limitations to confidentiality in civil actions, pending 	<ul style="list-style-type: none"> • Advanced concepts in neutrality and confidentiality <ul style="list-style-type: none"> ○ Maintaining neutrality with ongoing professional relationships. ○ Judicial interactions with mediators. ○ Neutrality/confidentiality and individual contact with some, not all of participants before mediation • Other: <ul style="list-style-type: none"> ○ Mediation practice and impasse ○ Mediation process and participant capacity issues ○ Mediation process and decision-making authority, elsewhere • Mediation process and professional scheduling conflicts • Preventing burn-out for dependency mediators • Distinguishing dependency mediation from other forms of group decision making. <ul style="list-style-type: none"> ○ Handling competing models.

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	<p>criminal actions, and delinquency actions.</p> <ul style="list-style-type: none"> ○ Can parties agree that the entire mediation (or a certain matter) is non-confidential? ○ Confidentiality and Written Agreements ○ Exceptions to Confidentiality: <ul style="list-style-type: none"> ▪ <i>Tarasoff</i>, danger to self, others ▪ Mandated reporters ▪ Evidence Code 1151, specifically exempting mandated reporters from obligation to report <p>NEUTRALITY:</p> <ul style="list-style-type: none"> ● Common definition of “neutrality.” ● Neutrality in the context of dependency mediation. Essential elements: <ul style="list-style-type: none"> ○ Mediator as impartial facilitator, not decision-maker ○ Controlling the process, not the outcome ● Neutrality in context of process. Demonstration of neutrality through: <ul style="list-style-type: none"> ○ Verbal Communication: greetings, questions, language choice ○ Physical Communication: greeting, body language ○ Spatial Communication: entrance, room layout, seating arrangement ● Neutrality and agreement writing ● Perceived bias and how to respond (CROC) ● Neutrality and organizing a dependency mediation session. <ul style="list-style-type: none"> ○ Maintaining neutrality and confidentiality while gathering 	

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	<p>information on the context of the legal proceeding.</p> <ul style="list-style-type: none"> ○ Providing professionals an opportunity to discuss context of mediation ○ Providing parents, child with opportunity to clarify process, expectations, etc ○ Impact of these pre-mediation meetings on the impartial role of the mediator. <ul style="list-style-type: none"> ● Creating a safe, neutral, & confidential space. <ul style="list-style-type: none"> ○ Assessing the safety and best interest of the child ○ How participants arrive at, enter, and are introduced to the mediation session. ○ Preparing for safe participation where domestic violence allegations/issues are involved 	
<p>B. Participants in Dependency Mediation: Roles & Participation</p> <p>(parents, family members, children, attorneys, guardian ad litem, caregivers, child welfare staff, court appointed special advocates/CASAs, mediators, law enforcement, the court, and other involved professionals and interested participants)</p>	<ul style="list-style-type: none"> ● Different levels of participation for each role. ● Each participant’s role in legal process vs. role in mediation. <ul style="list-style-type: none"> ○ Institutional limitations on participants: limitations on autonomy of social workers and county counsel. ● Different roles of participants during different points of the case. ● Mediation Process Orientation for parties and each participant <ul style="list-style-type: none"> ○ Explicit expectations ○ Assessing and recognizing the parties expectations ● Multi-Party Dynamics <ul style="list-style-type: none"> ○ Managing participation and shifting power dynamics ○ How to validate without giving participants control ○ When to let exchanges play out and when/how to intervene when emotions arise 	<ul style="list-style-type: none"> ● Decision makers who are not at the table. ● Identify possible alignments among professionals <ul style="list-style-type: none"> ○ Assess and recognize the effect of professional relationships on mediation. ○ Cross-professional communication – culture of attorneys and culture of social workers. ● Mediating different values among participants (birth parents, caregivers, etc)

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	<ul style="list-style-type: none"> • Family Dynamics <ul style="list-style-type: none"> ○ Understanding family dynamics in a dependency context ○ Identifying and mediating alignments within a family ○ Domestic violence and the impact on families, participation, and power dynamics. ○ Understanding child development ○ Cross cultural family dynamics and communication • Mental health issues, competencies, and the impact on participation in mediation. • Drug and alcohol abuse and the impact on participation in mediation. • Translated mediation sessions <ul style="list-style-type: none"> ○ Using a translator and his/her impact on mediation ○ The impact of being a multi-lingual mediator • Understanding stereotypes of families in the child welfare system. Recognizing personal biases. 	
C. Child Involvement in the Mediation Process	<ul style="list-style-type: none"> • Purpose of meeting with the child. Benefits and possible drawbacks. • Statutes on participation of children in mediation. • Child development and participation in mediation • Conflicting opinions regarding child’s participation. • Different models for including the child in the mediation process. • Identify the gatekeeper for the child • Informing the child about the mediation process and guidelines. • Assessing the child’s desire to participate in the process • Sibling groups. When to meet together or separately. 	<ul style="list-style-type: none"> • Research topics on the participation of children in mediation and the court process, including the effect on outcomes for children. • Changes and updates on child development.

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	<ul style="list-style-type: none"> • Inclusion of parents (or others) in mediation with child participation • Cross-cultural influences on child participation, communication, expectations from family. • Identifying a child’s “support person”: attorney, CASA, family friend, foster parent, etc. <ul style="list-style-type: none"> ○ Inclusion of a support person in mediation with child ○ Confidentiality • The child’s relationship to all participants and the effect on the mediation process • Child’s decision not to participate <ul style="list-style-type: none"> ○ Including the child’s points of view when the child is not participating in mediation • 	
<p>D. Caucusing</p>	<ul style="list-style-type: none"> • Definition(s) of Caucusing: mediator meeting separately with one or more participants during mediation. • Understand the goals of caucusing <ul style="list-style-type: none"> ○ Allow a party to clarify situation ○ Allow a party to speak more frankly about concern ○ Explore problem solving options ○ Clarify expectations ○ Allow party to figure out <i>how</i> to talk about a matter they want to bring up ○ Allow mediator to explore ways to help party get unstuck • When to caucus • Caucusing and maintaining confidentiality • Caucusing and maintaining impartiality 	<ul style="list-style-type: none"> • Different models of caucusing

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	<ul style="list-style-type: none"> • Re-convening joint meeting and how to resume conversation, what to say about separate meeting • Domestic violence and the use of caucusing • Caucusing at different stages of the dependency process 	
E. Collaborative Resolution Methods	<ul style="list-style-type: none"> • The scope of information necessary to develop a plan • Identifying the needs and best interest of the child from the perspective of each collaborative partner. <ul style="list-style-type: none"> • Cultural dynamics. Knowing when you need an expert. • Identifying the individuals necessary to develop the plan and/or make the decisions. • The roles and limitations of each participant in developing the plan. <ul style="list-style-type: none"> • The impact of domestic violence. Creating collaborative resolutions in the context of power imbalances. • The impact of mental health issues • The impact of drug and alcohol abuse • The impact of grief and loss (trauma) on developing a plan. • How to inquire if a parent can realistically carry out the case plan (logistically) while still putting best practices on the table?? • Identifying available resources to address the needs • Accessing culturally appropriate community resources. 	<ul style="list-style-type: none"> • Building and understanding collaborative relationships • Defining roles and responsibilities within collaborative partnerships • Maintaining collaborative focus toward the best interest of the children throughout plan development. • How to empower parties to take an active role among agency participants • Advanced facilitation techniques to create positive interaction among parties with differing agendas •
F. Using Co-Mediation <small>Note: The use of Co-mediation in dependency cases varies among programs.</small>	<ul style="list-style-type: none"> • Definition(s) of co-mediation • Models of co-mediation • Issues that lend themselves to co-mediation <ul style="list-style-type: none"> ○ Criteria for mediation. Appropriate cases for using co-mediation if you have limited resources to use it. 	<ul style="list-style-type: none"> • Adapting various mediation models within the framework of co-mediation • Modeling positive interactions and communication between mediators with different styles • Co-mediator preparation

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	<ul style="list-style-type: none"> • <u>Benefits</u> of co-mediation- for programs, parties, mediators • <u>Challenges</u> of co-mediation- for programs, parties, mediators • Sharing the workload from start to finish – reviewing records, inside mediation, follow up • Playing different “roles” in mediation • Co-mediation and reducing bias. Co-mediation and gender balances. • Caucusing 	<ul style="list-style-type: none"> • Advanced strategies for co-mediation • Co-mediation and correcting power imbalances • Co-mediating in “hostile” situations • Research on Co-Mediation
<p>G. Stopping a Mediation... 5.518(j)(12)</p>	<ul style="list-style-type: none"> • Reasons for terminating a mediation <ul style="list-style-type: none"> ○ Assessing physical and emotional safety issues (for participants and the mediator) ○ Drug and alcohol abuse ○ Mental health issues ○ Reaching an impasse ○ Participants abusing the mediation process ○ Handling termination when a party decides to stop a session • Considerations when terminating a session <ul style="list-style-type: none"> ○ The participation of all parties ○ The issues that have been brought forth and discussed/negotiated ○ The safety of participants. Understand domestic violence issues in the context of terminating a session. • Agree on future meeting date/s if necessary 	<ul style="list-style-type: none"> • Advanced facilitation techniques • Advanced techniques in terminating a session without a resolution.

SECTION 2.1: JUVENILE DEPENDENCY LAW

Topics	<i>Initial Training</i> Professionals new to dependency mediation	<i>Continuing Education</i> In-depth, ongoing training for practicing mediators
A. Juvenile Dependency Mediation Laws & Codes	<ul style="list-style-type: none"> • Understand laws that apply to dependency mediation <ul style="list-style-type: none"> ○ Welfare and Institutions Code 350 ○ Mandated Reporting Statutes <ul style="list-style-type: none"> ▪ Mandated reporting in the mediation context ▪ Professional conflict of interest for therapists ○ Evidence Code <ul style="list-style-type: none"> ▪ Specific to confidentiality ○ Rules of court <ul style="list-style-type: none"> ▪ Rule 5.518 on dependency mediation. History and content. ○ Local court rules ○ Ethics/Standards of Conduct for Mediators <ul style="list-style-type: none"> ▪ Code of ethics for mediators ▪ Awareness of personal biases ▪ Confidentiality and statute requirements ▪ Neutrality ▪ Child’s rights to participate. Expectations for child participation. ▪ Conflicts of interest ▪ Ethics and Standards of conduct for licensed therapists and attorneys ▪ Standards for reaching an agreement. Awareness of issues of fraud, duress, illegality, bargaining ability, unconscionability. ▪ Stopping a session (CROC 5.518(j)(12)) 	<ul style="list-style-type: none"> • Variance of local rules of court for mediation programs throughout the state. • Annual Legal Updates
B. Dependency Rules &	<ul style="list-style-type: none"> • • Welfare & Institutions Codes (WIC) 	<ul style="list-style-type: none"> • • Annual updates & Current issues

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Codes	<ul style="list-style-type: none"> • WIC procedures • Juvenile rules of court • Juvenile code • Timelines • Time limits • Special conditions and exceptions • The “language” of dependency law (glossary) 	
C. Spectrum of Rights & Participation in Dependency Cases	<ul style="list-style-type: none"> • <u>Child’s</u> rights & participation in dependency cases. <ul style="list-style-type: none"> ○ Child’s legal rights to participate in mediation sessions. Also see Mediation Curriculum 1-C. • <u>Parents’</u> rights & participation in dependency cases. <ul style="list-style-type: none"> ○ Parents’ rights and participation in mediation sessions. • <u>Siblings’</u> rights & participation in dependency cases. <ul style="list-style-type: none"> ○ Sibling visitation requirements ○ Sibling rights & participation in mediation sessions. • <u>Caregivers’</u> rights & participation in dependency cases <ul style="list-style-type: none"> ○ Caregiver rights & participation in mediation sessions. • <u>Tribes’</u> rights & participation in dependency cases <ul style="list-style-type: none"> ○ Tribes’ rights & participation in mediation sessions. 	<ul style="list-style-type: none"> • Child’s rights beyond the court process, including health and education. <ul style="list-style-type: none"> ○ Independent Living Skills Programs ○ Educational Surrogates ○ IEPs (Individualized Education Plans) • Legal updates
D. Concurrent/ Parallel Planning	<ul style="list-style-type: none"> • Family Reunification <ul style="list-style-type: none"> ○ Time frames for Family Reunification ○ Expectations of parents in Family Reunification ○ Expectations of Child Welfare in Family Reunification • Permanency Planning 	

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	<ul style="list-style-type: none"> ○ Range of permanency plans & preferences ○ Legal differences among different permanency plans ○ Effect of different permanency plans on future contact between child(ren) and family members ○ Post adoption process and contact agreements ● The shift from Family Reunification to the Permanent Plan <ul style="list-style-type: none"> ○ Understand when the focus changes from Family Reunification to the Permanent Plan ○ How to shift the focus to the Permanent Plan 	
E. Exiting the Dependency System	<ul style="list-style-type: none"> ● Possible and Probable Outcomes ● Exiting Process 	<ul style="list-style-type: none"> ● Understanding the Family Code <ul style="list-style-type: none"> ○ Exit order mediation and relation to Family Court ○ Visitation and custody orders
F. Intersections with Mediation Practice	<ul style="list-style-type: none"> ● Understand mediators’ role in the dependency court system. (More specific). Variations among different counties. ● Mediation at different stages of a dependency case <ul style="list-style-type: none"> ○ Referral process for mediation. Variations among different counties. ○ The changing role and challenges of mediation at different stages. ● Mandated reporting and the confidential mediation process ● Access and possible range of court reports and records <ul style="list-style-type: none"> ○ Reviewing court files ○ Information sharing <ul style="list-style-type: none"> ▪ 827 Review: Mediator’s status and access. ▪ Types of records useful to mediation and how to read them. 	<ul style="list-style-type: none"> ● Variance of court report access and protocols among mediation programs throughout the state. ●

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	<ul style="list-style-type: none"> ▪ Information available from other professionals and how to get it. ▪ Sharing information with others. Limitations and allowances. <ul style="list-style-type: none"> ○ Competing orders ○ Checklist of orders mediators should review before session. • Agreement writing <ul style="list-style-type: none"> ○ Acceptable language/writing for the court while also capturing the parties/parents needs; writing in a way that the parties feel well represented. 	
G. Intersections with Other Laws	<ul style="list-style-type: none"> • Domestic Violence Law <ul style="list-style-type: none"> ○ Protocols ○ Safety Mandates ○ DV differential Assessment ○ Restraining orders and the mediation process • Family Law • Delinquency Law • Immigration Law • Indian Child Welfare Act (ICWA) 	<ul style="list-style-type: none"> • Intergenerational violence and mediation

SECTION 2.2: CHILD WELFARE SYSTEM

Topics	<i>Initial Training</i> Professionals new to dependency mediation	<i>Continuing Education</i> In-depth, ongoing training for practicing mediators
A. Child Welfare Procedure	<ul style="list-style-type: none"> • Time lines and time limits in the Child Welfare System – from first call to case closure. • How social workers conduct risk assessments • Social workers’ responsibilities and actions before the initial hearing. • Child Welfare Perspectives (culture, workers, stories?) • History of Child Welfare procedure and its effect on generational issues/expectations. 	<ul style="list-style-type: none"> • Understand the Team Decision Making process and other concurrent perspectives in collaborative decision making. Understand how they overlap and how they are different • Social workers’ involvement with mediators
B. Child Welfare Mandates	<ul style="list-style-type: none"> • Child Welfare mandates <ul style="list-style-type: none"> ○ Division 31 manual ○ Interstate Compact on the Placement of Children (ICPC) 	
C. Placement Types and Preferences	<ul style="list-style-type: none"> • Different types/levels of placement • Statutes of preferential placement • Overview of foster family agencies • Caregivers and their role in reunification. Implications for mediation practice. 	<ul style="list-style-type: none"> • Family dynamics for different types of caregivers and how this may affect mediation. •
D. Concurrent/ Parallel Planning	<ul style="list-style-type: none"> • Understanding Concurrent Planning. What, Why, How? • Family Reunification <ul style="list-style-type: none"> ○ Roles and Responsibilities of Child Welfare in family reunification • Permanency Planning <ul style="list-style-type: none"> ○ Range of permanency plans & preferences ○ Roles & Responsibilities of Child Welfare in permanency planning • Effect of concurrent planning on reunification efforts • Effect of concurrent planning on caregivers 	<ul style="list-style-type: none"> • Roles and responsibilities in developing educational plans. <ul style="list-style-type: none"> ○ Planning educational transitions. ○ Understanding Educational Surrogacy and IEPs ○ Including educators/school administrators ○ Introducing parents and youth to educational service providers.

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[END OF ATTACHMENT 5]