



NEW YORK  
STATE



## Child Welfare

Unified Court System . Office for Justice Initiatives  
Child Welfare Court Improvement Project

## Court Improvement Project

# Child Permanency Mediation Program

### Mission of the Child Welfare Court Improvement Project

The Child Welfare Court Improvement Project's mission is to provide resources and technical assistance to enhance, promote and coordinate innovation in court operations and practices in proceedings involving abuse and neglect, voluntary placement, termination of parental rights and adoption that lead to improved safety, permanency and well-being for children and enhanced capacity of families to provide for their children's needs.

Administered by  
**The Child Welfare Court Improvement Project**

In collaboration with  
**New York State Judicial Districts**

For further information regarding the Child Permanency Mediation Program, contact the Program Administrator:  
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*Promoting the safety, permanency and well-being of children*

# Mediation Helps Children

## What is Mediation?

Mediation is a consensual dispute resolution process in which a specially trained impartial mediator helps parties to identify issues, clarify perceptions and explore options for mutually acceptable outcomes. Mediators do not offer opinions regarding likely court outcomes or the merits of the case. Instead, mediators facilitate constructive communication that provides the opportunity to develop creative solutions which emphasize the parties' practical concerns.



## What are the Benefits of Mediation in Child Welfare Matters?

- The mediation process provides an opportunity for family members and professionals to come together in an informal yet structured setting.
- Mediation promotes constructive communication between parents, older children, family members, case workers, foster parents, attorneys and service providers.
- The mediation process can be less intimidating than the formal court process. This makes it more likely that lay parties such as parents, caregivers and youth will feel comfortable expressing themselves.
- The mediation process allows the participants to jointly develop a plan that will promote the child's health, safety and well-being and move the case towards a timely resolution.
- Proposals that emerge in mediation can be reviewed by the Court and become a part of the formal plan for permanency.
- Mediation can address major issues in a case that sometimes result in a contested hearing or trial and can also address common, day-to-day practical issues that can cause delays or barriers to effective implementation of the case plan. Service and visiting plans can be tailored to the parties' individual needs.
- When parties are fully informed and included in the planning process they are more likely to understand what is expected of them and may be more motivated to follow through.

## How does the process work?

The Family Court Act (Article 10, §1018) specifically authorizes the Court to refer permanency matters to mediation. The procedures for referral and program operations are governed by local court rules and practices. Anyone can suggest mediation, but the decision whether to refer the matter rests with the Court.

The Court will schedule an initial mediation session and inform the Program Administrator. The Program Administrator will assign a mediator from the Court's roster. The mediator will make an effort to contact each party prior to the initial session to answer questions and to gather preliminary information about the case that will help the mediator to facilitate the process.

During these preliminary contacts, and at the initial session, the parties will be given information about the mediation process to help them decide whether or not the process is right for them. If one or more of the parties chooses not to participate, the mediation will not proceed. The Program Administrator will inform the Court that the

mediation did not proceed, but will not disclose to the Court which party declined to participate. This ensures that no one is penalized for their decision.

If the parties decide to proceed in mediation, the mediator will actively facilitate the discussion to ensure that everyone has an opportunity to present their views and to ensure constructive conversation. A mediation session is generally scheduled for a two hour period. The group may decide to schedule additional sessions to ensure adequate time is devoted to the discussion or to allow for interim action steps to be implemented.

With certain narrow exceptions, information disclosed during mediation is confidential and may not be used in any judicial or administrative proceeding without the consent of all parties. If an agreement is reached it will be submitted to the Court for review. The mediator and Program Administrator will ensure that legal counsel have an opportunity to review and approve the draft prior to submission to the Court.

## Who are the Mediators?

Mediators are admitted to the court roster pursuant to Part 146 of the Rules of the Chief Administrative Judge. Part 146 articulates minimum training and experience requirements for mediators. Child Permanency Mediation Program roster mediators are experienced mediators who have participated in training in advanced family mediation techniques, child welfare laws and regulations, domestic violence issues and group facilitation techniques.

