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RESEARCH REPORT
ASSESSING MEDIATION IN WASHOE COUNTY,
NEVADA



National Council of Juvenile and
Family Court Judges

Juvenile Law Programs

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Executive Summary

Washoe County Mediation

In late 2011, the Second Judicial District of Nevada (Washoe County) implemented a mediation program for parents and stakeholders who are in the midst of the child abuse and neglect court system. The goal of mediation is to avoid further litigation through voluntary case resolution, which can enhance case processing and improve outcomes in juvenile dependency cases. Parties can come together in a neutral setting to address the issues surrounding the case and what options are available given the status of the case, through the assistance of an impartial third-party.

The Nevada Administrative Office of the Courts (AOC) contracted the National Council of Juvenile and Family Court Judges (NCJFCJ) to conduct an assessment of the juvenile dependency mediation program. The assessment included a process evaluation, a satisfaction evaluation, and an outcome evaluation. As part of these evaluations, the NCJFCJ reviewed satisfaction surveys completed by parents and stakeholders at the conclusion of the mediation session, surveyed stakeholders about the implementation process, conducted key-informant interviews, and reviewed cases files to examine timeliness and case outcomes. Surveys and interviews were analyzed to examine common themes, level of satisfaction with the current mediation practice, and areas of improvements suggested.

Key Findings

Key findings from the *process* evaluation included:

- *General perception that mediation is successful;*
- *Perceived decreased workload for stakeholder;*
- *Need for ongoing education and outreach of system stakeholders; and*
- *Problem with “no-show” parents.*

Key findings from the *satisfaction* survey included:

- *The majority of mediations (78%) result in agreement, but parties do not also have consensus as to the actual agreement level;*
- *Mediation creates an environment where parents felt heard, respected, and treated fairly during the process; and*
- *Mediators clearly explaining the process and parents being part of the decision-making both predicted agreement in mediations.*

Key findings from the *outcome* evaluation included:

- *Mediated cases had fewer default orders for mothers and fathers;*
- *Mediated cases were related to longer time for case outcomes for mothers but no difference for fathers;*
- *An association between mediation and an increased number of continuances; and*
- *An association between mediation and vacated settlement conferences and trials.*

Based on these findings, the following lessons learned and recommendations emerged.

Implementation Lessons Learned

1. *Education & Outreach Are Important.* Program startup should include education and outreach to all stakeholders who may/should be involved in the mediation.
2. *Buy-In From All Stakeholders Will Help Encourage Mediations.* Even if project partners are educated about the benefits of mediation, mediation may not be successful if key professional stakeholders do not believe the program is beneficial and useful.
3. *The Referral Process Makes a Difference.* Mediations were much less common when they were on a referral basis. Court ordered mediation increased the number of mediations and ensured stakeholder participation.
4. *Parent Education is Necessary.* Parents should learn about mediation prior to attending a mediation session. Protocols or practices should be developed to identify how to best educate parents about this process.

Recommendations for Improving Process & Next Steps

5. *Ensure All Parties Understand the Agreement.* Satisfaction surveys revealed that the parties involved did not always have the same perception of the level of agreement that was reached. It is important that *all* persons understand whether full agreement was reached. In particular, this is important for parents, to ensure that they know what occurred at the mediation and what the next steps are in the case.
6. *Ongoing Education & Outreach.* Education and outreach should not stop with implementation. Continuing education and outreach efforts will ensure that new stakeholders are familiar with the program. One potential outlet in Washoe for this continued education may be the Model Court collaborative meetings that occur monthly.
7. *Consistent Domestic Violence Screening & Treatment.* There did not seem to be consistency among mediators as to how the cases were screened, or how they treated cases when domestic violence did occur. At a minimum, all cases should be screened using a standard tool (across mediators), where parents are directly asked.
8. *Decrease No-Show Rate.* If parents do not show up for mediation, the mediation cannot occur. Consider making mediation information available (such as the mediation brochure) to parents when they are at court hearings.
9. *Identify Areas for Improved Efficiency.* A few stakeholders mentioned that mediation is too lengthy. System participants should consider what other efficiency strategies may help with this process.
10. *Share Results.* A summary of the mediation reports might be useful to share with system stakeholders in order to increase buy-in and to demonstrate the positive results of mediation. At a minimum, identifying the number of the mediations held, the agreement rate, and the percentage of time mediation results in vacated hearings would be interesting to stakeholders and could help with outreach and buy-in of other stakeholders in the process.

Table of Contents

Introduction.....	1
Study Overview	4
Process Evaluation	5
Satisfaction Evaluation.....	14
Outcome Evaluation.....	17
Discussion & Recommendations	17
Conclusions.....	17

Introduction

When a child is removed from a home by child protective services (CPS), this child has entered the child dependency system where an adversarial relationship between parents and CPS may develop. Distrust and confusion about the child dependency system can arise for parents and there is need for collaboration and resolution. Mediation is an option to avoid further litigation, which has been used for decades to catalyze case processing and improve outcomes in juvenile dependency cases.¹ This alternative dispute resolution practice is a method that brings together all concerned parties to negotiate and resolve issues with the assistance of a neutral third party (mediator). The main objective of mediation is to facilitate a discussion where parties voluntarily resolve the issues that brought a family into the dependency system and produce a written agreement, in lieu of a traumatic contested hearing.² The mediation can include parents, CPS, attorneys, and all others that may be involved in the case (e.g., guardian ad litem, Court Appointed Special Advocates (CASA), foster parents, other family members, etc.).

The topics discussed depend largely on what issues are contested. If the mediation occurs pre-adjudication, topics may include petition allegations. Other contested issues that often arise and are discussed at mediation may include: case planning, custody, visitation, shared parental responsibility, temporary and long-term placement, foster care, relative placement, non-relative placement, shelter care, family dynamics, parent education, available services to families, family reunification, termination of parental rights, and/or adoption.³ Mediation should focus on the family's strengths, create an environment where parents are incorporated in decision making about their children, and prevent any further abuse or neglect for the child.² There are several potential benefits to mediation in child dependency cases which can include, but are not limited to: time savings, efficiency, parent engagement, and improved outcomes for children involved.

¹ Giovannucci, M., and Largent, K. (2009). A guide to effective child protection mediation: Lessons from 25 years of practice. *Family Court Review*, 47, 38-52.

² Superior Court of California, County of Alameda. *Dependency Mediation*. Retrieved from: <http://www.alameda.courts.ca.gov/Resources/Documents/Dependency%20Mediation.pdf>

³ Eighth Judicial Circuit of Florida. *Frequently Asked Questions: Juvenile Dependency*. Retrieved from: <http://circuit8.org/mediation/dependency-mediation>

Time-savings may occur for courts, attorneys, and social workers. This time-savings can produce a potential lightened workload through the avoidance of further litigation and the trial preparation.⁴ Although mediation can take up to three hours (in Washoe County), if resolution occurs, this can save the courts countless hours and provide more time for other cases to be processed. The mediation process is also advantageous because of parent engagement. A parent may come into mediation feeling angry, distrustful, and confused, but leave feeling empowered with a better understanding of the child welfare agency and the dependency process. Mediation is conducted by an experienced professional, in a confidential and respectful place.² Confidentiality can foster an environment where parents feel they can be honest because what they say will not be used against them in court. Because interested parties are at the table, resolution (either full or partial) can be quite common and this can result in faster case progression, and ultimately may result in shorter times to permanency for children and families.

Although there are benefits to mediation, it does come with limitations. These include no-show parents, disjointed buy-in from stakeholders, and lack of facilitation skills on the part of mediators. With careful evaluation of each court's mediation process, many of these limitations can be mitigated with improved outcomes for the dependency system. For this reason, it is important to assess mediation programs, both in terms of the process of mediation, determining if it is being implemented as expected, and the outcomes of evaluation in terms of how it may meet case goals.

Program Background

In August of 2011, the Second Judicial District of Nevada (Washoe County) established a juvenile dependency mediation program. Modeled after a mediation program that ran in the district in the early 2000s, the new program is funded by the Court Improvement Program (CIP), a U.S. Department of Health and Human Services program designed to support court initiatives related to improving outcomes for maltreated children involved in the court system.⁵ To secure the funding, the lead juvenile dependency judge in Washoe County worked with the state CIP Coordinator to identify mediation as a goal for the jurisdiction and apply for grant funds. Three mediators with years of experience mediating a

⁴ Summers, A., Wood, S. and Russell, J. (2011) Assessing Efficiency and Workload Implications of the King County Mediation Pilot. *OJJDP Journal of Juvenile Justice*, 1, 48-59. Retrieved from: <http://www.ncjfcj.org/sites/default/files/King%20County%20Mediation%20Pilot%20Article.pdf>

⁵ Crowley, M. (2012). Dependency Mediation. *Nevada Family Law Review*, 25, 12-17.

variety of issues were recruited for the program, and the program is administered by staff of the Second Judicial District.

In Washoe County, juvenile dependency cases are automatically ordered to mediation by the court if there is a contested termination of parental rights (TPR) petition, contested permanency planning hearing, or other contested case issues. The date and time of the mediation session is set by the court, and formalized through a court order; participation by all parties to the case is mandatory. Three hours are set aside for each mediation session.

On the day of mediation, the mediator provides a mediation orientation for the parents and parties new to mediation. Recently, mediators have started staggering arrival times so that social workers and attorneys are not sitting idly in the waiting room. The mediators give each parent a brief overview of the mediation process and parents then sign a confidentiality statement. Additionally, all parties sign a confidentiality statement prior to the mediation.

Mediators in Washoe County use a facilitative model of mediation, a style of mediation that emphasizes the neutrality of the mediator. A facilitative mediator does not present his or her own views of the case or of the agreement, and is instead focused on ensuring that all parties have an opportunity to be heard and that parties reach an agreement that meets everyone's needs.⁶

At the conclusion of a mediation session, the mediators use a laptop to write the agreement while all parties are in the same room. The agreement is printed, signed by those who have authority to do so, and each party receives a copy. The agreement is then entered into the electronic case management system and forwarded to the judge, who has to then sign the agreement and file a court order. All participants are then asked complete a short survey regarding their perceptions of the mediation, the outcome and how they were treated.

⁶ Imperati, S.J. (1997). Mediator practice models: The intersection of ethics and stylistic practices in mediation. *Willamette Law Review*, 33, 703.

The Nevada Administrative Office of the Courts (AOC) contracted the National Council of Juvenile and Family Court Judges (NCJFCJ) to conduct an assessment of the juvenile dependency mediation program in Washoe County. The assessment goals were threefold: to evaluate the implementation process of the program; to evaluate satisfaction with the program; and to assess what impact the mediation program might have on outcomes for maltreated children. Along these lines, the current study seeks to answer the following questions:

Process Evaluation

1. What were the challenges and successes with program implementation?
2. What could have improved the program implementation process?
3. Is the mediation program successfully engaging parents and stakeholders?
4. Does mediation save court time/reduce workload?
5. In what ways could the program be improved?

Satisfaction Evaluation

6. How are parents treated during mediation sessions?
7. Do parents' perceptions of treatment affect agreement rates?
8. Do stakeholders and parents perceive that mediation is helpful?
9. What did participants find most and least helpful about the mediation session?

Outcome Evaluation

10. Does mediation result in different outcomes for children and families?
11. Does mediation result in timelier outcomes for children and families?
12. Does mediation result in time savings in terms of vacated trials, hearing hours, and case continuances?

For the process evaluation, an online survey was sent to stakeholders involved with the juvenile dependency mediation program to learn more about successes and challenges with program implementation, how the program is currently functioning, mediation utilization barriers, how mediation affects workload, and how the program can be improved in the future. Follow-up interviews with the mediators, program administrator and stakeholders were conducted to gain a full understanding of program implementation and functioning.

As part of ongoing efforts to gauge program satisfaction, mediators give all mediation participants—parents and stakeholders—a survey after each mediation session. The survey asks participants whether an agreement was reached, if participants had opportunities to voice their opinions and be a part of problem resolution, if participants felt like they had been ignored, treated with respect and truly listened to, if the mediation session was conducted fairly, if they believed the mediated agreement would work, and what they found the most and least helpful. A sample of the satisfaction surveys (n = 44) was given to NCJFCJ researchers to explore differences in perceptions between parents and stakeholders and answer the research questions.

In Washoe County, enough cases had been mediated to assess the program’s effect on case outcomes and timeliness of case processing. Using a standardized case file review instrument, researchers coded a sample (n = 44) of cases that had been referred to mediation and a sample of cases (n = 47) that were not mediated for. Because the majority of mediations occur at the TPR phase, the sample focused only on cases that had filed a petition to terminate parental rights.

Process Evaluation

To assess the mediation process, researchers administered an online survey to system stakeholders and conducted follow-up in-depth interviews with key mediation participants (i.e., mediators, attorneys, etc.). The online survey was sent to child welfare stakeholders and mediators in February, 2013. Seventeen responded to the online survey. Fourteen respondents indicated their role (Table 1).

Table 1. Role of Respondents		
	N	%
Administrator	1	7
Attorney	6	43
Social Work Supervisor	2	14
Child Advocate	1	7
Mediator	4	29
Total	14	100

Fourteen respondents indicated how many mediation sessions they attend per month on average. Half of the respondents (50%) said they attend one to two mediation sessions per month, while 29% attend three to four. The remaining 21% indicated they never attend mediation sessions.

Implementation

To understand how the mediation program was implemented, stakeholders involved in the implementation process answered the following questions in the online survey:

- What were the barriers or challenges in implementation?
- What were the strengths in implementation?
- Were there things that you believe could have been done to expedite the implementation or improve the implementation process?

Implementation Barriers

In Washoe County, program start up activities lasted about one month; the program was funded to begin in July of 2011, and the first mediation occurred in August of 2011. The small delay was due to several reasons: extra time needed to update the program forms, procedures, and protocols; training mediators and stakeholders; and hiring a third mediator. Respondents said that barriers included a need for more start up activities and training than anticipated, push back from some stakeholders because they felt mediation consumed time they did not have, lack of knowledge of how mediation could help move cases forward, and resistance to mediating rather than litigating. These challenges carried into the first few months of the mediation program; few cases were mediated until the court mandated that certain types of cases be sent to mediation.

Implementation Strengths

Participants were also asked what worked well during project start up. Several respondents cited the initial outreach to the stakeholders groups—child welfare agency, public defenders, district attorneys, children’s counsel, and CASA—in introducing the program and educating them on the mediation process as a crucial step in implementation success. Other elements important to program implementation success were judicial leadership, mediators with enough experience to jump in and apply mediation principles to the child protection arena, and staff assistance and support.

Improving Implementation Process

Participants were asked what could have been done to improve the implementation process. Responses varied from “introduce the program to stakeholders weeks in advance to implementation” to “there

needs to be someone in place who organizes and guides the project [implementation] from the start.” Additionally, several stakeholders said that it would have been better to start out the program with court ordered mediations rather than relying on people to volunteer.

Program Goal

When asked what the goal of the dependency mediation program is, several respondents said the primary goal of the program is to engage in non-adversarial dispute resolution to save time and eliminate the need for court. Respondents also said that the goal of the program is to give parties, and especially parents a voice in the dependency process; to help move cases forward to permanency; to help everyone look to the best interests of the children; and to get parties communicating and problem solving.

Program Functioning

Survey participants⁷ were asked to rate their level of agreement on several response items related to implementation, participation, and effects of mediation. Table 2 presents the results for all responses along a five-point scale, with 1 being “strongly disagree” and 5 being “strongly agree.” Higher numbers, therefore indicate more agreement with the statement.

Table 2. Average Response Ratings	
The implementation of the mediation program was a success (n=13)	4.6
All stakeholders who are invited attend mediation sessions (n=12)	4.2
Parents, who are invited, attend mediation sessions (n=12)	3.9
Mediation sessions are successful in reaching agreements (n=12)	4.7
Parents at mediation sessions are engaged in the process (n=12)	4.7
Mediation reduces the time to case resolution (n=11)	4.6
All stakeholders at mediation sessions are prepared (n=13)	4.2
All stakeholders at mediation sessions work toward reaching agreement (n=12)	4.3
Parents at mediation sessions work toward reaching agreement (n=13)	4.2
Mediation is a good alternative to court (n=13)	4.8
All stakeholders get a voice at mediation sessions (n=12)	4.7
Parents get a voice during mediation session (n=12)	5
Age appropriate children are invited to attend mediations (n=13)	3.3

⁷ The n’s reflect the total number of participants who answered the question. While there were 14 participants overall, not all completed the entire survey.

As shown in the above table, the average response for most items ranged between somewhat agree and strongly agree. Some notable exceptions are that respondents indicated less agreement with “Parents, who are invited, attend mediation sessions” and “Age appropriate children are invited to attend mediations.” All survey participants who answered the question “Parents get a voice during mediation sessions” strongly agreed.

Participants were also asked several open ended questions:

- What are the barriers to utilizing mediation for parents?
- What are the barriers to utilizing mediation for stakeholders?
- In moving forward with the mediation program, what are some ways in which the program could be improved?

Utilization Barriers: Parents

In terms of barriers for parents, one respondent noted that scheduling can be a barrier depending on parent’s employment and/or child care situation. Also, early morning sessions (i.e. 9am) have been a barrier for parents sometimes due to work schedules, lack of established daily routine, or other issues.

The circumstances of parents’ lives can also act as barriers and prevent parents from attending mediation sessions. Several participants said that parents are often unemployed, unsettled and have a lack of resources, including transportation and telephone services. As a result, parent’s attorneys are often unable to reach the parents to remind them or tell them of the mediation appointment. These factors contribute to the rate of no shows.

Utilization Barriers: Stakeholders

Barriers for stakeholders include time and competing demands. Attorneys, social workers, and mediators are very busy and scheduling all parties for 3-hour blocks is a challenge. Another significant challenge for stakeholders is buy-in and satisfaction with the mediation process. One stakeholder noted that mediation is a court-ordered time investment that does not consistently result in an agreement.

Program Improvement

Areas for improvement broadly included: providing parents with more information ahead of time on the mediation process; more feedback to stakeholders regarding mediation; better trained mediators in the area of dependency law; and more proactive mediation. One participant also said that more visible court support of the program would be useful, while another suggested that there should be some “focus on ways to have the mediations occur sooner in the case. So much time is lost [in terms of legal timelines] before the parents come to agreement and get to work on their reunification tasks.”

In terms of providing parents with more information ahead of time on mediation, one respondent suggested providing an instruction sheet or appointment reminder at the hearing in which mediation is ordered. The reminder could include the date, time, and place of the scheduled mediation, along with the mediation department's contact information, and be provided to the parties along with the program's brochure.

Several respondents noted that more feedback from the mediators and more contact with the stakeholders would be beneficial. This includes providing information and statistics regarding the agreement rate, and time and costs savings associated with mediation. This also includes follow up training with stakeholders to enhance engagement, and more frequent stakeholder meetings in order to better understand their perception of mediation. One participant said that a feedback process that allows all participants to feel comfortable in giving honest opinions would also be an improvement.

Another participant indicated that training in the area of dependency law would be of great benefit to the mediators. This opinion was seconded by another respondent who indicated that “if the mediators were better educated on the procedural status of any given case and what must really be mediated at any given session...much less time would be wasted.” In terms of mediation style, another participant said that the mediation sessions need to stick to the relevant issues being mediated and that, at times, the mediator needs to take better control over the session.

Workload

Survey participants were asked how mediation affected their workload. The answers are reported in Table 3.

Table 3. Mediation and Workload	
Mediation reduces my workload (n=11)	3.64
Mediation requires the same amount of time as going to court (n=12)	2.36
Mediation adds to my workload (n=12)	2.82

As shown above, the average answer from participants regarding reduction of workload was between “neither agree nor disagree” and “somewhat agree.” Conversely, the average answer regarding increases to workload was between “neither agree nor disagree” and “somewhat disagree.” The respondents “somewhat disagreed” that mediation requires the same amount of time as going to court.

Additional Comments regarding workload included:

- When all the parties come to the table in good faith with a collaborative attitude and are prepared, mediation often results in an agreement, which reduces the stakeholders' workload.
- Mediation actually increases my workload because I typically am not required to testify in trials. Mediation requires me to do a lot of preparation and meet with the workers and attorney in advance of the session, and then the session itself is set for 3 hours. In my opinion there is a lot of time wasting that occurs in the 3 hours. It doesn't feel like there is ever a sense of urgency to get the work of the meeting completed.

Follow Up Interviews

In-depth interviews were conducted with eight mediators and juvenile dependency stakeholders to get a better sense of how the program was implemented, how it is currently working, and any areas for improvement. Interview participants were asked specifically about the barriers and successes related to program implementation, challenges, improvement areas, parent and stakeholder engagement, and benefits of the program. (Questions are listed below in blue.) The themes that arose from the interviews were similar to the responses found in the online survey and although there were several different questions asked, the same issues seemed to appear in different questions.

What did you see as barriers to implementing the mediation program?

- *Buy-in from stakeholders.* Most interview participants noted that after attending several mediations and seeing the results, opinions began to shift about mediation. It was no longer

seen as “just one more thing to do” but is now seen, by most, as a time savings investment by ultimately preventing days-long trials.

- *Voluntary mediations.* In the beginning of project implementation, mediations were voluntary; however they are now court-ordered. When the mediations were voluntary, there was little buy-in from stakeholders who already felt over-worked, so this made success difficult to attain.
- *Parent attendance issues.* Although mediation is now court-ordered in dependency cases, there is no enforcement when parents do not show up. Some respondents felt there should be some consequences for not attending mediation.
- *Fragmented framework.* Some participants stated that the inadequate framework in the beginning was a barrier, because this created confusion about the process and expectations. Many people proceeded and felt they couldn’t wait for others to “get on board”; this may have created discomfort for some who may have been new to the process.

What did you see as successes to implementing the mediation program?

- *Good communication.* It was noted that communication among mediators and the court was good. This helped to smooth out the referral process.
- *Outreach and passion.* Initial outreach by mediators to educate stakeholders about mediation was successful. Many of the mediators are very passionate about mediation and know how successful it can be.
- *Transition to court-ordered mediation.* As stated above, when the program was initially implemented the mediation was voluntary but that has since moved from voluntary to court ordered mediations.

What are the biggest challenges to reaching an agreement?

- *Adversarial propensity.* Some in the mediation process still have the desire to litigate rather than reach an agreement outside of court. There can be unwillingness to compromise and some participants are coming into mediation very positioned.

- *Juvenile dependency timelines (Adoption and Safe Families Act of 1997)*. Some parents may still be trying to reunify, even though it may be a termination case. This may leave parents feeling like they are not part of the process and parties come to mediation with different agendas.
- *No shows*. This was an issue that appeared many times throughout the interviews and there was a level of frustration with this. Some participants felt that there may be a communication issue, with some parents being transient and difficult to get a hold of, and others felt that parent's attorneys did not clearly communicate the mediation date to them.
- *New to the process*. Unclear understanding of juvenile dependency on part of mediators was discussed as an issue, because they lack a clear understanding of the law. Also, new or private attorneys can create a challenge because they may be new to the dependency system and the mediation process and are unclear as to the goals of mediation.
- *Parents*. Parents themselves can sometimes pose the biggest challenge in mediation because for them so much is at stake and often times they may have "dug their heels in" before they reach mediation.

What do you see as areas of the program that need improvement?

- *Education about the benefits of the process*. Several stakeholders acknowledged that more information about the program's results would be beneficial to all stakeholders, especially for those who do not frequently attend mediations or who are new to juvenile dependency and may still be skeptical. Sharing statistics on agreement rates and time saved would help stakeholders understand mediation within a larger context.
- *Strategies for dealing with no-show parents*. This would be up to court ultimately but possible consequences could be default if they don't show to the settlement conference. Currently, there are no ramifications if parents don't show to mediation. Some participants suggested that if there was more of an enforcement of parents showing up to mediation this might address this issue.
- *Quality assurance of survey process*. Post-mediation surveys need to truly allow honest and anonymous feedback for the mediators.

- *Increased skilled mediators and fidelity to a mediation model.* Some participants noted that mediators should be more pro-active and less passive mediators. Also noted was that all the mediators should use the same style of mediation and techniques.

How parent engagement with the mediation process could be improved?

- *Better education for parents.* Prior to their mediation session, it is essential to educate parents so they can learn how mediation is different from court—the parents don't know the process and don't know what to expect. It is not uncommon for the "regular players" to speak before mediation but there is a need to reach the parents as well.
- *Improved communication.* It is currently the parent attorneys' responsibilities to notify their clients of the mediation time and date and to prepare them for the mediation. This can be problematic with a highly mobile population and many attorneys do not have a chance to meet with their clients before mediation. This contributes to the no show rate and also confusion by the parents as to the purpose of mediation.
- *Empowering parents.* Making certain that the parents are heard and that their attorneys don't do all the talking is important. One participant noted that it is important not to demonize parents during mediation. If there was an education piece prior to mediation, parents might come to a session with an understanding that this is different from court and this is their chance to be heard and to engage.

How could stakeholder engagement with the mediation process be improved?

- *Development of stakeholder buy-in.* In order to improve stakeholder engagement with the mediation process, every interview participant discussed the importance of buy-in and the need for a consistent feedback loop between the mediators and the stakeholders. The mediators want to improve buy-in and recognize the need to share the program's impact with stakeholders but don't necessarily know how to best go about that.
- *Improved reporting system and information sharing.* The stakeholders also want to know more about the program and would like to see data that demonstrates time savings. All participants noted that "the proof is in the pudding," meaning that most people change their perspective of mediation after attending a few and seeing the results. But that is an inefficient way of getting

buy-in, especially since many stakeholders don't attend much mediation (especially social workers). Quarterly reports that could be easily adapted and disseminated to stakeholders were suggested.

- *Relationship building.* A closer relationship between mediators and stakeholders should be developed for future success. Exploration of mediators becoming part of the Model Court was suggested.

What they find the most beneficial about mediation?

- *Creation of cooperative relationships.* Having people come to better working relationships is invaluable. Mediation especially improves relationship between parents and social workers and creates more cooperation between parents and agency.
- *Conflict resolution.* Less stressful than hearings for parents, mediation is a better way to problem solve, especially for parents and children. Mediation gets all players involved and allows them an opportunity to talk and listen to each other
- *Time-savings.* Time saving frees up judge's and lawyers' calendars and takes pressure off the workload.
- *Encouraging environment.* Gives parents a different venue for being heard and it is an alternative that can be conducive to moving case forward. Mediation is a great opportunity for people to find their voice, which is often lost in the court process

Satisfaction Evaluation

After a mediation session, all participants are given satisfaction surveys. The surveys ask parents and other family members to indicate their perceptions of how they were treated and involved during the mediation session, along with the level of agreement. The surveys ask stakeholders to indicate where the case stands in the dependency process, their perceptions of how they were treated and involved and whether the session was conducted fairly. The surveys ask all participants to note what was most and least helpful about the mediation session.

Surveys for 44 mediation sessions were given to researchers. Parent and stakeholder responses were matched, allowing researchers to assess whether perceptions differ.

Level of Agreement

The surveys asked participants to indicate whether the mediation session resulted in full, partial or no agreement. It is difficult to report the agreement rate from the satisfaction surveys. Out of the 44 mediations, all participants indicated the same level of agreement in only 14 sessions (32%). In the remaining mediations, participants marked different levels of agreement. For example, in one session, five participants marked “no agreement,” one participant marked “partial agreement” and one participant marked “full agreement.” The discrepancy in agreement levels indicates a breakdown in communication as to the formal level of agreement in the majority of mediation sessions. Despite the discrepancy, 50% of mediation participants indicated that the mediation resulted in full agreement (see below).

Table 4. Level of Agreement		
	N	%
No	62	22
Partial	76	27
Full	140	50
Missing	3	1
Total	281	100

Parental treatment and participation during mediation sessions

Sixty-four of the 281 mediation participants were biological parents, extended family members, children, foster parents or guardians. All were asked if the mediator explained the process so they knew what to expect. The majority “strongly agreed” with that statement (59%). Participants were also asked if they had a chance to voice their opinion and if they were treated with respect. A majority of respondents “strongly agreed” that they had a chance to voice their opinion and were treated with respect (56% and 58%, respectively). There was no substantive difference when biological parents’ responses were analyzed separately. All parents were also asked if they felt listened to during the mediation. The majority of respondents either agreed or strongly agreed (45% and 41%, respectively). In terms of feeling ignored or unimportant, a majority of respondents disagreed or strongly disagreed (48%

and 36%, respectively). Parents were asked if they were a part of finding answers to problems discussed; 47% agreed and 41% strongly agreed. Finally, when asked if the mediator treated everyone fairly, 64% of parents strongly agreed. See Table 5, below.

Table 5. Parental Treatment and Involvement (Percent)					
	No, Strongly Disagree	No, Disagree	Yes, Agree	Yes, Strongly Agree	Missing
The mediator explained the mediation process clearly	0	2	33	59	6
Did you have chance to voice your opinion?	0	2	38	56	5
Were you treated with respect?	2	3	38	58	0
Were you really listened to?	2	8	45	41	5
Did you feel ignored or unimportant?	36	48	8	2	6
Were you able to be a part of finding answers to problems?	0	3	47	41	9
Did the mediator treat everyone fairly?	0	0	31	64	5

Do parents’ perceptions of having a voice and being part of the decision-making process affect agreement rates?

A linear regression analysis was calculated to determine if the above variables affected parents’ reported agreement rates. Two variables were significantly related to higher agreement rates: the mediator clearly explaining the mediation process so the participants knew what to expect ($B = 0.52, SE = .25, p = .04$) and parents feeling as though they were able to be a part of finding answers to problems ($B = 0.60, SE = .27, p = .03$). The overall R^2 of the model was .31, indicating that these variables explain 31% of the variance. For each of these variables, higher agreement with the variable was related to higher probability of reaching full agreement in the mediation.

Do stakeholders and parents perceive that mediation is helpful?

Even in instances where no agreement was reached, many stakeholders and parents indicated that mediation was helpful. The survey asked parents if they thought the agreement would work. Forty-three (67%) parents answered the question. The majority of respondents (65%) said yes, while 33% were unsure or hoped so. Only one parent said the agreement would not work, and that was in an instance where no agreement was reached. There were no statistically significant differences between

perceptions of voicing an opinion, being listened to, or being treated with respect by stakeholders and parents.

Most and least helpful about mediation

Across the board, what participants found most helpful about mediation was the opportunity for all parties to gather at the same table, share information and talk openly in a neutral, non-hostile environment. Other benefits to mediation were learning about the positions of other parties, receiving updates on the case and child placement, engaging in problem solving, reaching compromises, and allowing parties, especially parents, to express their opinions—all within an environment that is less stressful than court.

What participants found least helpful about mediation were instances where discussion would get off topic or too focused on irrelevant issues, tension between parties, parties unwilling to compromise, and unprepared parties.

Outcome Evaluation

For the outcome evaluation, researchers employed a systematic review of the court case files using a structured data collection instrument. Three coders collected data on 91 cases that had filed a termination of parental rights (TPR) petition; 44 cases had been referred to mediation at the TPR phase and 47 that had not been referred to mediation. Although 44 cases were referred to mediation, only 30 were mediated. To be considered a mediated case, it had to meet two criteria. First, the mediation could not be vacated. Second, one or both parents must have attended the mediation. If both parents did not attend the mediation, but the parties reached an agreement via their legal counsel, this would be considered a mediated case. Using these criteria, 30 mediated cases and 61 non-mediated cases were used to answer the following research questions:

- Does mediation result in different outcomes?
- Does mediation result in timelier outcomes for children and families?
- Does mediation result in time savings in terms of vacated trials, hearing hours, and case continuances?

Outcomes

Several chi-square tests of independence were conducted to examine the relationship between mediation and parent outcomes. As only termination of parental rights cases were examined, these outcomes included whether parents defaulted, relinquished their parental rights, had their parental rights terminated by the court, or had the termination petition against them dismissed. Overall, 29% (N = 26) of mothers and 35% (N = 32) of fathers defaulted.⁸ Forty-five percent (N = 41) of mothers and 33% (N = 30) of fathers relinquished their parental rights. Seven percent (N = 6) of mothers and 15% (N = 14) of fathers had their parental rights terminated by the court. Finally, 7% (N = 6) of mothers and 4% (N = 4) of fathers had the petition against them dismissed. The remaining cases had not yet terminated parental rights.

The analyses indicated that mediation was significantly related to default orders against the mother, $\chi^2(1, N = 91) = 5.09, p = .02$. In 13% (N = 4) of mediated cases the mother defaulted, compared to 36% (N = 22) of non-mediated cases. Mediation was also significantly related to default orders against the father, $\chi^2(1, N = 91) = 4.51, p = .03$. In 20% (N = 6) of mediated cases the father defaulted, compared to 43% (N = 26) of non-mediated cases. There were no differences in mediated and non-mediated cases in terms of relinquishment, the court ordering termination, or in the dismissal of the termination petition.

Timeliness

Removing children from their homes is traumatic for all involved parties. Moreover, federal and state legislation (e.g., ASFA) exists to ensure timeliness to final case outcomes. For these reasons, several independent samples t-tests were conducted to examine mediated and non-mediated cases with regard to differences in timeliness to case outcomes (i.e., time from initial removal to final TPR order, time from initial removal to dismissal, time from TPR filing to final TPR order, and time from TPR filing to dismissal) of the dependency petition) for mothers and fathers. See Table 6 for the average number of days for mothers and fathers for each timeliness measure.

⁸ Default cases are those in which the parent(s) did not show up for the termination of parental rights petition hearing to enter a plea of admit or deny. Mediated cases should be less likely to result in default as parents are often referred to mediation at this hearing. If the parents are not present, they would not be referred to mediation.

Table 6. Timeliness Measures for Mothers and Fathers Across All Cases (Average Number of Days)		
	Mothers	Fathers
Initial Removal to Final TPR Order	671	663
TPR Filing to Final TPR Order	165	157
TPR Filing to Petition Dismissal	318	284
TPR Filing to Mediation	185	
Mediation Referral to Mediation Occurrence	61	
TPR Filing to Settlement Conference	170	

There was a significant difference between mediated and non-mediated cases in the amount of days from initial removal and the mother’s final TPR order, $t(56) = 2.16, p = .04$. For mothers, cases that were mediated averaged 816 days, while non-mediated cases took 586 days from initial removal to final TPR order. For fathers, cases that were mediated and non-mediated did not differ on the amount of days from initial removal to their final TPR order.

This difference is likely due, at least in part, by the difference in time from TPR filing to relinquishment of parental rights. For mothers, the cases that were mediated were shorter if they did not relinquish parental rights, but were longer if the mother did relinquish parental rights. The table below illustrates these times.

Table 7. Timeliness from TPR Petition to Final TPR Order		
Mothers	Mediated	Non-Mediated
Mother did not relinquish	74	140
Mother relinquished parental rights	249	168
Fathers		
Father did not relinquish	180	134
Father relinquished parental rights	173	207

There were also no significant differences between mediated and non-mediated cases for overall time from TPR filing to final TPR order or time from TPR filing to petition dismissal for mothers or fathers.

Time Savings

A final series of analyses were conducted to examine whether mediation provides a time savings to the court over non-mediated cases. With court dockets becoming crowded and resources becoming limited, the ability to save time is increasingly important. Areas where mediation may save time are in the number of trial hours scheduled, continuances, and hearings vacated. In the current sample, the average

number of trial hours scheduled across all cases was 10.63. The average number of continuances was less than one (.40). The average number of hearings vacated was 1.78.

Mediated cases significantly differed from non-mediated cases on the number of trial hours scheduled, $F(1,72) = 19.75, p < .001$. Mediated cases were scheduled, on average, for 15 hours, which was significantly more than non-mediated cases, which were scheduled for 8 hours, on average. There was a significant difference between mediated and non-mediated cases on the number of case continuances, $F(1,89) = 5.80, p = .02$. Mediated cases were continued an average of .7 times in the case, while non-mediated cases were continued .3 times. There was also a significant difference in the number of hearings vacated between mediated and non-mediated cases, $F(1,89) = 26.60, p < .001$. Mediated cases averaged 2.9 vacated hearings, compared to non-mediated cases, which averaged 1.3. There was no significant difference between mediated and non-mediated cases on the number of hearings held.

Additional chi-square tests of independence were conducted to examine the relationship between mediation and whether several hearings (i.e., settlement conference, first TPR trial, and last TPR trial) were vacated across the life of the case. Mediation was significantly related to vacating the settlement conference, $\chi^2(1, N = 66) = 4.07, p = .04$. Mediated cases had the settlement conference vacated 34% (N=10) of the time, compared to 14% (N=5) of the time for non-mediated cases.

Limitations of Case File Review

It should be noted that the results of the case file review only show associations of mediation with case outcomes. The study design does inhibit causal inference. That is, we cannot draw cause and effect conclusions, or say that mediation causes changes. In particular, time may be the biggest indicator of change. The pre-mediation group had TPR petitions filed in late 2009, 2010, or early 2011, compared to the post-mediation group, which was late 2011, early 2012. Practice may have changed over time, resulting in the scheduling of longer hearings or more continuances. Indeed, the cases that had TPR petitions filed later (late 2011, early 2012) and did not go to mediation, looked more like the mediated cases than the comparison group. Another limitation of this research is that TPR cases are separate from their juvenile dependency cases, making it impossible to determine what the case outcome was, including whether and when the child was adopted.

Discussion

Overall, mediation in dependency cases (in Washoe County) is successful with some lessons learned during the implementation phase. In general, both parents and stakeholders agreed that mediation generally speaking is successful. Stakeholders agreed that mediation lessened their workload in preparation and hearings and is a good alternative to court. Parents also agreed that they felt heard, respected, and treated fairly during the process. When parents felt part of the process and when the mediators clearly explained the process, this was associated with a higher level of agreement. In terms of outcomes, mediation appeared to reduce the number of default orders for mothers and fathers. For mothers, mediated cases resulted in longer time for case outcomes for mothers but no difference for fathers. There was also an association between mediation and an increased number of continuances and vacated settlement conferences and trials.

There are some areas of improvement, such as addressing so-called no-show parents. This may be an issue of communication, where an innovative approach to scheduling may need to be explored by stakeholders. As stated by interview participants, this population can be problematic because they are transient in nature, but there needs to be an understanding that parents may not understand what mediation will accomplish for them and what barriers exist for them to attend mediation. Barriers might include transportation, time-off work, child-care, or not knowing where they (parents) need to be. A discussion of any barriers and the benefits of mediation with parents before mediation is scheduled may alleviate this attendance issue. Another area of improvement is education of parents and stakeholders. For parents, an orientation of mediation before their session would be extremely helpful for them to understand how mediation is different than a hearing. There also needs to be education for stakeholders about the results that are seen through mediation in terms of time-savings.

Recommendations for Program Improvements

The findings of this process, satisfaction and outcome evaluation allowed for generation of some recommendations for program improvements. These recommendations are meant to help guide discussions of ways that the program could be improved, but are also important to provide context and useful information to new sites that may be struggling with or in the process of establishing their own mediation programs. The recommendations listed below include the areas of implementation and startup as well as considerations for improving current practice.

Implementation Lessons Learned & Recommendations

1. *Education & Outreach Are Important.* Program startup should include education and outreach to all stakeholders who may/should be involved in the mediation. The Washoe mediation program did a good job of outreaching to partners. Enhancing this educational piece by discussing the benefits and goals of mediation at collaborative meeting and ensuring follow-up with all stakeholders sites will be important to any program starting out.
2. *Buy-In From All Stakeholders Will Help Encourage Mediations.* Even if project partners are educated about the benefits of mediation, mediation may not be successful if key professional stakeholders do not believe the program is beneficial and useful. Engaging in meaningful discussions about the benefits of mediation may help to improve buy-in.
3. *The Referral Process Makes a Difference.* Mediations were much less common when they were on a referral basis. Court ordered mediation increased the number of mediations and ensured stakeholder participation.
4. *Parent Education is Necessary.* Parents should learn about mediation prior to attending a mediation session. Protocols should be developed that address how to best educate parents. Some ideas generated from these findings suggest that providing parents with a brochure that describes mediation or having attorneys discuss the benefits of mediation with their clients prior to the scheduled hearing may help facilitate parent involvement in mediation.

Improving Process & Recommendations for Next Steps

5. *Ensure All Parties Understand the Agreement.* Satisfaction surveys revealed that the parties involved did not always have the same perception of the level of agreement that was reached. It is important that *all* persons understand whether full agreement was reached. In particular, this is important for parents, to ensure that they know what occurred at the mediation and what the next steps are in the case.
6. *Ongoing Education & Outreach.* Education and outreach should not stop with implementation. There is a high rate of turnover for many of the professional stakeholders involved in the child welfare system. Continuing education and outreach efforts will ensure that new stakeholders are familiar with the program. One potential outlet in Washoe for this continued education may be the Model Court collaborative meetings that occur monthly.

- 7. *Consistent Domestic Violence Screening & Treatment.*** Although domestic violence screening was not a focus of the review, researchers noted several court referrals that indicated that domestic violence was involved in the case. There did not seem to be consistency among mediators as to how the cases were screened, or how they treated cases when domestic violence did occur. At a minimum, all cases should be screened using a standard tool (across mediators). Parents should be asked the questions directly to ensure the mediators are accurately able to identify concerns with coercive or threatening behavior by the perpetrator, in order to inform a safe mediation where all parties feel like they have a voice.
- 8. *Decrease No-Show Rate.*** If parents do not show up for mediation, the mediation cannot occur. Many stakeholders noted the “no-show” rate as a barrier. Consider making mediation information available to parents when they at court hearings. A pamphlet that explains what mediation is, includes contact information for the mediation administrator, and has the time, date, and location of the scheduled mediation would be useful for both orienting parents to the purpose of mediation and serving as a reminder for when they are supposed to be there. Increasing parent’s understanding of the benefits of mediation prior to attending or being referred to mediation may also help increase parents’ attendance. Other sites have also had success with playing a video that describes their mediation program. This may be effective played at Family Services, so parents better understand the process.
- 9. *Identify Areas for Improved Efficiency.*** A few stakeholders mentioned that mediation is too lengthy. The mediation program has implemented some efficient practices, such as staggering arrival times to ensure professional stakeholders are not kept waiting, and ensuring a laptop is on site for immediate documentation of the agreement for distribution. System participants should consider what other efficiency strategies may help with this process.
- 10. *Share Results.*** A summary of the mediation reports might be useful to share with system stakeholders in order to increase buy-in and to demonstrate the positive results of mediation. At a minimum, identifying the number of the mediations held, the agreement rate, and the percentage of time this results in vacated hearings would be interesting to stakeholders and could help with outreach and buy-in of other stakeholders in the process.

Conclusion

Overall, the mediation program is successful in meeting several of its goals. Parents who attend mediation are engaged. They feel that they have a voice in the system and they believe it is helpful. Stakeholders also believe the process is helpful, although they did express some concerns with no-show parents and time commitments. Mediation also results in agreement the majority of the time, which facilitates communication and collaboration among system stakeholders. Mediated cases were also related to more hearings vacated than the comparison group. This information should be interpreted with caution, however, and the number of trial hours scheduled (and vacated) appeared to increase over time.

Mediation was not related to timeliness of case processing. This may be because researchers only examined termination of parental rights cases and the majority ended in relinquishment by one or both parties. It may be that mediation does not result in timelier case processing at the TPR phase, but it may still result in better outcomes. For example, the relinquishment agreements in mediated cases may result in more opportunities for parents to negotiate the adoption language and future contact with the child. Future research can examine a more qualitative perspective of mediation to determine if it is better meeting the needs of the parents. Future research should also examine cases where mediation occurred at different times in the process to determine if mediation is related to timely case progression and outcomes when it is held earlier in the case.