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The Essex County Child Welfare Mediation Program: Evaluation Results and Recommendations

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NATIONAL COUNCIL OF
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**The Essex County
Child Welfare Mediation Program:
Evaluation Results and Recommendations**

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EXECUTIVE SUMMARY

Child welfare mediation (or dependency mediation) is a confidential process in which a specifically trained neutral third party who has no authoritative decision-making power (the mediator) assists the family, social worker, attorneys, and other interested parties in a case to talk out and develop their own mutually acceptable agreements with respect to issues relevant to an abuse and neglect case before the court. The goal of child welfare mediation is to develop a plan which everyone agrees is safe and in the best interests of the child, and safe for all the involved adults.

The Essex County Child Welfare Mediation Program is the result of a collaborative relationship among the Superior Court of New Jersey, Family Division, the Association for Children of New Jersey (ACNJ), the New Jersey Court Improvement Project (CIP), and the Division of Youth and Family Services (DYFS). Development of the Child Welfare Program began in September 1998 and the program officially began taking cases in January 2000. This interim evaluation is based on the 129 mediations completed in calendar year 2000.

This evaluation sought to examine the nature and functions of the Essex County Child Welfare Mediation Program. The overall, long-term goals of the Child Welfare Mediation Program are:

- ▶ To develop mediation as a viable alternative to litigation in child welfare cases;
- ▶ To reduce the length of time to permanency for children in the child welfare system;
- ▶ To reduce court time in the handling of child welfare cases;
- ▶ To more efficiently use judicial time;
- ▶ To reduce the number of contested trials in the child welfare process;
- ▶ To engage parents in the case planning process and empower parents as decision-makers;
- ▶ To facilitate the development of more detailed service agreements which address the practicalities and realities of each family's individual needs;
- ▶ To facilitate increased parental compliance with service plan requirements;

- ▶ To promote collaborative problem-solving to better meet the needs of the child(ren) and families in the child welfare system;
- ▶ To improve the communication and working relationships of all parties and professionals involved in the case; and
- ▶ To develop competence for mediators in child welfare cases.

This interim evaluation is focused on determining how well the Child Welfare Mediation Program is meeting operational and process goals related to the more long-term goals stated above. This evaluation does *not* present data with respect to whether the mediation program reduces the amount of time to permanency for children, nor does it address whether the program reduces court time. Both of these questions are included in the evaluation currently underway under the auspices of the Association for Children of New Jersey and the NJ Court Improvement Project.

Overview of Evaluation Methodology

- Written program policies and protocols were reviewed, as well as memos and notes related to program development and implementation.
- Ongoing, informal communication was maintained between NCJFCJ evaluators and court and ACNJ program staff throughout the development and implementation of the Child Welfare Mediation Program. This ongoing communication not only assisted in the development of data collection forms, but also kept evaluators informed of programmatic changes, successes and challenges.
- An Excel-based spreadsheet that tracked case related information was developed by the Program Coordinator. Information tracked included, but was not limited to, type of case (abuse/neglect (FN), termination of parental rights (FG), review of children in placement (FC); judge initiating referral; date assigned to mediation program; date mediation heard; number of mediation sessions; type of agreement – full, partial or no agreement; mediator(s) assigned to case; and date case closed (closed with respect to mediation session).
- The Essex County Family Court, the ACNJ, and the NCJFCJ collaboratively developed exit surveys to determine participant satisfaction with the mediation process. Survey

instruments were developed to capture information about different participants' perspectives on important issues or specific elements of the mediation program. One hundred and seventy-four (174) Parent Satisfaction Surveys and 237 Professional Satisfaction Surveys were returned.

MAJOR FINDINGS AND RECOMMENDATIONS BY SPECIFIC PROGRAM GOALS

➡ OPERATIONAL GOALS

GOAL: Year 1 of Program (2000) 60 Referrals to Mediation

GOAL: Year 2 of Program (2001) 120 Referrals to Mediation

FINDINGS:

- ◆ 131 referrals were made to the Child Welfare Mediation Program in CY 2000, more than double the anticipated number of referrals.
- ◆ The 131 referrals generated 185 mediation sessions which were held in CY 2000 (i.e., some cases had multiple mediation sessions).
- ◆ Between January and February 2000, 11 referrals were made to the mediation program. Between January and February 2001, almost five times the number of referrals were made to the mediation program (54 referrals). In the first six months of 2001, 115 cases were referred to the child welfare mediation program, representing 88% of the total number of referrals for calendar year 2000 and 96% of the projected referrals for 2001.
- ◆ In almost two-thirds of the cases, the referral to mediation was initiated by the court.

RECOMMENDATION:

- ◆ Consider if current program staffing – including mediators, administrative and support staff – will be able to meet the increasing number of referrals to the program and maintain program quality.

GOAL: Mediation sessions are to be scheduled within two weeks of the referral order from the court.

FINDING:

- ◆ On average, mediations are scheduled within 25 days of the referral order from the court. On average, mediations are held within 30 days of the referral order from the court.

RECOMMENDATIONS:

- ◆ Consider whether the time frame between the court referral to mediation and the actual mediation session is appropriate and to what extent this time frame might differ depending upon the reason for referral, stage of litigation, and program resources.
- ◆ Consider whether the number of available mediation slots per judicial calendar can be increased to facilitate a shorter time frame between the court referral to mediation and the conduct of the actual mediation session.

GOAL: Program staff should have sufficient time to appropriately screen and review all cases referred to mediation to ensure that these cases meet program case inclusion criteria and that all file packets are complete.

GOAL: Mediators should have sufficient time to review the case file packet and appropriately prepare for the mediation.

GOAL: Mediators should have sufficient case-specific information to prepare for the mediation.

FINDINGS:

- ◆ On average, program administrative staff spent 30 minutes screening cases to ensure that they had been appropriately referred to the program and to ensure that case files were complete.
- ◆ On average, mediators spent approximately 90 minutes reviewing the case file and relevant documents in preparation for the mediation session.
- ◆ The majority of mediators (87%) indicated that they had sufficient case information to prepare for the mediation session.

RECOMMENDATION:

- ◆ Consider whether mediators will continue to have sufficient time to prepare for mediations when the program is fully absorbed into court operations and the ACNJ is no longer required to mediate cases.

GOAL: All mediation participants should be appropriately prepared for mediation.

GOAL: Systems professionals should meet with their clients prior to the mediation.

FINDINGS:

- ◆ The majority of parents felt at least “somewhat prepared” for the mediation; 51% felt “very prepared.”
- ◆ The majority of systems professionals (attorneys, District Attorneys General, Law Guardians, and DYFS supervisors and caseworkers) felt they were “very prepared” for the mediation session.
- ◆ Two-thirds of systems professionals indicated that they spoke with their clients prior to the start of the mediation session, 1/3 indicated that they had not.
- ◆ Two-thirds of parents reported that their attorney had spoken with them prior to the mediation session, while 1/3 of parents indicated that their attorney had not spoken with them prior to the mediation.

- ◆ Half of the parents indicated that discussions with their caseworker were the most helpful in preparing them for the mediation session; 44% indicated that discussions with their attorneys were most helpful.

RECOMMENDATIONS:

- ◆ Consider what steps can be taken with parents and their representatives to ensure that *all* parents come to mediation fully prepared and ready to proceed. Ensure that parents fully understand the purpose of mediation, their role in the process, and how mediation differs from a traditional court context.
- ◆ Consider developing a short narrative summary or checklist of key points for parents' attorneys when discussing mediation and preparing their clients for a mediation session.
- ◆ Consider developing a short narrative summary or checklist of key points for all professionals to follow when discussing mediation with parents. This is especially important for DYFS caseworkers who play a critical role in preparing parents for the mediation session.
- ◆ Consider providing the court a short narrative summary or checklist of the purpose and goal of mediation that the court can use when parents are present in court at the time of the mediation referral.
- ◆ Review the child welfare mediation brochure to determine if it provides sufficient information that is clearly presented at an appropriate literacy level.
- ◆ Consider having an administrative staff person make contact with parents prior to the scheduled mediation session in order to provide them with an orientation to the mediation process and to answer any general questions.
- ◆ Consider developing accountability protocols or quality assurance guidelines for *all* systems professionals who may participate in a mediation.
- ◆ Consider further interdisciplinary training for *all* systems professionals on the purpose and goals of mediation, expectations for practice, and overall mission of the program.

GOAL: **The Child Welfare Mediation Program should be appropriately staffed – by mediators, administrative staff and support staff – to meet program demands and maintain a high quality program that meets the needs of the court and the children and families it serves.**

FINDING:

- ◆ Approximately 2,859 total staff hours, inclusive of the ACNJ and the court, were required to meet program needs in CY 2000 - 2,246 staff hours were expended by the court (471 mediator hours, 480 administrative hours (Program Coordinator) and 1,295 clerical hours); 1,053 staff hours were expended by the ACNJ (477 mediator hours, 576 clerical hours).

RECOMMENDATIONS:

- ◆ Given that ACNJ will most likely complete its grant requirements in the first quarter of 2001 (ahead of schedule), and given the increasing number of referrals to the mediation program, serious consideration must be given to whether current court staffing – mediators, administrative and support staff – is sufficient to support the program once it is fully incorporated into court operations, especially if the number of referrals to mediation continues to increase.
- ◆ Consider what additional staff positions (e.g., “compliance monitor” or program liaison) or procedural mechanisms (e.g, frequent court reviews or child in placement review boards) might be put in place to ensure appropriate follow-up and long term compliance with mediated agreements.

➡ PROCESS GOALS

GOAL: **It was expected that mediation sessions would last approximately 3 hours.**

GOAL: **It was anticipated that most issues referred to mediation would be resolved within one mediation session.**

FINDINGS:

- ◆ On average, mediation sessions lasted 3.38 hours, with a range from 1 to 8 hours.
- ◆ 70% of cases required one mediation session to resolve identified issues; 23% of cases required two mediation sessions; and 2% of cases required 3 or more mediation sessions to resolve identified issues.

GOAL: All appropriate legal and family participants should be present during the mediation session.

FINDINGS:

- ◆ Although the majority of parents indicated that there was no one missing from the mediation session, 22% of parents indicated that there was someone missing from the mediation session that they would have liked to have had participate.
- ◆ The majority of professional participants indicated that there was no one missing from the mediation session; 8% of professionals indicated that there was someone missing from the mediation session that they would have liked to have had participate.
- ◆ In the 69 mediations for which there were completed mediator evaluation forms, mothers participated in 74% of mediations and fathers participated in 57% of the mediations.

RECOMMENDATIONS:

- ◆ Consider what steps can be taken to increase parental appearances at mediation.
- ◆ Ensure that parents are appropriately prepared for mediation which may result in a clearer identification of individuals for attendance at a mediation session – or, conversely, provide an opportunity to explain why certain individuals should not attend a mediation.
- ◆ Ensure that program administrative staff have sufficient time to prepare cases for mediation to ensure that all necessary parties are invited to attend.

GOAL: Parents' attorneys should explain confidentiality to their clients prior to the mediation.

GOAL: Confidentiality issues should be addressed at the very beginning of the mediation session.

GOAL: All parties, especially parents, should fully understand the confidential nature of mediation and the limits to that confidentiality.

FINDINGS:

- ◆ The majority of parents reported that their attorneys explained the confidentiality statement before the mediation session; however, only 75% of these parents indicated that they clearly understood the explanation. Note, however, that 29% of parents reported that their attorney did *not* explain the confidentiality statement before the mediation session.
- ◆ Almost all professional participants found the confidentiality statement to be sufficient.
- ◆ All professional participants indicated that the mediator adequately explained the mediation process at the beginning of the mediation session.

RECOMMENDATIONS:

- ◆ Ensure that explanations about confidentiality, especially the limits of confidentiality, are targeted toward the comprehension levels and language skills of parents.
- ◆ Hold parents' attorneys accountable for meeting with clients prior to the mediation session to discuss confidentiality and its limits.
- ◆ Consider providing training and informational materials to parents' attorneys to assist them in explaining confidentiality and its limits to clients.
- ◆ Consider providing an information number for parents to speak with a program staff person if they have general questions or concerns about mediation, especially confidentiality and its limits.
- ◆ Consider including a short explanatory statement about the confidentiality of mediation, and its limits, in program brochures, overviews, and so forth.

- GOAL:** To ensure that all participants, especially parents, perceive themselves to be a valued and important member of the mediation problem-solving “group.”
- GOAL:** To ensure that all participants, especially parents, feel respected and listened to during the mediation.
- GOAL:** To ensure that all participants, especially parents, feel they are part of the problem-solving process.

FINDINGS:

- ◆ Overall, the Child Welfare Mediation Program appears to instill in parents a sense that they are a valued and important part of the mediation session. However, 20% of parents felt somewhat ignored and unimportant during the mediation session and 11% felt that, at least to some extent, they were not treated with respect during the session.
- ◆ Overall, the Child Welfare Mediation Program appears to instill in all professional participants – parents’ attorneys, Deputy Attorneys General, Law Guardians, Division of Youth and Family Services supervisors and caseworkers – a sense that they are a valued and important part of the mediation session.
- ◆ The majority of participants, professionals as well as parents, felt respected and listened to during the mediation.
- ◆ The majority of participants, professionals as well as parents, felt part of the problem-solving process.

RECOMMENDATIONS:

- ◆ Lack of preparation may contribute to a parents’ perception that he or she is unimportant to the process. Ensure that parents clearly understand the goals and purpose of mediation, their role in the process, and how it differs from the traditional court context.
- ◆ Consider how to increase the extent to which parents feel they are part of the problem-solving process.
- ◆ Consider how to increase legal representatives’, especially parents’ attorneys, perceptions of group value.

- ◆ Consider how to increase DYFS representatives perceptions of group value.
- ◆ Consider how to increase all participants perceptions of group value. Enhancing everyone else's sense of group value enhances the mediation process and increases the likelihood that mediation will positively influence case processing, case plan compliance, and timely permanency for children.
- ◆ Consider expanding evaluation methodology to determine if increasing participant perceptions of group value increases case plan compliance.

GOAL: To ensure that all participants, especially parents, have the opportunity for voice.

FINDING:

- ◆ Overall, the Child Welfare Mediation Program appears to provide all participants, including parents, with an opportunity for voice.

GOAL: All mediators should be appropriately competent in managing the group dynamics of the mediation process to ensure that everyone has the opportunity to participate, and is treated fairly and respectfully.

FINDING:

- ◆ All mediation participants reported that the mediators were very effective in managing the group dynamic of the mediation process.

➡ OUTCOME GOALS

GOAL: To resolve, through the mediation process, issues that have remained unresolved through the traditional legal process.

GOAL: To produce, through the mediation process, agreements which move the cases toward permanency.

FINDINGS:

- ◆ 35% of participants reported that mediation had resolved “all of the issues,” 56% of participants reported that mediation had resolved “some of the issues,” and 19% of participants indicated that “none of the issues” were resolved in their mediation session.
- ◆ The majority of professional participants felt that mediation had “resolved more issues than not.”
- ◆ The majority of professional participants believed that they would not have achieved a better outcome in court.
- ◆ The majority of professional participants believed that the mediation served to move the case forward.

RECOMMENDATIONS:

- ◆ Consider ways in which staffing can be enhanced to offer mediation in more cases earlier in the case process.
- ◆ Consider how agreement rates might be enhanced – for example, through better preparation of the parties and through enhanced perceptions of group value on the part of all parties, especially parents.
- ◆ Consider whether the court is taking an appropriate leadership role in ensuring long-term parental, professional, and agency compliance with mediated agreements.

GOAL: **To engage parents in the case planning process and empower parents as decision-makers.**

FINDINGS:

- ◆ Overall, the Child Welfare Mediation Program appears to instill in parents a sense that they are a valued and important part of the mediation session.
- ◆ The majority of parents felt respected and listened to during the mediation.
- ◆ The majority of parents felt part of the problem-solving process.

- ◆ The majority of professionals believed that the mediation process had increased parental involvement in the development of the case plan.

RECOMMENDATIONS:

- ◆ Consider tracking and monitoring cases that have been mediated to determine if case plan compliance is enhanced as a result of parental empowerment as decision-makers.
- ◆ Consider how further enhancement of parental perceptions of group value and voice might influence the extent to which parents are empowered as decision-makers.

GOAL: To improve the level of understanding among conference participants.

GOAL: To improve communication and working relationships among all parties and professionals involved in the case.

FINDINGS:

- ◆ The majority of participants – parents and professionals – felt that the mediation process helped them to better understand everyone’s point of view.
- ◆ The majority of participants – parents and professionals – felt that the mediation process helped everyone else to better understand their point of view.
- ◆ The majority of professionals agreed that the mediation process had improved communication and their relationship with their client, whether their client was the parent, the child, or the social agency. Note, however, that Deputy Attorneys General rated the lowest agreement.

RECOMMENDATION:

- ◆ Follow up with Deputy Attorneys General to determine why they felt less certain than other professionals that mediation had improved communication with their clients.

GOAL: **To promote collaborative problem-solving to better meet the needs of the children and families in the child welfare system.**

FINDINGS:

- ◆ The overwhelming majority of professionals believed that mediation was helpful to the family.
- ◆ The overwhelming majority of legal representatives believed that mediation was helpful to them by providing a more effective opportunity to advocate for their clients.

The Essex County Child Welfare Mediation Program appears to be meeting, and in some cases surpassing, its operational and process goals. Successful achievement of operational and process goals suggest that over time, the program will successfully achieve its overall goals related to the development of more family-specific case plans, increased parental compliance, reduction in the use of contested cases, more effective use of judicial and court time, and, ultimately, the achievement of timely permanency for children.

In order to determine whether the child welfare mediation program is achieving long-term systemic goals, steps need to be taken to fund further evaluation. Ideally, the next stage of evaluation should incorporate a comparison sample of similar non-mediated cases so that assessments can be made about the impact of mediation on such key indicators as:

- the breadth of services and level of detail in case plans;
- parental appearances;
- level of parental involvement in the development of case plans;
- level of parental compliance with case plan;
- number and length of court appearances;
- case outcomes (e.g., reunification, kinship placements, identified surrenders, contested TPRs, adoption);
- overall timeliness of case processes from the initial filing of the petition to the achievement of permanency;

- re-entry into care and recidivism rates; and
- overall satisfaction of parents, family members, and system professionals with case progress and outcomes.

Subsequent program evaluation should include empirical case file reviews, observation of mediation sessions, client satisfaction surveys, and interviews with key program stakeholders. In order to determine parental compliance with either court-ordered or mediated case plans, case-related information needs to be tracked over time (e.g., at three, six, and nine months post-disposition). In order to determine the impact of mediation versus traditional litigation on overall case outcomes and timeliness, a sample of both mediated and non-mediated cases should be tracked through the termination of court jurisdiction. And, to determine whether mediation decreases re-entry and recidivism rates, a sub-sample of cases should be tracked at least six months beyond case closure.

If such an evaluation is to be conducted, whether formally or informally, care needs to be taken to ensure that the appropriate questions are being asked, that the necessary data is being collected and available in case files, and that mechanisms are put in place to ensure ongoing evaluation and feedback to program leaders.

INTRODUCTION

➡ **MEDIATION IN CHILD WELFARE (ABUSE AND NEGLECT) CASES**

Child welfare mediation (or dependency mediation) is a confidential process in which specifically trained neutral mediators who have no authoritative decision-making power assist the family, social worker, attorneys, and other interested parties in a case to discuss and develop their own mutually acceptable agreements with respect to issues relevant to an abuse and neglect case before the court. Mediation should always focus on preserving the safety and best interests of the children while simultaneously attempting to validate the concerns, points of view, feelings, and resources of all participants, especially parents and family members. Mediation seeks to leave family members with an experience of having been significant, respected, and understood participants in the court process, and with an investment in accepting or complying with the terms of the mediated agreement.¹

➡ **A BRIEF OVERVIEW OF PROGRAM DEVELOPMENT**

The Essex County Child Welfare Mediation Program is the result of a collaborative relationship among the Superior Court of New Jersey, Family Division, the Association for Children of New Jersey (ACNJ), the New Jersey Court Improvement Project (CIP), and the Division of Youth and Family Services (DYFS). The Superior Court of New Jersey, Family Division, and DYFS were already implementing significant systems reform as part of the Victims Act Model Court Project of the

¹ For a review of the purpose, goals, and underlying philosophy of child welfare mediation, please see Bailey, C. (1998) *Diversion Project Matrix: A Report from Four Sites Examining the Court's Role in Diverting Families from Traditional Child Welfare Services into Community-Based Programs*. National Council of Juvenile and Family Court Judges, Reno, NV.; *Family and Conciliatory Courts Review*, Vol. 35, 1997. For specific information about child welfare mediation programs, please contact the Permanency Planning for Children Department at the National Council of Juvenile and Family Court Judges. Tel: (775) 327-5300 or www.pppncjfcj.org.

National Council of Juvenile and Family Court Judges (NCJFCJ) and court improvement efforts.² As part of its overall reform efforts, the court was already considering the possible implementation of a mediation program in child welfare cases. To facilitate development of a viable child welfare mediation program and to increase program capacity to conduct mediations and evaluate outcomes, the court and the ACNJ entered a partnership to develop, implement, and evaluate child welfare mediation in Essex County.

Funding for the development and implementation of the Essex County Child Welfare Mediation Program was made available through two primary sources. The ACNJ, a statewide child advocacy group, successfully sought funding for a two-year project to develop, implement and evaluate³ the use of mediation in child welfare cases. The ACNJ grant facilitated the establishment of a cadre of mediators available to provide mediation services in child welfare cases in the court system and provided funds to train both ACNJ and court mediators. The New Jersey Court Improvement Project (CIP), through the Administrative Office of the Court, published a request for proposals to implement child welfare mediation in three jurisdictions in New Jersey. Essex County submitted a grant to the CIP committee and successfully received the funding to hire one full-time mediator for the first program year. At the conclusion of the first year, the full-time mediator position was to be incorporated into the court budget.

Development of the Child Welfare Program began in September 1998. To aid in the development and implementation of child welfare mediation in Essex County, a Mediation Subcommittee of the

² For more information about the reform initiatives and achievements of the Newark Model Court specifically and the Victims Act Model Court Project generally, see the 1999 and 2000 editions of the *Child Victims Act Model Court Status Report* available from the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges, Reno, NV. Tel: (775) 327-5300 or www.pppncjfcj.org.

³ The ACNJ evaluation is separate from, but complementary to, the evaluation described in this report. The evaluation described herein was supported by a grant from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, which provides funding for the provision of technical assistance to courts participating in the Child Victims Act Model Court Project of the Permanency Planning for Children Department, National Council of Juvenile and Family Court Judges. The development, implementation, and evaluation of a child welfare mediation program was one of the system improvement goals established by the Newark Model Court.

Children in Court Advisory Committee⁴ was developed. This subcommittee was multi-disciplinary, with representatives drawn from each of the primary stakeholder groups involved in child welfare litigation. Over a period of approximately 18 months, program policies, protocols and procedures were developed and refined. Subcommittee members reviewed written protocols and procedures from other jurisdictions, as well as evaluation reports if available, attended conferences on child welfare mediation, and visited several sites with existing programs. Through a collaborative process, the subcommittee reached consensus on the following:

- the foundational values and principles that would underlie the child welfare mediation program in Essex County;
- the program scope, objectives and goals; and
- protocols for the overall program, including the referral and screening process, case inclusion and exclusion criteria, confidentiality and its limits, training and educational requirements for mediators, coordination between the mediation program and the court, and program monitoring and evaluation needs.

Considerable time was spent ensuring “buy-in” from the professional community. Presentations were made to each stakeholder group about the purpose and goal of mediation, how the mediation program would assist in achieving timely permanency, and how the mediation program would integrate into current court and social service agency practices.

The Essex County Child Welfare Mediation Program took its first case in January 2000. This interim evaluation report is based on the 129 cases mediated in calendar year 2000. This report should be reviewed in conjunction with the evaluation results obtained by the ACNJ.

⁴ For more information on the composition and role of the Essex County Children in Court Advisory Committee see the *Victims Act Model Court Status Report 1999*, *Supra* note 1.

➔ **THE NATIONAL VICTIMS ACT MODEL COURT PROJECT**

One of the Permanency Planning for Children Department's many initiatives is the nationally recognized Child Victims Act Model Court Project (VAMC), funded by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), U.S. Department of Justice. This "Model Court" project involves a total of 23 Model Courts representing urban, rural, and tribal jurisdictions. Each of these jurisdictions is engaged in systems change efforts and is working collaboratively with social service agencies and other system professionals to achieve improvement goals. The VAMC project seeks to improve court processing of child abuse and neglect cases by producing replicable innovations in "Model Courts." Working closely with the PPCD and with each other, and drawing on the best practice principles of the *RESOURCE GUIDELINES*⁵ and *ADOPTION AND PERMANENCY GUIDELINES*⁶, the Model Courts are continually assessing their child abuse and neglect case processing, focusing on barriers to timely permanency, developing and instituting plans for court improvement, and working collaboratively to effect systems change. Each of the Model Courts is committed to taking a "hard look" at how its court process is working in everyday practice; how well the court is meeting federal and statutory requirements; how well social service agencies are meeting clients' needs; and how well the child protection system as a whole is meeting the needs of the children and families it serves.

It is important to underscore the meaning of the term "model" within the Child Victims Act Model Court Project. The use of the term "model" is not meant to infer that the Model Courts have achieved ideal practice or created perfect systems. Rather, the Model Courts serve as *models for facilitating systems change*. Each court engages in self-assessment and chooses jurisdiction-specific goals to improve its practice in child abuse and neglect cases. Each is using unique, individualized methods of collaboration with related child welfare agencies and community groups. Each Model Court is a source of invaluable information about how to begin, engage, and institutionalize needed systems change.

⁵ *RESOURCE GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases* (1995). National Council of Juvenile and Family Court Judges, Reno, Nevada.

⁶ *ADOPTION AND PERMANENCY GUIDELINES: Improving Court Practice in Child Abuse and Neglect Cases* (2000). National Council of Juvenile and Family Court Judges, Reno, Nevada.

EVALUATION METHODOLOGY

➔ **EVALUATION OBJECTIVES**

The purpose of this evaluation was to examine the nature and functions of the Essex County Child Welfare Mediation Program. The overall, long-term goals of the Child Welfare Mediation Program are:

- ▶ To develop mediation as a viable alternative to litigation in child welfare cases;
- ▶ To reduce the length of time to permanency for children in the child welfare system;
- ▶ To reduce court time in the handling of child welfare cases;
- ▶ To more efficiently use judicial time;
- ▶ To reduce the number of contested trials in the child welfare process;
- ▶ To engage parents in the case planning process and empower parents as decision-makers;
- ▶ To facilitate the development of more detailed service agreements which address the practicalities and realities of each family's individual needs;
- ▶ To facilitate increased parental compliance with service plan requirements;
- ▶ To promote collaborative problem-solving to better meet the needs of the child(ren) and families in the child welfare system;
- ▶ To improve the communication and working relationships of all parties and professionals involved in the case; and
- ▶ To develop competence for mediators in child welfare cases.

This interim evaluation is focused on determining how well the Child Welfare Mediation Program is meeting operational and process goals related to the more long-term goals stated above. This evaluation does *not* present data with respect to whether the mediation program reduces the amount of time to permanency for children, nor does it address whether the program reduces court and judicial time. These questions are included in the evaluation currently underway under the auspices of the Association for Children of New Jersey (ACNJ). Additional funding is required to support the expansion of this evaluation – particularly the collection of comparison data and

assessment of long-term outcomes (e.g., assessment of longitudinal impact of program on case processing, effect on court and judicial time, degree of service plan compliance, and achievement of timely permanency for children and families).

EVALUATION DESIGN

◆ Mediation Tracking System

The Mediation Program Coordinator developed and maintained an Excel-based spreadsheet that tracked the following categories of information:

- case name;
- case number;
- type of case (abuse/neglect (FN), termination of parental rights (FG), review of children in placement (FC));
- judge initiating referral;
- date assigned to mediation program;
- date mediation heard;
- number of mediation sessions;
- type of agreement – full, partial or no agreement;
- mediator(s) assigned to case; and
- date case closed (closed with respect to mediation session).

◆ Participant Satisfaction Surveys

The Essex County Family Court, the ACNJ, and the NCJFCJ collaboratively developed exit surveys to determine participant satisfaction with the mediation process. Survey instruments were developed to capture information about different participants' perspectives on important issues or specific elements of the mediation program. These issues, and questions pertaining to them, were developed after a substantive review of the literature on child welfare mediation, shared decision-making, and strengths-based collaborative processes. In addition, meetings were held with representatives of each of the stakeholder groups involved in the Child Welfare Mediation Program in order to solicit their input regarding programmatic information needs (e.g., a series of discussions were held about the intent and use of mediation with court and ACNJ representatives).

- ***Parents' Satisfaction Survey***

Parents were asked to complete the exit survey at the conclusion of their mediation session and to return the completed survey to program staff. The "Parents' Satisfaction Survey" was designed to collect information about the following:

- level of preparation for the mediation session;
- extent to which parents were made to feel comfortable with mediation process;
- parental perceptions of group value and opportunity for voice;
- level of parental involvement in the problem-solving process;
- effectiveness of mediator;
- level of family participation in the mediation; and
- overall opinion about the mediation program.

During the evaluation period, 174 "Parents' Satisfaction Surveys" were completed and returned.

- ***Professionals' Satisfaction Survey***

The "Professionals' Satisfaction Survey" was designed to be completed by parents' attorneys, Deputy Attorneys General (DAGs), Law Guardians, Division of Youth and Family Services supervisors and caseworkers, Court Appointed Special Advocates (CASAs), and other system professionals participating in a mediation. Professionals were asked to complete the exit survey at the conclusion of their mediation session and to return the completed survey to program staff. The "Professionals' Satisfaction Survey" was designed to collect the following categories of information:

- level of preparation for the mediation session;
- utility of mediation in helping professionals to advocate and communicate their clients' positions;
- sufficiency of the confidentiality statement;
- professionals' perceptions of group value and opportunity for voice;
- professionals' perceptions of the level of parental involvement in the problem-solving process;
- effectiveness of the mediator;
- perceptions of the degree to which family members participated in the mediation; and

- overall opinions about the mediation program.

During the evaluation period, 237 “Professionals’ Satisfaction Surveys” were completed and returned.

• Attorneys for Parents	53 Surveys
• Deputy Attorneys General	54 Surveys
• Law Guardians	52 Surveys
• DYFS Supervisors	49 Surveys
• DYFS Caseworkers	12 Surveys
• Adoption Worker	1 Survey
• Court Appointed Special Advocates (CASAs)	2 Surveys
• Specific Role not Checked	14 Surveys

◆ ***Mediator Evaluation Forms***

Mediators were also asked to complete a “Mediator Evaluation Form” at the conclusion of each mediation. These forms gathered information about the following:

- case name;
- case type (abuse/neglect (FN), termination of parental rights (FG), review of children in placement (FC));
- reason for referral to mediation program;
- party requesting mediation;
- number of children subject to mediation;
- placement of children at time of mediation;
- parties present at mediation;
- issues addressed at mediation;
- length of mediation;
- number of mediation sessions for specific case;
- outcome of mediation session; and
- overall assessment of mediation.

During the evaluation period, 69 “Mediator Evaluation Forms” were completed and returned.

◆ ***Review of Program Policies and Procedures***

Written program policies and protocols were reviewed, as well as memos and notes related to program development and implementation.

◆ ***Informal Interviews with Key Program Staff***

Ongoing, informal communication was maintained between NCJFCJ evaluators and court and ACNJ program staff throughout the development and implementation of the Child Welfare Mediation Program. This ongoing communication not only assisted in the development of data collection forms, but also kept evaluators informed of programmatic changes, successes and challenges.

➡ ***EXPANDING THE EVALUATION METHODOLOGY***

In the original evaluation research design, researchers anticipated using a comparative sample of cases in order to determine if the outcomes for children and families whose cases were mediated are different from those whose cases are not mediated. However, random assignment of cases to a mediation sample and non-mediation sample was not feasible in the early stages of the program (it may become feasible if the number of referrals exceeds program capacity).

The ACNJ is conducting a review of case files for those cases that were mediated and for a small sample of similar cases that were not mediated. The results of this case file review will provide insight into whether or not the mediation program is resulting in more timely permanency for children and less court time. ACNJ evaluation staff and court improvement project representatives will also be conducting interviews with key program stakeholders as part of their evaluation process.

 **DATA ANALYSIS**

All data obtained from exit surveys and mediator forms were coded using a structured coding strategy. Codes were then entered into a statistical database (SPSS) for analysis. Coding and data-entry was checked to ensure reliability of both code and coder. The Excel database developed by the Program Coordinator was transferred into SPSS for analysis purposes. Frequencies and cross-tabulations were run to provide descriptive information related to each program goal, and regression analyses were performed on key variables and their relationships to outcomes.

PROGRAM OPERATION GOALS: RESULTS AND RECOMMENDATIONS

➤ **CASE REFERRAL PROCESS**

Any party can request the court to order a case to child welfare mediation. However, regardless of who initiates the original request, the case must be referred by court order. Judges conduct an initial screening of the case, eliminating cases in which there is a domestic violence restraining order, a legally incompetent party, or a serious criminal charge pending. The referral order is signed by the judge and given to all parties in court. Parties not present in court receive a copy of the order in the mail with an explanation of the mediation process and purpose. The judge then sends the signed order of referral with the required case information to the mediation program.

In the original grant submitted by the ACNJ it was anticipated that 60 cases would be referred to the Child Welfare Mediation Program during the first grant year, and 120 cases would be referred in the second grant year, for a total of 180 cases in the first two years of the program.

PROGRAM OPERATION GOALS:

- ◆ Year 1 of Program (2000) 60 Referrals to Mediation
- ◆ Year 2 of Program (2001) 120 Referrals to Mediation

FINDINGS:

- ◆ 131 referrals were made to the Child Welfare Mediation Program in calendar year 2000, more than double the anticipated number of referrals.
- ◆ The 131 referrals generated 185 mediation sessions in calendar year 2000 (i.e., some cases had multiple mediation sessions).
- ◆ Between January and February 2000, 11 referrals were made to the mediation program. Between January and February 2001, almost five times the number of referrals were made to the mediation program (54 referrals). In the first six months of 2001, 115 cases were referred to the Child Welfare Mediation Program, representing 88% of the total number of referrals for calendar year 2000 and 96% of the projected referrals for 2001.
- ◆ In almost two-thirds of the cases the referral to mediation was initiated by the court.

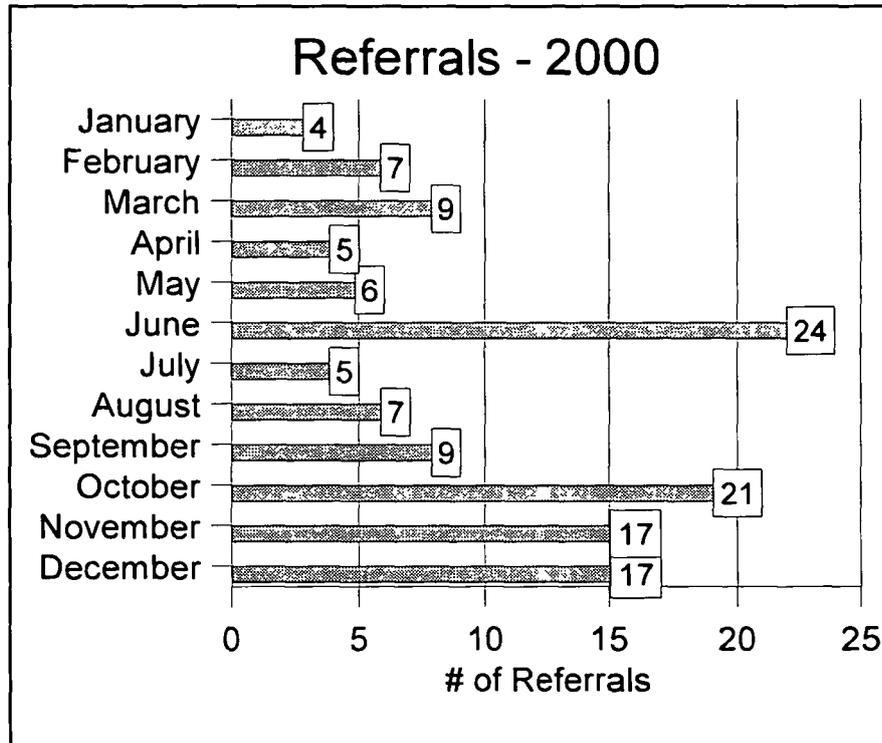


Figure 1

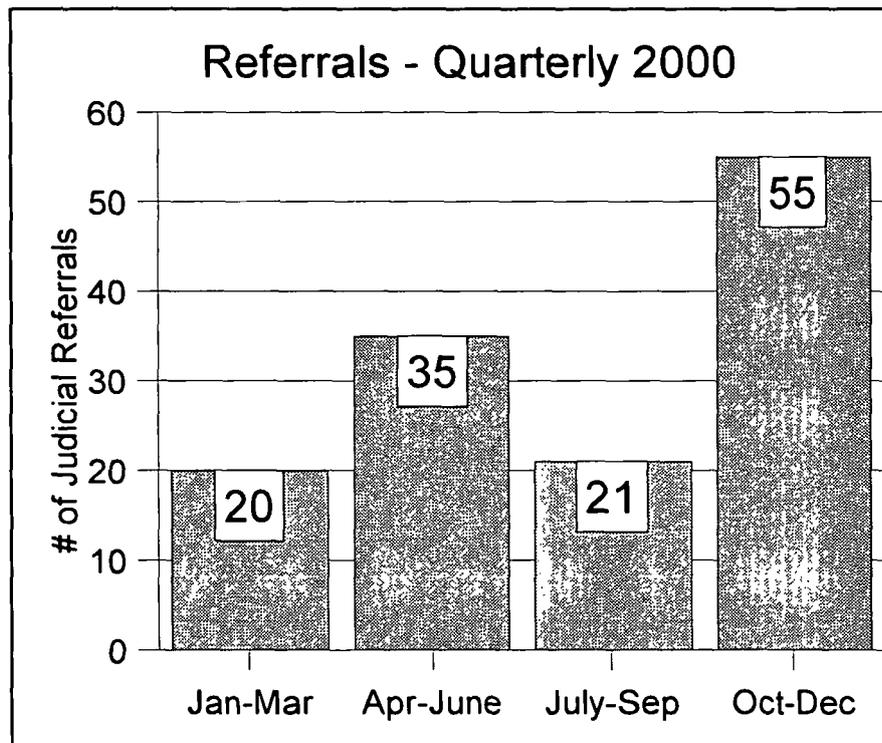


Figure 2

Note that in June 2000, there was a significant increase in the number of referrals to the mediation program. Although referrals dropped off in the summer, the number of referrals significantly increased in the fall of 2000. (See Figures 1 and 2).

The number of referrals to the Child Welfare Mediation Program in early 2001 suggests that the number of mediation sessions will continue to increase significantly. For example, between January and February 2001, almost five times the number of referrals were made to the mediation program (54 referrals) than were made between January and February 2000 (11 referrals). In the first six months of 2001, 115 cases were referred to the Child Welfare Mediation Program, 88% of the total number of referrals for calendar year 2000 and 96% of the projected referrals for 2001. (See Figure 3).

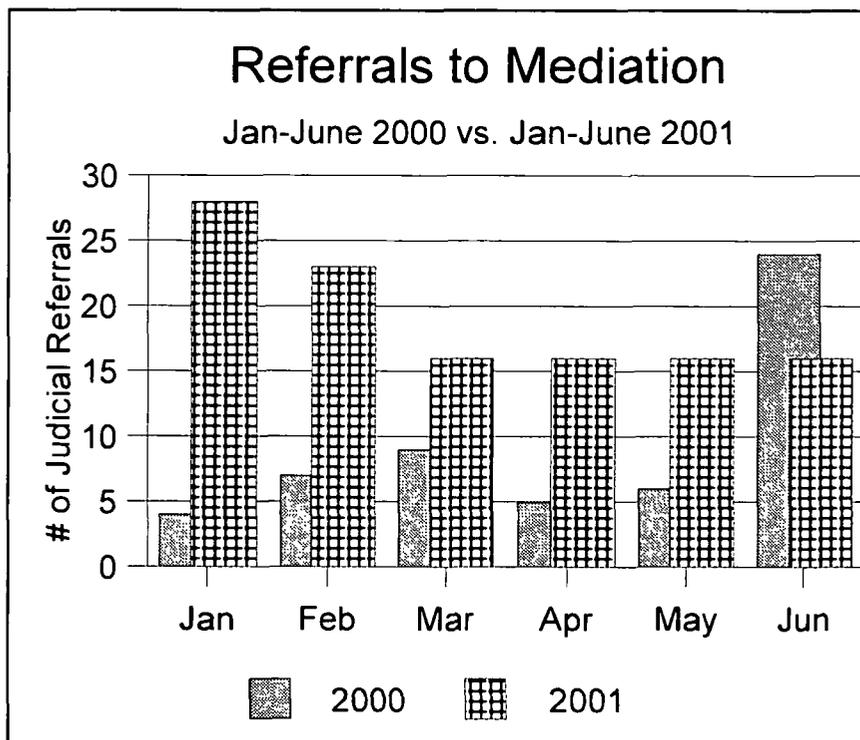


Figure 3

Recommendation:

- ▶ Consider if current program staffing – including mediators, administrative and support staff – will be able to meet the increasing number of referrals to the program and maintain program quality.

A review of the 69 referral forms completed and returned by the mediators¹ indicated that in almost two-thirds of the cases (63%) the referral to mediation was initiated by the court. In 11% of the cases, the referral was initiated by a parents' attorney (9% by mothers' attorney, 2% by fathers' attorney); in 11% of the cases the referral was initiated by the Law Guardian; in 9% the referral was initiated by the Deputy Attorney General (DAG); and in 6% of the cases the referral was initiated by the DYFS caseworker. (See Figure 4).

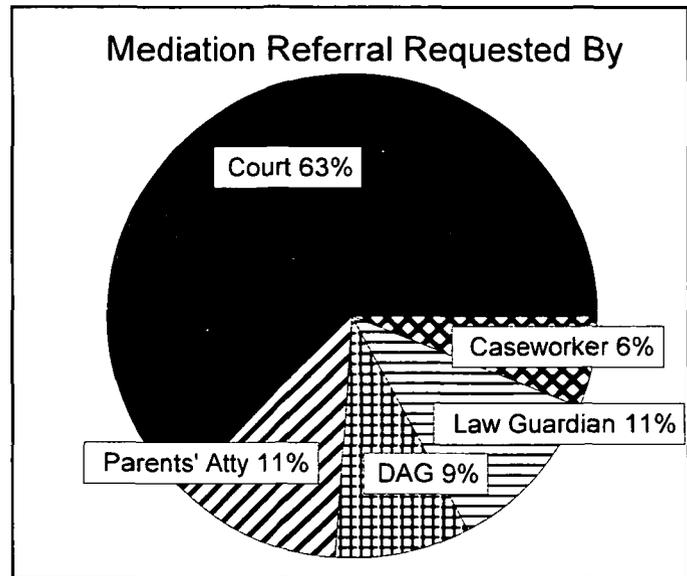


Figure 4

Initially, referrals to the Child Welfare Mediation Program were restricted to only two judges and their assigned DYFS District Offices (January 2000 to May 2000). Beginning in June 2000, all five judges with DYFS calendars began referring cases to the mediation program (recall the significant increase in referrals in June 2000). Referrals to the Child Welfare Mediation Program are currently made by all judges handling DYFS cases or by any attorney or party at any time in the litigation process after all litigants and children have been assigned attorneys.

¹ Because only 69 mediator forms were completed and returned, these findings may not be representative of all 129 mediated cases.

The program was initially designed to facilitate mediation early in the litigation process, preferably at the hearing on the return date (30 days from when the child is removed). However, once the program was operational, referred cases tended to be further along in the litigation process. Of the 131 referrals to the mediation program in 2000, 47% (n=61) were child abuse/neglect (FN) cases and 53% (n=70) were termination of parental rights (FG) cases. (See Figure 5).

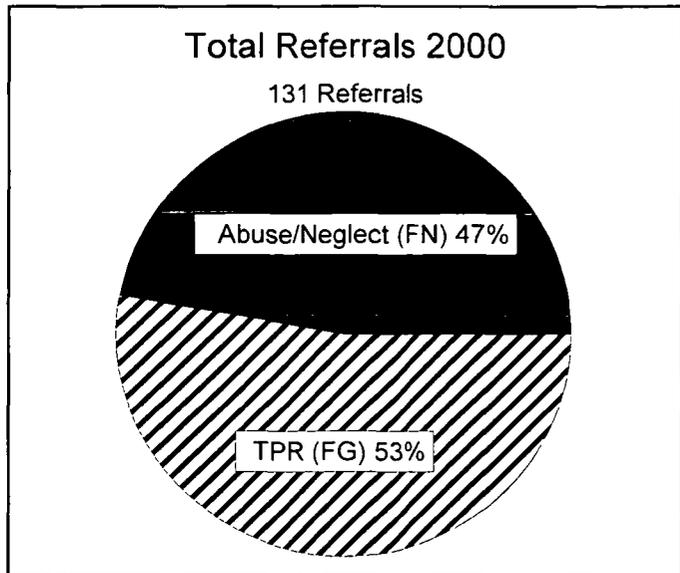


Figure 5

The most common reasons for referral in an abuse/neglect case (FN) were, in order of frequency:

- to find a permanent placement for the child;
- to address service issues;
- to address visitation issues; and
- to address a problematic relationship between the parent(s) and DYFS.

Most of the cases referred at the TPR stage (FG cases) were focused on the possibility of an identified surrender and possible alternatives to termination of parental rights.

MEDIATION SCHEDULING PROCESS

The Child Welfare Mediation Program officially began scheduling mediation cases in January 2000. Mediation calendars were created and sent to judges three months in advance.

Each judge is allocated specific slots to schedule mediations. The judge selects the date for the mediation from his or her mediation calendar. The length of time between the referral to mediation and the holding of the mediation is at the judges' discretion and somewhat dependent on calendar availability.

Mediation sessions are scheduled Monday through Friday at 9:00 a.m. or 1:00 p.m. A program assistant is responsible for completing all paperwork and clerical activities required to prepare the case for the mediation session (See Program Staffing, page 26). One week before the mediation is scheduled, the program assistant calls all parties to ensure their attendance.

PROGRAM OPERATION GOAL:

- ◆ Mediation sessions are to be scheduled within two weeks of the referral order from the court.

FINDINGS:

- ◆ On average, mediations are *scheduled* within 25 days of the referral order from the court.
- ◆ On average, mediations are *held* within 30 days of the referral order from the court.

According to program protocols, mediations are to be held within two weeks of the referral order. On average in CY 2000, mediation sessions were scheduled within approximately 25 days of the initial referral.² On average in CY 2000, mediation sessions were actually heard within approximately 30 days of the initial referral.³

Recommendation:

- ▶ Consider whether the time frame between the court referral to mediation and the actual mediation session is appropriate and to what extent this time frame might differ depending upon the reason for referral, stage of litigation, and program resources.

² The average number of days from the date of referral to the date of the mediation (not counting rescheduled mediations) was 39 days, including weekends. Thirty-nine days equates to approximately 25 work days. The number of days may be somewhat inflated as the referral date was tracked as the first day of the month for the first few months of the program, regardless of when in the month the referral actually occurred.

³ The average number of days from the date of referral to the date the mediation was actually held, including those rescheduled, was 44 days, including weekends. Forty-four days equates to approximately 30 work days. The number of days may be somewhat inflated as the referral date was tracked as the first day of the month for the first few months of the program, regardless of when in the month the referral actually occurred.

Recommendation:

- ▶ Consider whether the number of available mediation slots per judicial calendar can be increased to facilitate a shorter time frame between the court referral to mediation and the actual mediation session.

Fifty-three percent of referrals in 2000 were scheduled to be mediated by one of six ACNJ mediators; 45% of referrals in 2000 were scheduled to be mediated by one of the three family court mediators; and 2% of referrals were to be mediated by a Court/ACNJ co-mediator team. *Note however, that 92% of the cases mediated by family court mediators were mediated by the Program Coordinator.* (See Figures 6 and 7).

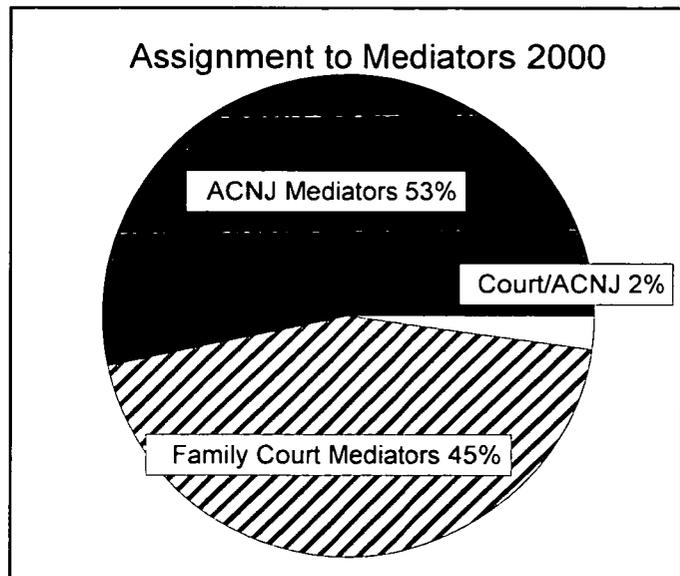


Figure 6

➔ CASE SCREENING AND PREPARATION

As noted, judges conduct an initial screening of the case, eliminating cases in which there is a domestic violence restraining order, a legally incompetent party, or a serious criminal charge pending. An attorney can subsequently raise the issue of mental competence with the judge and/or mediator, with the issue to be resolved on a case-by-case basis. The mediator may also subsequently decide that a case cannot be mediated because of issues that arise at the time of mediation such as domestic violence, sexual abuse, or if a party is intoxicated.

Once referred, each file packet is reviewed to ensure that the case is calendared, all necessary parties have been listed on the information sheet, all information vital to the mediation is included with the packet and that the court is notified about any missing information, and to ensure that any

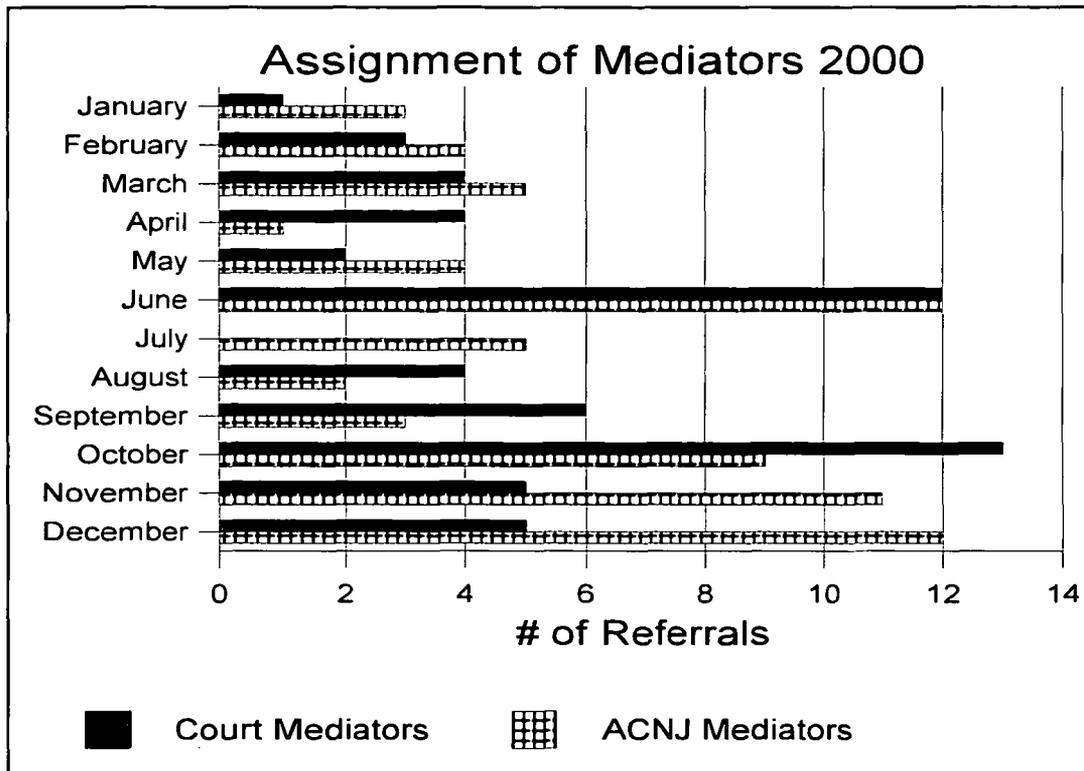


Figure 7

special instructions or paperwork that clerical staff may need to notify parties is included (e.g., procedures to release individuals from drug treatment facilities). The mediation coordinator and clerical support staff then meet to review the file. Court program staff are responsible for screening all cases, regardless of whether a case is to be mediated by ACNJ mediators or court mediators.

Once the case is assigned, the mediator reviews file documents, including the Order to Show Cause, Complaint, judges' case notes when included, and notes on the Court Order to Mediate. Psychological, educational, and other relevant reports are reviewed as appropriate given the case context and the reasons for the referral to mediation.

PROGRAM OPERATION GOALS:

- ◆ Program staff should have sufficient time to appropriately screen and review all cases referred to mediation to ensure that these cases meet case inclusion criteria and that all file packets are complete.
- ◆ Mediators should have sufficient time to review the case file packet and appropriately prepare for the mediation.
- ◆ Mediators should have sufficient case-specific information to prepare for the mediation.

FINDINGS:

- ◆ On average, court program staff spend 30 minutes screening cases to ensure they have been appropriately referred and to ensure that case files are complete.
- ◆ On average, mediators spend approximately 90 minutes reviewing the case file and relevant documents in preparation for the mediation session.
- ◆ The majority of mediators (87%) indicated that they had sufficient case information to prepare for the mediation session.

Mediators were asked to indicate whether they felt they had sufficient case information to appropriately prepare for the mediation session. The vast majority of mediators (87%) indicated that “yes” they did have sufficient case information to prepare for the mediation session, while 13% indicated that they did not. (See Figure 8.)

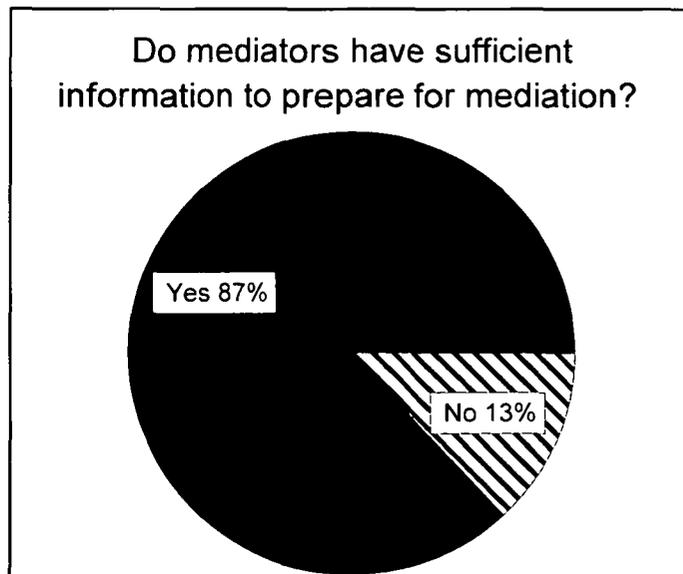


Figure 8

Time Required to Screen and Prepare Cases⁴

Initial Screening Tasks 0.5 hours

- ➔ reviewing file packets received from judges to ensure case is calendared, all parties are listed, and information is complete

Mediator Review of Case Files and Documentation 1.5 hours

- ➔ Order to Show Cause, Complaint, case notes, Court Order to Mediate, appropriate reports
-

Recommendation:

- ▶ Consider whether mediators will continue to have sufficient time to prepare for mediation sessions when the program is fully absorbed into court operations and the ACNJ is no longer required to mediate cases.

➔ LEVEL OF PARTICIPANT PREPAREDNESS FOR MEDIATION SESSION

PROGRAM OPERATION GOALS:

- ◆ All mediation participants should be appropriately prepared for mediation.
- ◆ System professionals should meet with their clients prior to the mediation session.

⁴ Time estimates provided by the Child Welfare Mediation Program Coordinator.

FINDINGS:

- ◆ The vast majority of parents felt at least “somewhat prepared” for the mediation; 51% felt “very prepared.”
- ◆ The majority of system professionals (attorneys, DAGs, Law Guardians, and DYFS supervisors and caseworkers) felt they were “very prepared” for the mediation session.
- ◆ The majority of system professionals indicated that they spoke with their clients prior to the start of the mediation session.
- ◆ Half of the parents indicated that discussions with their caseworkers were the most helpful in preparing them for the mediation session; 44% indicated that discussions with their attorneys were most helpful.

• **Parents**

Parents participating in mediation were asked to indicate how prepared they felt they were for the mediation session. Although the majority of parents felt at least “somewhat prepared” for the mediation session (92%, $n_{\text{PRNT}}=160$ of 174), only 51% of parents ($n_{\text{PRNT}}=88$) reported feeling “very prepared” for the mediation session. Forty-two percent of parents ($n_{\text{PRNT}}=72$) felt “somewhat prepared,” and 7% felt “not at all prepared” for the session ($n_{\text{PRNT}}=12$). See (Figure 9).

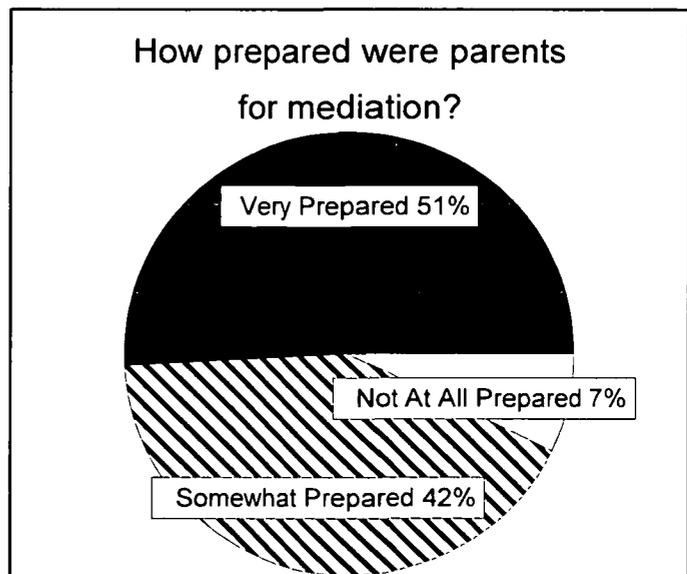


Figure 9

Recommendations:

- ▶ Consider what steps can be taken with parents and their representatives to ensure that *all* parents come to mediation fully prepared and ready to proceed. Ensure that parents fully understand the purpose of mediation, their role in the process, and how mediation differs from a traditional court context. Parents who are not properly prepared for mediation, and who do not fully understand their role in the process, cannot properly participate in the mediation. Ill-prepared parties can hinder the process and decrease efficiency.
- ▶ Consider developing a short narrative summary or checklist of key points for parents' attorneys when discussing mediation and preparing their clients for a mediation session. For example, the purpose and goal of mediation, the role of the parent in the mediation in concert with their attorney, how the mediation process potentially effects their case, the confidential nature of mediation and the limits of confidentiality, who can participate in the mediation, and how mediation differs from the traditional court context.

Parents were asked to indicate from what source or sources they found out that they were required to attend a mediation session:⁵

• Informed by the court/judge	43%
• Received notice in the mail	34%
• Informed by DYFS	32%
• Informed by attorney	16%
• Informed by another family member	5%

Parents were also asked to indicate which source of information was most helpful in preparing them for the mediation session. Half of the parents responding (49%, n=72 of 168 parents responding) indicated that discussions with DYFS were most helpful; 44% indicated that discussions with their attorney were the most helpful (n_{PRNT}=64 of 168 parents responding); 20% (n_{PRNT}=28 of 168 parents responding) mentioned the child welfare mediation brochure was most helpful; and 3% of the parents (n_{PRNT}=4 of 168 parents responding) indicated that the court was most helpful in informing them about mediation.

⁵ Percentages sum to more than 100% because parents may have been informed about the mediation session from multiple sources.

Recommendations:

- ▶ Consider developing a short narrative summary or checklist of key points for all professionals to follow when discussing mediation with parents. This is especially important for DYFS caseworkers who play a critical role in preparing parents for the mediation session.
- ▶ Consider providing the court a short narrative summary or checklist of the purpose and goal of mediation that the court can use when parents are present in court at the time of the mediation referral.
- ▶ Review the child welfare mediation brochure to determine if it provides sufficient information that is clearly presented at an appropriate literacy level.
- ▶ Consider having an administrative staff person make contact with parents prior to the scheduled mediation session in order to provide them with an orientation to the mediation process and to answer any general questions.

• **Systems Professionals**

Although only half of parents felt “very prepared” for the mediation, the majority of professional participants (79%, $n_{\text{PROF}}=187$ of 237) felt that they were “very prepared” for the mediation session. Seventeen percent of professionals ($n_{\text{PROF}}=41$) felt they were “somewhat prepared,” and 4% of professionals ($n_{\text{PROF}}=9$) felt they were “not at all prepared” for the mediation. (See Figures 10 and 11, as well as Table 1).

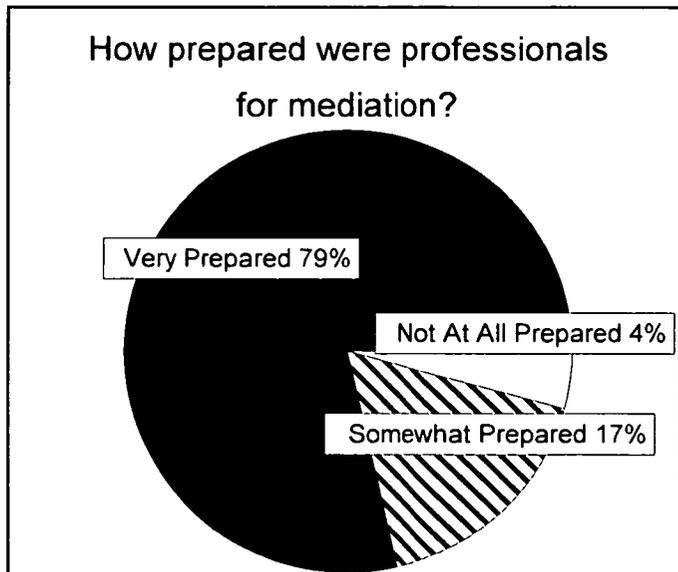


Figure 10

Essex County Child Welfare Mediation Program
 Program Operation Goals: Results and Recommendations

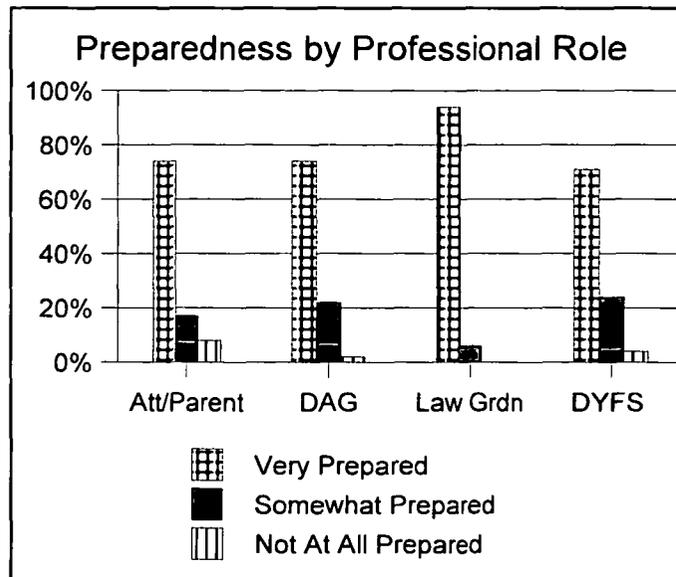


Figure 11

	Very Prepared	Somewhat Prepared	Not At All Prepared
Attorneys for Parents	74%	17%	8%
Deputy Attorneys General	74%	22%	2%
Law Guardians	94%	6%	0%
DYFS Professionals	71%	24%	4%

* Percentages may not sum to 100% due to rounding.

Two thirds of parents (66%) reported that their attorneys spoke with them prior to the mediation session, while 21% reported that their attorneys did *not* speak with them (13% of parents did not respond to the question). The majority of professionals (72%) indicated that they spoke with their clients prior to the beginning of the mediation session. Just under 1/3 of professionals (28%) indicated that they did not speak to their clients prior to the mediation session. (See Figure 12).

- Three-quarters of attorneys for parents ($n_{ATT}=40$ of 53) indicated that they spoke with their clients prior to the beginning of the mediation session, while one-quarter of attorneys ($n_{ATT}=13$ of 53) indicated that they did not.

Essex County Child Welfare Mediation Program
Program Operation Goals: Results and Recommendations

- The vast majority of DAGs (96%, $n_{DAG}=52$ of 54) indicated that they spoke with their clients prior to the mediation session, with only 4% ($n_{DAG}=2$ of 54) reporting that they did not.
- Almost 2/3 of Law Guardians (62%, $n_{LG}=32$ of 52) indicated that they spoke to their clients (the child) prior to the mediation session, while 38% ($n_{LG}=20$ of 52) indicated that they did not.
- Fifty-nine percent of DYFS supervisors ($n_{DYFS-S}=29$ of 49) indicated that they spoke to their clients prior to the mediation session, while only 42% of caseworkers ($n_{DYFS-cw}=5$ of 12) reported talking with their clients prior to the mediation session.

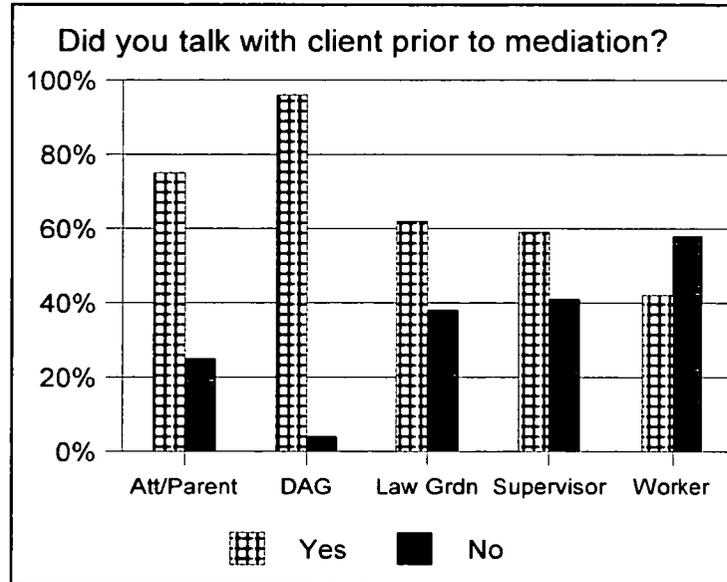


Figure 12

Recommendations:

- ▶ Consider developing accountability protocols or quality assurance guidelines for *all* systems professionals who may participate in a mediation.
- ▶ Consider further interdisciplinary training for *all* systems professionals on the purpose and goals of mediation, expectations for practice, and overall mission of the program.

➔ **PROGRAM STAFFING**

Time estimates are based on estimates of the average minimum time to complete tasks.⁶ Total required hours are estimated on the 129 mediations⁷ completed in calendar year 2000. Time estimates are to be used as a guideline only.

PROGRAM OPERATION GOAL:

- ◆ The Child Welfare Mediation Program should be appropriately staffed – by mediators, administrative staff and support staff – to meet program demands and maintain a high quality program that meets the needs of the court and the children and families it serves.

FINDING:

- ◆ Approximately 2,859 total staff hours, inclusive of the ACNJ and the court, were required to meet program needs in CY 2000 - 2,246 staff hours were expended by the court (471 mediator hours, 480 administrative hours (Program Coordinator) and 1,295 clerical hours); 1,053 staff hours were expended by the ACNJ (477 mediator hours, 576 clerical hours).

• **Mediator Time**

MEDIATOR HOURS PER CASE

Task	Approx. Time Allocation
Review of File Documents	1.50 hours per case
Mediation Session	3.38 hours/case (average)
Completion of Mediation Evaluation Form	0.25 hours
<u>Final Administrative Tasks</u>	<u>0.25 hours</u>
<i>Total mediator hours per case</i>	<i>5.38 hours</i>

⁶ Time estimates provided by the Child Welfare Mediation Program Coordinator.

⁷ The 131 referrals in CY 2000 resulted in 129 cases being mediated (2 case referrals did not result in mediation).

Essex County Child Welfare Mediation Program
Program Operation Goals: Results and Recommendations

For CY 2000, 129 mediations were conducted, averaging 5.38 hours of mediation time per case. Thirty-nine mediations required multiple sessions (32 cases required 2 sessions, 1 case required 3 sessions, 3 cases required 4 sessions, 2 cases required 5 sessions, and 1 case required 6 sessions), averaging 3.38 hours per session. The court mediator is also responsible for screening all cases, averaging 0.5 hours per case.

129 mediations x 5.38 hours/case	694.02 hours per case/year
<u>56 additional sessions x 3.38 hours/session</u>	<u>189.28 hours per session/year</u>
<i>Total mediator hours</i>	<i>883.30 hours/year</i>
883.30 hrs/year x 54% ACNJ assignments	476.98 mediator hours/ACNJ
883.30 hrs/year x 46% court mediator assign.	406.32 mediator hours/court
Screening Cases (129 x 0.5 hrs)	<u>64.50 mediator hours/court</u>
	<i>470.80 mediator hours/court</i>

Table 2* Mediator Hours				
	ACNJ 6 mediators		COURT 1 mediator	
	Total	Per Mediator	Total	Per Mediator
CY 2000				
Mediator hours per year	477.0 hrs/yr	80.0 hrs/yr	470.8 hrs/yr	470.8 hrs/yr
Average mediator hours per month	39.7 hrs/mon	6.6 hrs/mon	39.2 hrs/mon	39.2 hrs/mon
Average mediator hours per week	9.9 hrs/wk	1.7 hrs/wk	9.8 hrs/wk	9.8 hrs/wk

* Percentages may not sum to 100% due to rounding.

- ***Program Administration***

PROGRAM COORDINATOR

The court mediator also serves as the Program Coordinator and, as such, has additional administrative duties, including:

- coordinating scheduling and room availability;
- collecting and processing evaluation forms;
- tracking mediations, preparing statistical data, and writing reports for the court and private mediators;
- general program oversight;
- supervision of clerical support staff;
- attending meetings, serving as Child Welfare Mediation Subcommittee Co-Chair;
- coordination with the ACNJ and the NCJFCJ; and
- miscellaneous administrative tasks.

It is estimated that the Program Coordinator spends 40 hours per month on administrative duties.

CLERICAL SUPPORT (Court)

Program clerical staff are responsible for the following:

- providing the court with monthly calendars which are modified weekly so that the court is aware of when and how many mediation slots are available each month;
- providing the court with Orders for Mediation, confidentiality statements, and mediation brochures;
- collecting the names and addresses of parties that need to be noticed about the mediation session;
- noticing all parties;
- rescheduling cases upon request of parties when scheduling conflicts occur and sending out new notices as necessary;
- creating files for mediators that include complete party information sheets, copies of the Complaint, and other documentation for review;
- managing the distribution and collection of exit surveys of all mediation participants;

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- confirming the mediation date and time with litigants and parties one week prior to scheduled mediation;
- copying mediated agreements and mailing to parties; and
- staffing the reception desk in the mediation waiting room.

Task	Approx. Time Allocation
Case Review and Noticing Parties	2.50 hours per case
Confirmation Call to Parties/Reminder Call	1.50 hours per case
Scheduling/Coordination	0.15 hours per case
Managing Parties/Waiting Room	1 hour per case
Copying Agreements and Mailing to Parties	1 hour per case
Coordinating Evaluation Forms	0.15 hours per case
<u>Coordinating ACNJ Mediators</u>	<u>0.25 hours per case</u>
<i>Total clerical hours per case</i>	<i>6.55 hours per case</i>

For each multi-session case, add 0.75 hours per session required to schedule and coordinate, and notice subsequent sessions. Thirty-nine mediations required multiple sessions (32 cases required 2 sessions, 1 case required 3 sessions, 3 cases required 4 sessions, 2 cases required 5 sessions, and 1 case required 6 sessions), for a total of 42 additional hours per year.

129 mediations x 6.55 hours/mediation	=	844.95 hours/year
<u>39 mediations with multiple sessions</u>	=	<u>42.00 hours/year</u>
<i>Total Case-Specific Clerical Support</i>	=	<i>886.95 hours/year</i>

The clerical support staff is also responsible for filing, photocopying evaluations, reports, etc., rotating coverage of receptionist's desk, and other miscellaneous clerical duties. This additional time is averaged at 34 hours per month (408 hours per year).

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Total Case-Specific Clerical Support	=	886.95 hours/year
<u>Total Misc. Clerical Support</u>	=	<u>408.00 hours/year</u>
<i>Total Clerical Support</i>	=	<i>1,294.95 hours/year</i> <i>107.91 hours/month</i>

CLERICAL SUPPORT (ACNJ)

ACNJ clerical staff are responsible for picking up case packets, maintaining and updating their mediation calendar, assigning mediations to specific ACNJ mediators, copying documents and mailing them to the Program Coordinator, coordinating with the Program Coordinator on an ongoing basis, and miscellaneous clerical tasks. It is estimated that ACNJ clerical tasks equate to approximately 48 hours per month.

Table 3 Total Program Staff Requirement - CY 2000		
CY 2000	ACNJ STAFF	COURT STAFF
Total Mediator Hours	477.0 hrs	471 hrs
Total Administrative Hours Program Coordinator Clerical Support	— 576 hrs	480 hrs 1,295 hrs
<i>Total Hours Required -- 2000</i>	<i>1,053 hrs</i>	<i>2,245.8 hrs</i>

Recommendation:

- ▶ Given that ACNJ will most likely complete its grant requirements in the first quarter of 2001 (ahead of schedule), and given the increasing number of referrals to the mediation program, serious consideration must be given to whether current court staffing – mediators, administrative and support staff – is sufficient to support the program once it is fully incorporated into court operations, especially if the number of referrals to mediation continues to increase.

Recommendation:

- ◆ Consider what additional staff positions (e.g., “compliance monitor” or program liaison) or procedural mechanisms (e.g, frequent court reviews or child in placement review boards) might be put in place to ensure appropriate follow-up and long term compliance with mediated agreements.

PROGRAM PROCESS GOALS: RESULTS AND RECOMMENDATIONS

➡ MEDIATION SESSION

During the mediation session, participants identify and discuss issues and concerns that parents, family members, and professionals have about the children and family in a confidential setting with the assistance of a neutral, trained professional. The goal of the mediation is to create collaborative solutions to identified problems. Thus, the goal of mediation is not simply to reach agreement, but also to create a process in which the parties know they are being heard, listened to, and treated fairly. The mediation process should give all parties the opportunity for input into problem-solving, and promote voluntary and collaborative agreements that meet the needs of the child.

PROCESS GOALS:

- ◆ In the original grant by the ACNJ, it was expected that mediation sessions would last approximately 3 hours.
- ◆ It was anticipated that most issues referred to mediation would be resolved within one mediation session.

FINDINGS:

- ◆ On average, mediation sessions lasted 3.38 hours, with a range from 1 to 8 hours.
- ◆ 70% of cases required one mediation session to resolve identified issues; 23% of cases required two mediation sessions; and 2% of cases required 3 or more mediation sessions to resolve identified issues.

Mediation sessions usually lasted for an average of 3.38 hours, with a range from one to eight hours. The majority of cases (70%, n=90 or 129) typically required only one mediation session to resolve identified issues. One-quarter of the cases (25%, n=32 of 129) required two mediation sessions, and 5% of the cases (n=7 of 129) required three or more sessions. See Figure 13.

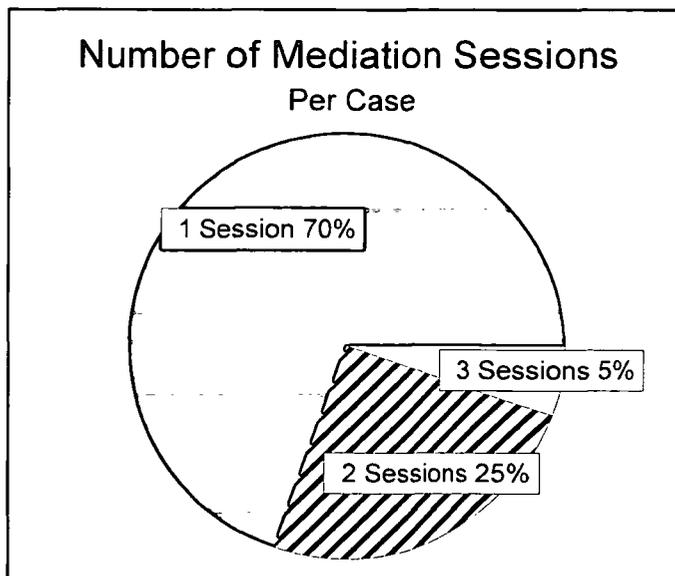


Figure 13

• ***Program Participants***

Appearance for mediation is mandatory, however the mediator or any party can end the mediation if he or she believes that mediation is not a process that can assist in the case. The following individuals may participate in a mediation session:

- Parents;
- Parents' Legal Counsel;
- DYFS Caseworker and/or Supervisor;
- Deputy Attorney General (DAG);
- Law Guardian (Child's Legal Representative);
- Court Appointed Special Advocate (CASA), if one has been assigned to the case;
- Relatives, family friends, and other interested persons;
- Foster parents; and
- Children over the age of 12 years, at the discretion of the mediator.

PROCESS GOAL:

- ◆ All appropriate legal and family participants should be present during the mediation session.

FINDINGS:

- ◆ Although the majority of parents indicated that there was no one was missing from the mediation session, 22% of parents indicated that there was someone missing from the mediation session whom they felt should have participated.
- ◆ The majority of professional participants indicated that no one was missing from the mediation session; 8% of professionals indicated there was someone missing from the mediation session whom they felt should have participated.
- ◆ In the 69 mediations for which there are completed mediator evaluation forms, mothers participated in 74% of mediations and fathers in 57% of the mediations.

A review of mediator forms (N=69)⁴, indicates that mothers participated in 74% of the mediations (n=51 of 69), with her legal representative participating in 72% of the cases (n=50 of 69). Fathers only participated in 57% of the mediations (n=39 of 69), with his legal representative participating in 54% of the mediations (n=37 of 69). Both Deputy Attorneys General and Law Guardians participated in 96% of the mediations (n=66 of 69). DYFS supervisors participated in 59% of the 69 mediations (n=41), while DYFS case workers participated in 81% of the cases (n=56 of 69). CASAs participated in 7% of the cases (n=5 of 69). Foster parents participated in just over half of the mediation sessions (58%, n=40 of 69). Maternal grandparents participated in 7% of the cases (n=5 of 69) and paternal grandparents participated in 6% of the mediations (n=4 of 69); other relatives participated in 29% of the cases (n=20 of 69).

Participants in the Child Welfare Mediation Program were asked to indicate whether they felt there was anyone missing from the mediation session – that is, was there someone that they felt should have attended the mediation but did not? Three-quarters of parents (75%, n_{PRNT}=131 of 174) and

⁴ Because only 69 mediator forms were completed and returned, these findings may not be representative of all 129 mediated cases.

79% of the professionals ($n_{\text{PROF}}=187$ of 237) indicated that there was no one else that should have attended the mediation.

However, 22% of parents ($n_{\text{PRNT}}=38$) and 8% of professionals ($n_{\text{PROF}}=19$) did indicate that someone was missing from the session that should have attended. (See Figure 14.) Individuals identified as “missing” were, in order of frequency of mention:

- mother of child(ren) involved;
- extended family members, especially grandparents;
- an interpreter; and
- foster parents.

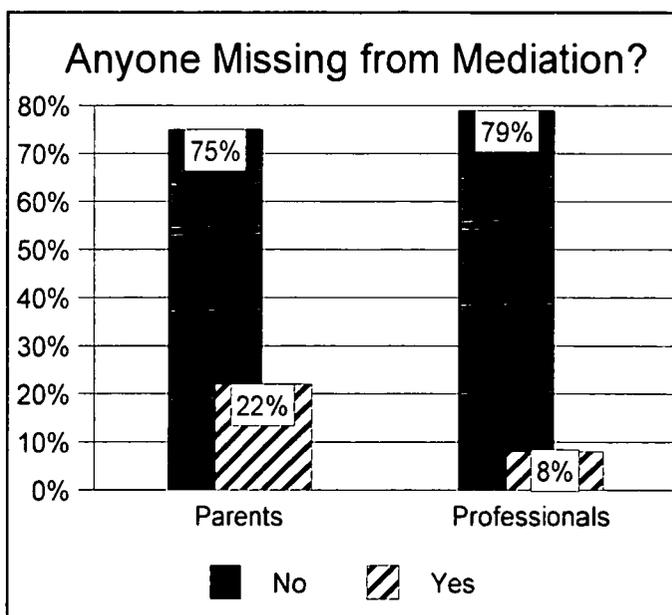


Figure 14

Recommendations:

- ▶ Consider what steps can be taken to increase parental appearances at mediation. Better preparation of parents for mediation may result in clearer identification of individuals for attendance at a mediation session – or, conversely, provide an opportunity to explain why certain individuals should not attend a mediation.
- ▶ Ensuring that program administrative staff have sufficient time to prepare cases for mediation will help ensure that all necessary parties are invited.



OPENING SESSION

- ***Confidentiality and Setting the Scene***

According to program protocols, confidentiality issues should be addressed at the very beginning of the mediation session. All parties are required to sign a confidentiality statement before the session can continue. At the beginning of the mediation, the mediator should take time to explain the mediation process to all participants.

PROCESS GOAL:

- ◆ Parents' attorneys should explain confidentiality to their clients prior to the mediation.
- ◆ Confidentiality issues should be addressed at the very beginning of the mediation session.
- ◆ All parties, especially parents, should fully understand the confidential nature of mediation and the limits to that confidentiality.

FINDING:

- ◆ The majority of parents reported that their attorneys explained the confidentiality statement before the mediation session; however, only 75% of these parents indicated that they clearly understood the explanation. Note, however, that 29% of parents reported that their attorney did *not* explain the confidentiality statement before the mediation session.
- ◆ Almost all of the professional participants found the confidentiality statement to be sufficient.
- ◆ All of the professional participants indicated that the mediator adequately explained the mediation process at the beginning of the mediation session.

The majority of parents (71%, $n_{\text{PRNT}}=124$ of 174) reported that their attorneys did explain the confidentiality statement with them prior to the mediation session, however, only three-quarters of these parents ($n_{\text{PRNT}}=93$ of 124) indicated that they clearly understood their attorneys' explanation. Note, however, that 29% of parents ($n_{\text{PRNT}}=50$ of 174) reported that their attorney did *not* explain the confidentiality statement before the mediation session.

The overwhelming majority of professional respondents (99%, $n_{\text{PROF}}=235$ of 237) found the confidentiality statement to be sufficient. Only one DAG and two DYFS supervisors believed the confidentiality agreement to be insufficient. In all cases (100%), the professional respondents indicated that the mediator adequately explained what the mediation process was going to be like at the beginning of the mediation session.

Recommendations:

- ▶ Ensure that explanations about confidentiality, especially the limits of confidentiality, are targeted toward the comprehension level and language skills of parents.
- ▶ Hold parents' attorneys accountable for meeting with their clients prior to the mediation session to discuss confidentiality and its limits.
- ▶ Consider providing training and informational material to parents' attorneys to assist them in explaining confidentiality and its limits to their clients.
- ▶ Consider providing a toll-free information telephone number for parents to call to speak with a program staff person if they have *general* questions or concerns about mediation, especially confidentiality and its limits.
- ▶ Consider including a short explanatory statement about the confidentiality of mediation, and its limits, in program brochures, overviews, or other informational material.

 **PERCEPTIONS OF GROUP VALUE AND OPPORTUNITY FOR VOICE**

• ***Perceptions of Group Value***

A considerable body of social psychological research and theory has demonstrated that ratings of fairness and satisfaction with outcomes influence the degree to which an individual identifies with the group involved in the procedure or process.⁵ This body of research indicates that individuals who perceive themselves to be valued and important members of a group are more likely to put aside self-interests and act in a way that helps all group members. The extent to which individuals

⁵ For seminal works in this area see Lind, A., and Tyler, T. (1988). *The Social Psychology of Procedural Justice*. New York: Plenum; and the work of Tajfel (e.g., Tajfel, H. (1978). *Differentiation between social groups: Studies in the social psychology of intergroup relations*. New York: Academic Press; Tyler, T. (1990). *Why People Obey the Law*. New York: Plenum.

are offered an opportunity to express their values and opinions, have those thoughts considered, and the extent to which they are treated with respect, are factors that increase their identification with the “group.” Individuals who more strongly identify with the group are more likely to comply with the outcome of the group process.⁶

PROCESS GOALS:

- ◆ To ensure that all participants, especially parents, perceive themselves to be a valued and important member of the mediation problem-solving “group.”
- ◆ To ensure that all participants, especially parents, feel respected and listened to during the mediation.
- ◆ To ensure that all participants, especially parents, feel they are part of the problem-solving process.

FINDINGS:

- ◆ Overall, the child welfare mediation program appears to instill in the majority of parents a sense that they are a valued and important part of the mediation session. However, 20% of parents felt somewhat ignored and unimportant during the mediation session and 11% felt that, at least to some extent, they were not treated with respect during the session.
- ◆ It is important to note that, on average, 11% of parents ($n_{\text{PRNT}}=19$) felt, at least to some extent, that they were not treated with respect during the mediation, were not listened to, and were not part of the problem-solving process.
- ◆ Overall, the child welfare mediation program appears to instill in all professional participants – parents’ attorneys, DAGs, Law Guardians, DYFS supervisors and caseworkers – a sense that they are a valued and important part of the mediation session.

⁶ Tyler (1990), *Ibid.*

FINDINGS:

- The majority of participants, professionals as well as parents, felt respected and listened to during the mediation.
- The majority of participants, professionals as well as parents, felt they were part of the problem-solving process.

To assess perceptions of group value, mediation participants were asked to rate, on a scale from 1 (“strongly disagree”) to 5 (“strongly agree”), their level of endorsement with the following statements:⁷

- *“I felt ignored and unimportant during the mediation”*;
- *“I felt part of finding the answers to problems”*;
- *“The mediator really listened to what I had to say”*;
- *“Others in the mediation really listened to what I had to say”*;
- *“The mediator treated me with respect”*; and
- *“Everyone treated me with respect.”*

- **Parents**

The child welfare mediation program seems to instill in parents ($N_{\text{PRNT}}=174$) a sense that they are a valued and important participant in the mediation session. (See Table 4 and Figure 15).

On average, parents seemed to disagree with the statement, *“I felt ignored and unimportant during the mediation”* – the mean rating was 2.48 on the 5-point scale (1= “strongly disagree” and 5 = “strongly agree”), with 55% of parents “strongly disagreeing” ($n_{\text{PRNT}}=96$) and 13% of parents “somewhat disagreeing” ($n_{\text{PRNT}}=23$). It is important to note, however, that 20% of parents ($n_{\text{PRNT}}=35$) expressed some level of agreement with the statement that they felt “ignored and unimportant,” with 14% ($n_{\text{PRNT}}=24$) “strongly agreeing.”

⁷ As a check for response sets (i.e., automatic circling of numbers without actually reading question stems or endorsement of same number for all question stems) some “reverse” statements were utilized.

The majority of parents (71%, $n_{\text{PRNT}}=124$) reported feeling they were part of *“finding answers to the problems discussed”* at the mediation, with a mean rating of 4.34 on the 5-point scale. Again, it is important to note that 13% of parents disagreed with the statement ($n_{\text{PRNT}}=23$) and, with a rating of “3” on the 5-point scale 12% of parents ($n_{\text{PRNT}}=21$) were somewhat equivocal about the degree to which they felt part of finding solutions to identified problems.

On average, parents strongly agreed that they were listened to during the mediation session, both by the mediator and other participants. The mean rating of agreement with the statement *“the mediator really listened to what I had to say”* was 4.52 on the 5-point scale, with 70% of parents “strongly agreeing” ($n_{\text{PRNT}}=122$). The mean rating of agreement with the statement *“everyone really listened to what I had to say”* was 4.48 on the 5-point scale, with two-thirds of parents (66%, $n_{\text{PRNT}}=115$) indicating “strong agreement.”

Some illustrative comments from parents who participated in a mediation

“I think they were all willing to work with me and I really appreciated it and also the great concern they showed for my children.” [Parent]

“I had never been to one, so I didn’t know what to expect. But I would like to give my thanks to everyone for their concern.” [Parent]

“It was my first mediation and I want to comment on how well I feel they treated me and handled the situation. They were very helpful to me and very nice people.” [Parent]

Parents also strongly agreed that they were treated with respect during the mediation, both by the mediator as well as other participants. The mean rating of agreement with the statement *“the mediator treated me with respect”* was 4.63 on the 5-point scale, with 76% of parents “strongly agreeing” ($n_{\text{PRNT}}=132$). The mean rating of agreement with the statement *“everyone treated me with respect”* was 4.57 on the 5-point scale, with 67% of parents indicating “strong agreement” ($n_{\text{PRNT}}=117$).

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It is important to note that, on average, 11% of parents ($n_{\text{PRNT}}=19$) felt, at least to some extent, that they were not treated with respect during the mediation, were not listened to, and were not part of the problem-solving process. Moreover, recall that 20% of parents ($n_{\text{PRNT}}=35$) also felt somewhat ignored and unimportant. On average, 7% of the parents did not feel particularly strongly either way ($n_{\text{PRNT}}=12$).

Some illustrative comments from parents who participated in a mediation

"I feel that DYFS had created a 'done deal' atmosphere so we were forced to keep our feelings and our real questions to ourselves."
 [Parent]

"Must take time out to listen to what the client has to say." [Parent]

Table 4*						
Parents: Sense of Group Value						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"I felt ignored & unimportant during the mediation"</i>	55%	13%	5%	6%	14%	2.48
<i>"I felt part of finding the answers to problems"</i>	9%	4%	12%	14%	57%	4.34
<i>"The mediator really listened to what I had to say"</i>	6%	4%	5%	11%	70%	4.52
<i>"Everyone really listened to what I had to say"</i>	5%	7%	7%	10%	66%	4.48
<i>"The mediator treated me with respect"</i>	6%	2%	4%	8%	76%	4.63
<i>"Everyone treated me with respect"</i>	5%	5%	10%	8%	67%	4.57

* Percentages may not sum to 100% due to rounding.

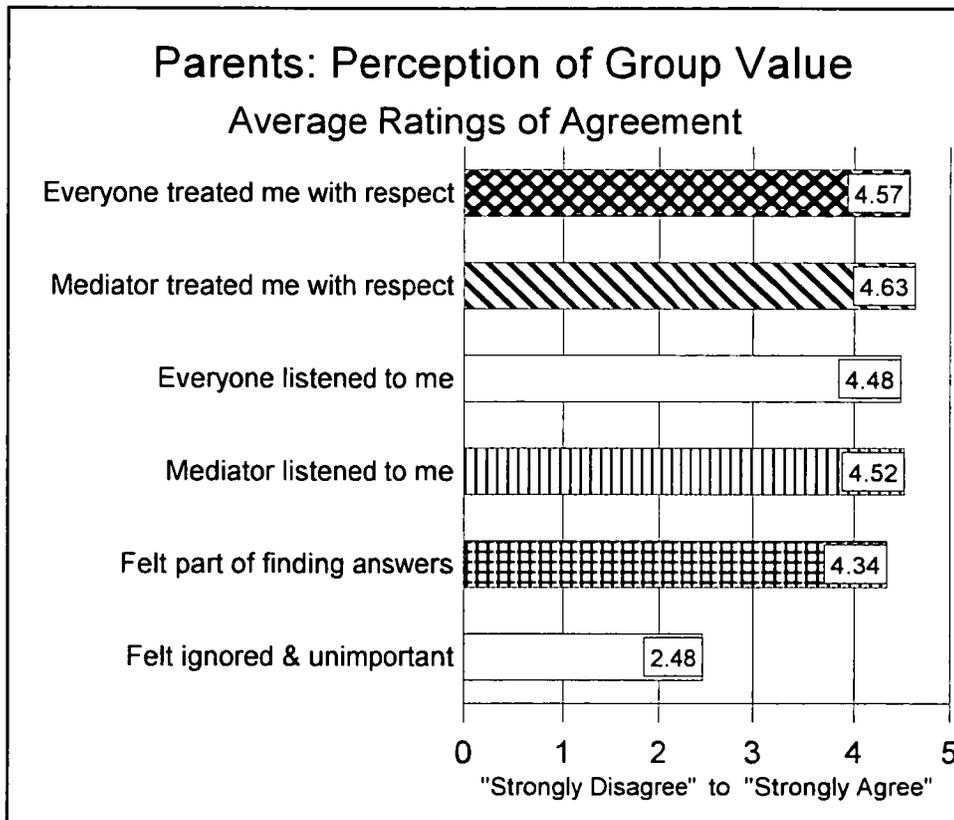


Figure 15

Recommendations:

- ▶ Lack of preparation may contribute to a parents' perception that he or she is unimportant to the process. It is important to ensure that parents clearly understand the goals and purpose of mediation, their role in the process, and how it differs from the traditional court context.
- ▶ Consider how to increase the extent to which parents feel they are part of the problem-solving process. On average, 11% of parents did not feel that they were listened to and that they were not part of the problem-solving. Recall that 20% of parents felt somewhat ignored and unimportant during the mediation session.

- **Legal Representatives**

The mediation program seems to successfully instill in legal representatives ($N_{\text{LEGAL}}=159$; 53 parents' attorneys, 54 Deputy Attorneys General (DAGs), and 52 Law Guardians) a sense that they are a valued and important participant in the mediation process. (See Table 5 and Figure 16).

On average, legal representatives strongly disagreed with the statement, "*I felt ignored and unimportant during the mediation*" – the mean rating was 1.35 on the 5-point scale (1= "strongly disagree" and 5= "strongly agree"), with, on average, 80% ($n_{\text{LEGAL}}=127$ of 159) of the legal representatives "strongly disagreeing" with the statement.

On average, the majority of legal representatives (80%, $n_{\text{LEGAL}}=127$ of 159) reported "*feeling part of finding answers to the problems discussed*" at the mediation, with a mean rating of 4.26 on the 5-point scale. Although statistically non-significant, it is interesting to note that there was considerable variation in the ratings across the different legal representatives. Parents' attorneys had the lowest mean rating (4.17), with only 43% of them "strongly agreeing" ($n_{\text{ATT.P}}=23$ of 53) with the statement. Law Guardians, on the other hand, had a mean rating of 4.40, with 62% of them "strongly agreeing" ($n_{\text{LG}}=32$ of 52) that they felt they were part of finding answers to the problems addressed.

Legal representatives strongly agreed that they were listened to during the mediation session, both by the mediator and other participants. The mean rating of agreement with the statement "*the mediator really listened to what I had to say*" was 4.61 on the 5-point scale, with, on average, 69% of the legal representatives "strongly agreeing" ($n_{\text{LEGAL}}=110$ of 159). Note that there was a statistically significant difference between the mean rating of parents' attorneys and the mean rating of Law Guardians, with Law Guardians expressing stronger agreement.⁸ There was no statistical difference between the mean rating of parents' attorneys and the mean rating of DAGs. The mean rating of agreement with the statement "*everyone really listened to what I had to say*" was 4.34 on the 5-point scale, with, on average, just over half (54%, $n_{\text{LEGAL}}=86$ of 159) of the legal

⁸ $F=7.443$, $df=1$, $p<.007$

representatives indicating “strong agreement.” Again, there was a statistically significant difference between the mean rating for parents’ attorneys and the mean rating for Law Guardians, with Law Guardians expressing stronger agreement.⁹ There was also a statistically significant difference between the mean rating of DAGs and the mean rating of Law Guardians, with Law Guardians again expressing stronger agreement.¹⁰ There was no statistical difference between the mean rating of parents’ attorneys and the mean rating of DAGs, nor in the mean ratings of DAGs and Law Guardians.

Legal representatives strongly agreed that they were treated with respect during the mediation, both by the mediator as well as by other participants. The mean rating of agreement with the statement “*the mediator treated me with respect*” was 4.68 on the 5-point scale, with, on average, 76% of legal representatives “strongly agreeing” ($n_{\text{LEGAL}}=121$ of 159). Again, there was a statistically significant difference between the mean rating for parents’ attorneys and the mean rating for Law Guardians, with Law Guardians

Some illustrative comments from legal representatives who participated in a mediation

“It allowed for me to state precisely what my client wanted.” [Law Guardian]

“Both the foster parent and the caseworker shared the children’s statements; I was able to share results of my investigation.” [Law Guardian]

[The mediation process] “is excellent. Should be mandatory in all Family Court proceedings.” [Parents’ Attorney]

“Mediation offers an environment and setting which is less intimidating than a court (for the parents and all other family members involved) and allows the parent to voice opinions, concerns, etc., and actually partake in the decision-making process.” [Parents’ Attorney]

[The mediation process] “is a vital part in the process of moving the case forward.” [Parents’ Attorney]

“We had more time to lay out my client’s progress and the help she needs. The informal atmosphere helps.” [Parents’ Attorney]

“I had an opportunity to meet relative caretakers and hear their position.” [Parents’ Attorney]

“The time afforded to the process allowed all issues and contingency plans to be fully discussed.” [DAG]

“It was an opportunity to have all parties in the same room sharing ideas about what was best for the child.” [DAG]

⁹ $F=7.448$, $df=1$, $p<.007$

¹⁰ $F=3.100$, $df=1$, $p<.081$

expressing stronger agreement.¹¹ There was also a statistically significant difference between the mean rating of parents' attorneys and DAGs with respect to how strongly they agreed that they were treated with respect, with the DAGs expressing stronger agreement with the statement.¹²

The mean rating of agreement with the statement *"everyone treated me with respect"* across all legal representatives was 4.52 on a 5-point scale, with, on average, two-thirds of the legal representatives indicating "strong agreement" ($n_{\text{LEGAL}}=105$ of 159). Again, the mean rating for parents' attorneys was significantly different than the mean rating for Law Guardians, with Law Guardians giving a more favorable rating.¹³ There was no statistically significant difference between the mean ratings of parents' attorneys and the mean ratings of DAGs.

Table 5*						
Legal Representatives: Sense of Group Value						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"I felt ignored and unimportant during the mediation"</i>						
Attorneys for Parents	74%	13%	8%	6%	0%	1.45
DAGs	87%	6%	4%	4%	0%	1.24
Law Guardians	79%	15%	0%	2%	4%	1.37
						Avg: 1.35
<i>"I felt part of finding the answers to problems"</i>						
Attorneys for Parents	2%	2%	17%	36%	43%	4.17
DAGs	2%	2%	11%	24%	57%	4.22
Law Guardians	0%	0%	21%	17%	62%	4.40
						Avg: 4.26

¹¹ F=8.273, df=1, p<.005

¹² F=5.891, df=1, p<.017

¹³ F=6.880, df=1, p<.010

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Table 5						
Legal Representatives: Sense of Group Value (Continued)						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"The mediator really listened to what I had to say"</i>						
Attorneys for Parents	0%	0%	11%	32%	57%	4.45
DAGs	0%	2%	6%	22%	70%	4.61
Law Guardians	0%	0%	2%	19%	79%	4.77
						Avg: 4.61
<i>"Everyone really listened to what I had to say"</i>						
Attorneys for Parents	2%	2%	15%	40%	42%	4.17
DAGs	2%	2%	11%	29%	56%	4.28
Law Guardians	0%	0%	6%	31%	64%	4.58
						Avg: 4.34
<i>"The mediator treated me with respect"</i>						
Attorneys for Parents	0%	0%	8%	32%	59%	4.43
DAGs	0%	0%	6%	11%	83%	4.78
Law Guardians	0%	0%	2%	14%	85%	4.83
						Avg: 4.68
<i>"Everyone treated me with respect"</i>						
Attorneys for Parents	0%	2%	8%	36%	53%	4.34
DAGs	0%	2%	7%	20%	69%	4.50
Law Guardians	0%	2%	4%	19%	77%	4.73
						Avg: 4.52

* Percentages may not sum to 100% due to rounding.

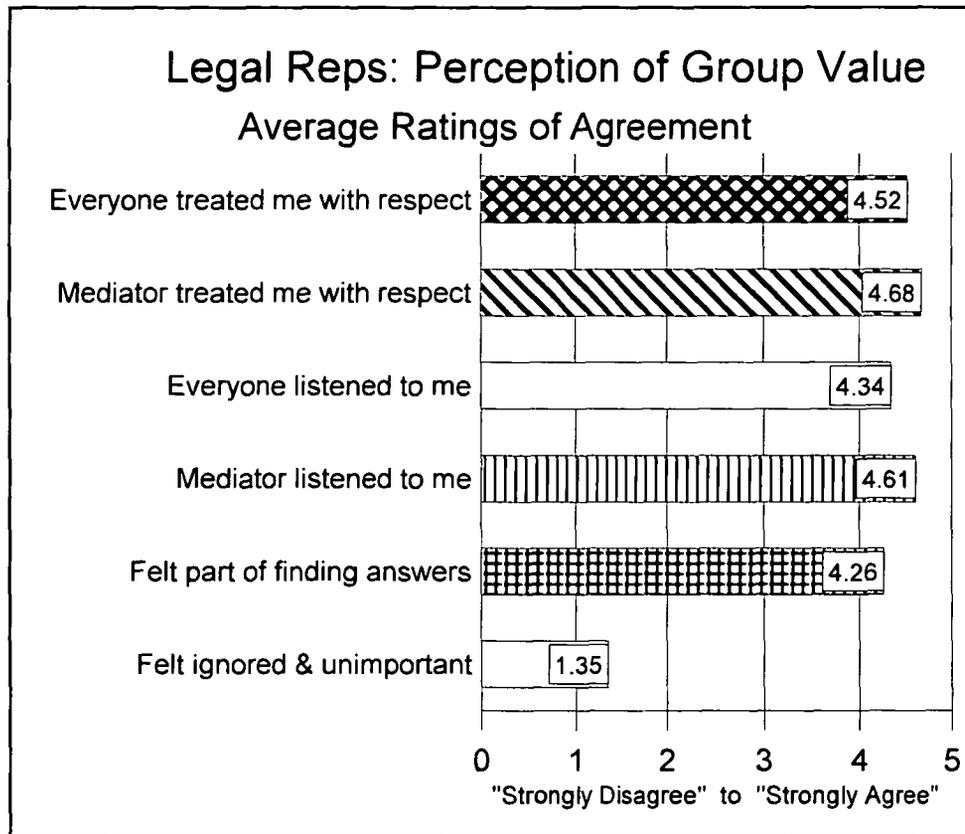


Figure 16

Recommendation:

- ▶ Consider how to increase legal representatives', especially parents' attorneys, perceptions of group value.

- **DYFS Supervisors and Caseworkers**

The mediation program seems to successfully instill in DYFS professionals ($N_{DYFS}=61$; 49 supervisors and 12 caseworkers) a sense that they are valued and important participants in the mediation process. (See Table 6 and Figure 17).

On average, DYFS professionals strongly disagreed with the statement, *"I felt ignored and unimportant during the mediation"* – the mean rating was 1.48 on the 5-point scale (1= "strongly disagree" and 5= "strongly agree"), with, on average, 66% of the legal representatives "strongly disagreeing" ($n_{\text{DYFS}}=40$ of 61) with the statement.

On average, the majority of DYFS professionals (71%, $n_{\text{DYFS}}=43$ of 61) reported *"feeling part of finding answers to the problems discussed"* at the mediation, with a mean rating of 4.16 on the 5-point scale. Although statistically non-significant, it is interesting to note that there was considerable variation in the ratings between supervisors and caseworkers. Supervisors had a mean rating of 4.23, and 54% "strongly agreed" ($n_{\text{DYFS-S}}=26$ of 49) with the statement, while 29% "somewhat agreed" ($n_{\text{DYFS-S}}=14$ of 49). Caseworkers had a mean rating of 4.08 and were more equivocal about whether they felt part of finding answers to problems with 42% ($n_{\text{DYFS-CW}}=5$ of 12) rating their level of agreement as a "3." Half of the caseworkers ($n_{\text{DYFS-CW}}=6$ of 12) "strongly agreed" with the statement, while 8% only "somewhat agreed" ($n_{\text{DYFS-CW}}=1$ of 12) with the statement.

Some illustrative comments from DYFS representatives

[The mediation process] "is good, it allows all parties to participate with a good understanding of what their rights are and what the time frame is for stabilizing a child." [DYFS Supervisor]

[Mediation] "allowed all interested parties to be involved." [DYFS Caseworker]

"Mediation clarified the role of both parent and foster parents." [DYFS Caseworker]

DYFS professionals agreed that they were listened to during the mediation session, both by the mediator and other participants. The mean rating of agreement with the statement *"the mediator really listened to what I had to say"* was 4.44 on the 5-point scale, with, on average, 59% of the DYFS professionals "strongly agreeing" ($n_{\text{DYFS}}=36$ of 61). The mean rating of agreement with the statement *"everyone really listened to what I had to say"* was 4.11 on the 5-point scale, with, on average, 42% of the DYFS professionals indicating "strong agreement" ($n_{\text{DYFS}}=26$ of 61). There was no statistically significant difference between the mean ratings of supervisors and caseworkers.

DYFS professionals strongly agreed that they were treated with respect during the mediation, both by the mediator as well as by other mediation participants. The mean rating of agreement with the

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statement *“the mediator treated me with respect”* was 4.59 on the 5-point scale, with, on average, 68% “strongly agreeing” ($n_{\text{DYFS}}=41$ of 61). The mean rating of agreement with the statement *“everyone treated me with respect”* across all DYFS professionals was 4.50 on the 5-point scale, with, on average, 63% “strong agreement” ($n_{\text{DYFS}}=38$ of 61).

Table 6* DYFS: Sense of Group Value						
	1 “strongly disagree”	2	3	4	5 “strongly agree”	Average
<i>“I felt ignored and unimportant during the mediation”</i>						
DYFS Supervisor	65%	10%	6%	4%	8%	1.63
DYFS Caseworker	67%	33%	0%	0%	0%	1.33
						Avg: 1.48
<i>“I felt part of finding the answers to problems”</i>						
DYFS Supervisor	0%	2%	10%	29%	54%	4.23
DYFS Caseworker	0%	0%	42%	8%	50%	4.08
						Avg: 4.16
<i>“The mediator really listened to what I had to say”</i>						
DYFS Supervisor	0%	0%	4%	27%	67%	4.54
DYFS Caseworker	0%	17%	0%	33%	50%	4.33
						Avg: 4.44
<i>“Everyone really listened to what I had to say”</i>						
DYFS Supervisor	2%	0%	13%	31%	50%	4.15
DYFS Caseworker	0%	0%	25%	42%	33%	4.08
						Avg: 4.11
<i>“The mediator treated me with respect”</i>						
DYFS Supervisor	0%	0%	0%	21%	77%	4.69
DYFS Caseworker	0%	0%	8%	33%	58%	4.50
						Avg: 4.59

Table 6*						
DYFS: Sense of Group Value (Continued)						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"Everyone treated me with respect"</i>						
DYFS Supervisor	0%	0%	0%	21%	75%	4.58
DYFS Caseworker	0%	0%	8%	42%	50%	4.42
						Avg: 4.50

* Percentages may not sum to 100% due to rounding.

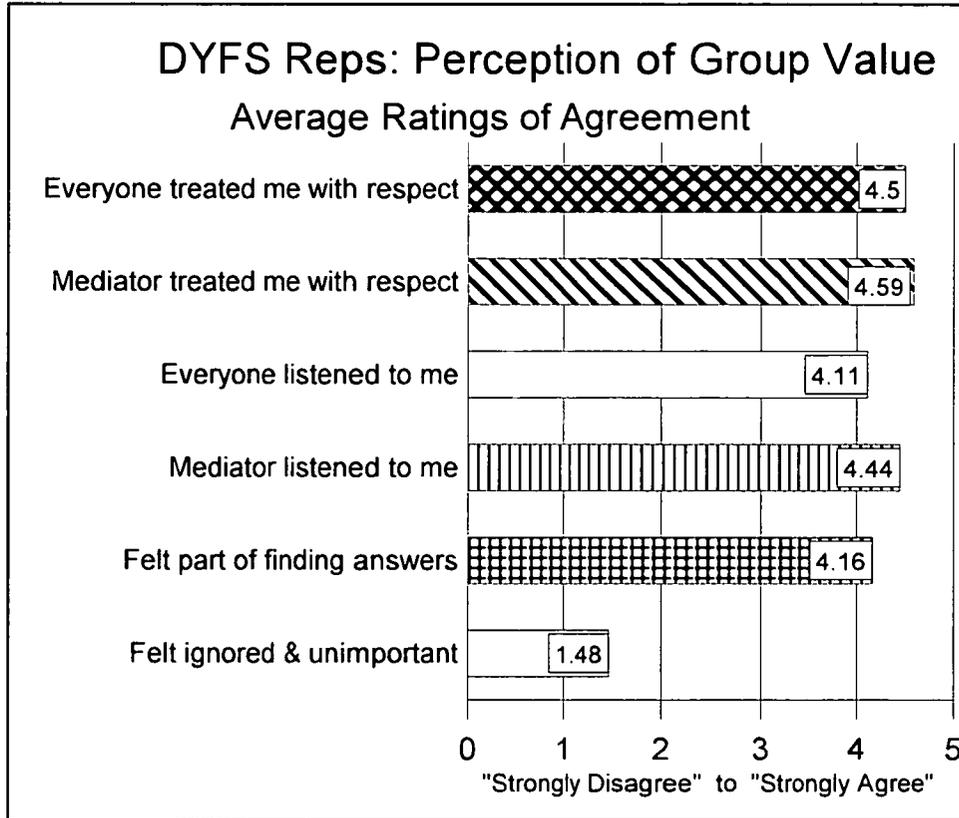


Figure 17

Recommendation:

- ▶ Consider how to increase DYFS professionals' perceptions of group value.

• **Comparisons Across Mediation Participants**

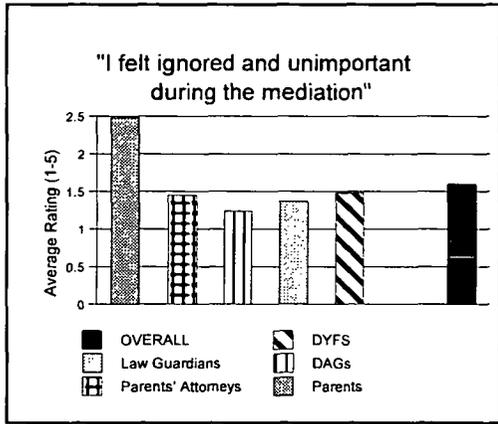


Figure 18

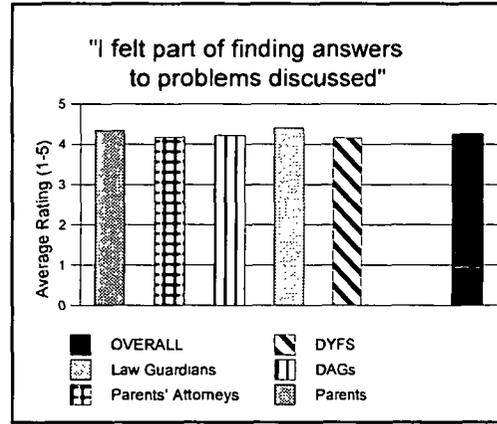


Figure 19

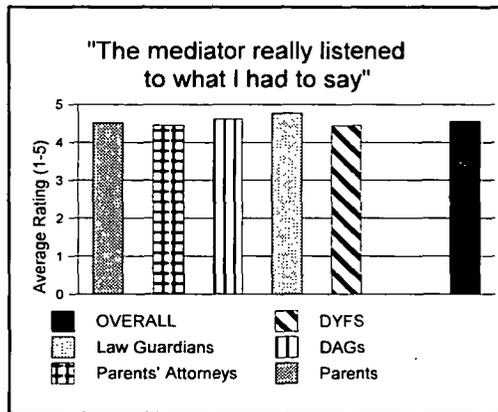


Figure 20

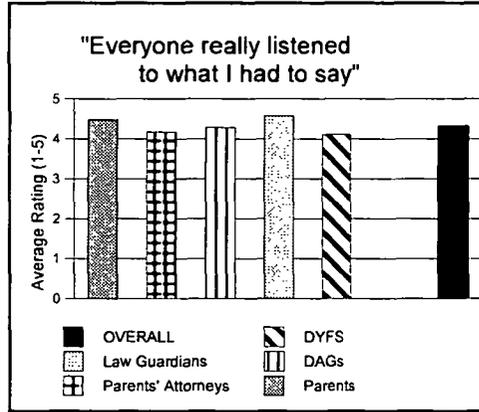


Figure 21

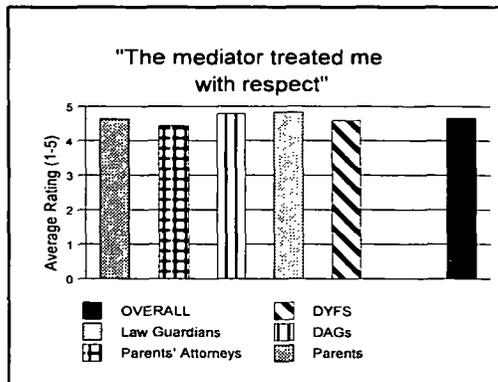


Figure 22

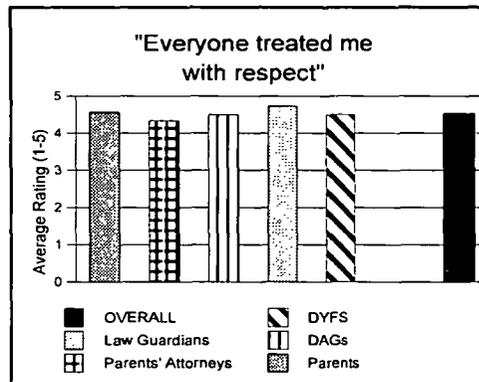


Figure 23

Recommendations:

- ▶ Consider how to increase all participants' perceptions of group value. Enhancing everyone's sense of group value enhances the mediation process and increases the likelihood that mediation will positively influence case processing, case plan compliance, and timely permanency for children.
- ▶ Consider expanding evaluation methodology to determine if increasing participant perceptions of group increases case plan compliance.



OPPORTUNITY FOR VOICE

Research has demonstrated that the more opportunity individuals have to express their thoughts and opinions, or have “voice” before decisions are made, the more likely they are to be satisfied with those decisions.¹⁴ This effect holds even if the ultimate decision is not in favor of the individual.

PROCESS GOAL:

- ◆ To ensure that all participants, especially parents, have the opportunity for voice.

FINDING:

- ◆ Overall, the Child Welfare Mediation Program appears to provide all participants, including parents, with an opportunity for voice.

Participants' perspectives on the degree to which they had any “say” or influence in making decisions at the conference were gathered via closed-ended questions on the exit survey.

¹⁴ *Supra* note 1.

Mediation participants were asked to rate, on a scale from 1 (“strongly disagree”) to 5 (“strongly agree”), their level of agreement with the following statements:¹⁵

- *“I was encouraged to express my feelings”*
- *“I had a chance to express my feelings and concerns”*
- *“I would have liked more opportunity to express my feelings and concerns”*
- *“The mediator made sure everyone had an opportunity to talk”*

- **Parents**

The mediation process does seem to provide parents ($N_{\text{PRNT}}=174$) with an adequate opportunity for voice. (See Table 7 and Figure 24).

Parents strongly agreed that they were “encouraged to express their feelings and concerns” – the mean rating was 4.47 on the 5-point scale (1 “strongly disagree” to 5 “strongly agree”), with 61% “strongly agreeing” ($n_{\text{PRNT}}=106$). Parents also strongly agreed that the “mediator made sure everyone had a chance to talk,” with a mean rating of 4.57 on the 5-point scale, and 66% “strongly agreeing” ($n_{\text{PRNT}}=115$). However, parents were somewhat equivocal about whether or not they would have liked more opportunity to express their feelings and concerns, with a mean rating of 3.24 on the 5-point scale. While 24% “strongly disagreed” with the statement ($n_{\text{PRNT}}=42$), 25% of parents “strongly agreed” ($n_{\text{PRNT}}=44$).

Some illustrative comments from parents who participated in a mediation

“I felt very comfortable because you get everything out in the open and it’s face to face, everything is on the table and feedback is exchanged.” [Biological Parent]

“It was different from what I expected. Everyone was given their turn to express themselves.” [Biological Parent]

“It was really good for my husband and I to speak our heart to the biological family.” [Foster Mother]

“I strongly believe that mediation is good because everyone can express their concerns about certain issues and things they need to know.” [Biological Parent]

“Take time out to listen to what the client has to say.” [Biological Parent]

¹⁵ As a check for response sets (i.e., automatic circling of numbers without actually reading question stems or endorsement of same number for all question stems) some “reverse” statements were utilized.

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Table 7*						
Parents: Opportunity for Voice						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"I was encouraged to express my feelings and concerns"</i>	5%	5%	11%	14%	61%	4.47
<i>"The mediator made sure everyone had a chance to talk"</i>	6%	2%	6%	14%	66%	4.57
<i>"I would have liked more opportunity to express my feelings and concerns"</i>	24%	15%	16%	16%	25%	3.24

* Percentages may not sum to 100% due to rounding.

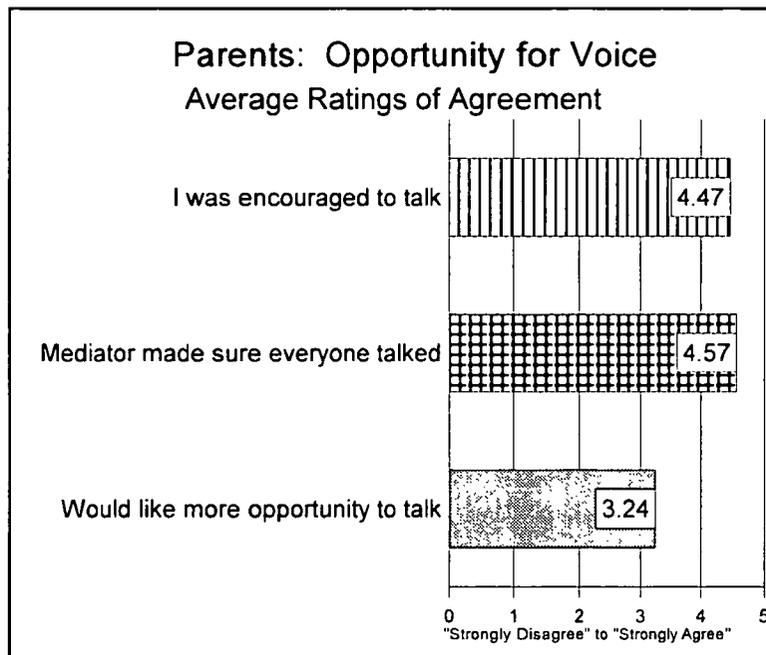


Figure 24

• **Legal Representatives**

The mediation process does seem to provide legal representatives ($N_{LEGAL}=159$) with an adequate opportunity for voice. (See Table 8 and Figure 25).

Legal representatives strongly agreed that they “had an opportunity to express their client’s needs and opinions” – the mean rating was 4.47 on the 5-point scale (1 “strongly disagree” to 5 “strongly agree”), with 65% “strongly agreeing” ($n_{LEGAL}=103$). Although not statistically significant, it is interesting to note that parents’ attorneys had the lowest mean rating (4.30) when compared to DAGs (mean rating of 4.54) and Law Guardians (mean rating of 4.58). Legal representatives also strongly agreed that the “mediator made sure everyone had a chance to talk,” with a mean rating of 4.62; they also tended to express disagreement with the statement “I would have liked more opportunity to express my feelings and concerns.”

Table 8*						
Legal Representatives: Opportunity for Voice						
	1 “strongly disagree”	2	3	4	5 “strongly agree”	Average
<i>“I had a chance to express my client’s needs and opinions”</i>						
Attorneys for Parents	0%	4%	9%	30%	55%	4.30
DAGs	0%	2%	6%	20%	70%	4.54
Law Guardians	0%	0%	4%	25%	69%	4.58
						Avg: 4.47
<i>“The mediator made sure everyone had an opportunity to talk”</i>						
Attorneys for Parents	0%	0%	8%	32%	60%	4.53
DAGs	0%	2%	4%	19%	76%	4.69
Law Guardians	0%	0%	6%	23%	71%	4.65
						Avg: 4.62
<i>“I would have liked more opportunity to express my feelings and concerns”</i>						
Attorneys for Parents	36%	25%	21%	8%	11%	2.34
DAGs	56%	22%	11%	2%	7%	1.78
Law Guardians	56%	19%	6%	6%	14%	2.02
						Avg: 2.05

* Percentages may not sum to 100% due to rounding.

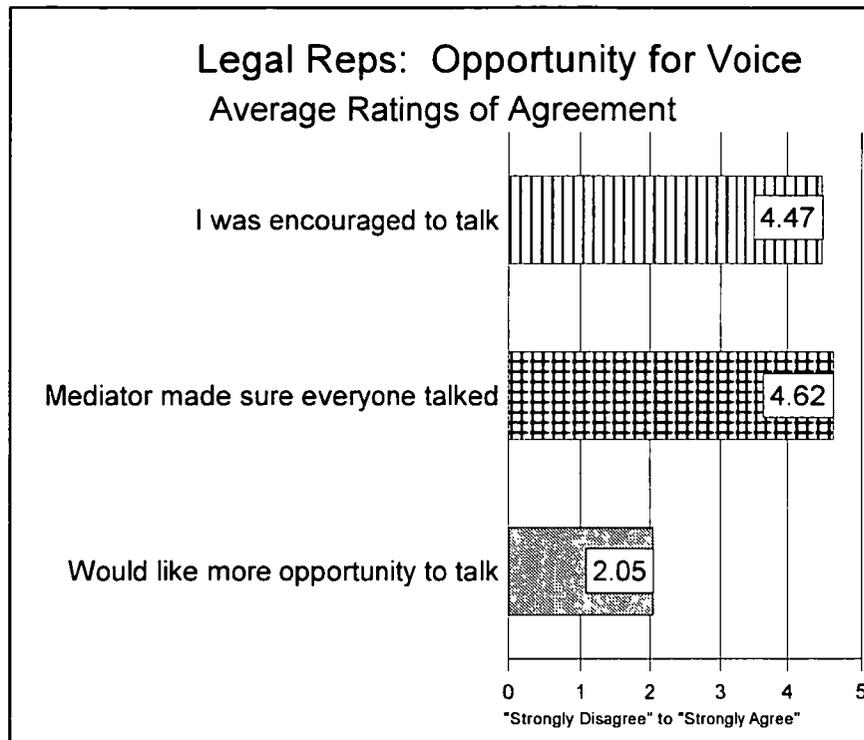


Figure 25

- **DYFS Supervisors and Caseworkers**

The mediation process does seem to provide DYFS professionals ($N_{DYFS}=61$) with an adequate opportunity for voice. (See Table 9 and Figure 26).

DYFS professionals were somewhat equivocal about whether they *“had an opportunity to express their client’s needs and opinions”* – the mean rating was 3.85 on the 5-point scale (1 “strongly disagree” to 5 “strongly agree”). Note, however, that this may represent a problem in the manner in which the question was asked. A DYFS representative does not represent a client in the legal sense, and the question should have been worded with respect to DYFS’s opinions rather than the parent’s or child’s. DYFS professionals strongly agreed that the *“mediator made sure everyone had a chance to talk,”* with a mean rating of 4.55; they also tended to express disagreement with the statement *“I would have liked more opportunity to express my feelings and concerns”* (mean rating of 2.41).

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Table 9* DYFS: Opportunity for Voice						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"I had a chance to express my concerns and opinions"</i>						
DYFS Supervisor	0%	0%	15%	31%	44%	3.88
DYFS Caseworker	0%	8%	42%	8%	42%	3.83
						Avg: 3.85
<i>"The mediator made sure everyone had the opportunity to talk"</i>						
DYFS Supervisor	0%	0%	0%	27%	69%	4.52
DYFS Caseworker	0%	0%	8%	25%	67%	4.58
						Avg: 4.55
<i>"I would have liked more opportunity to talk"</i>						
DYFS Supervisor	27%	21%	21%	15%	8%	2.31
DYFS Caseworker	25%	25%	33%	8%	8%	2.50
						Avg: 2.41

* Percentages may not sum to 100% due to rounding.

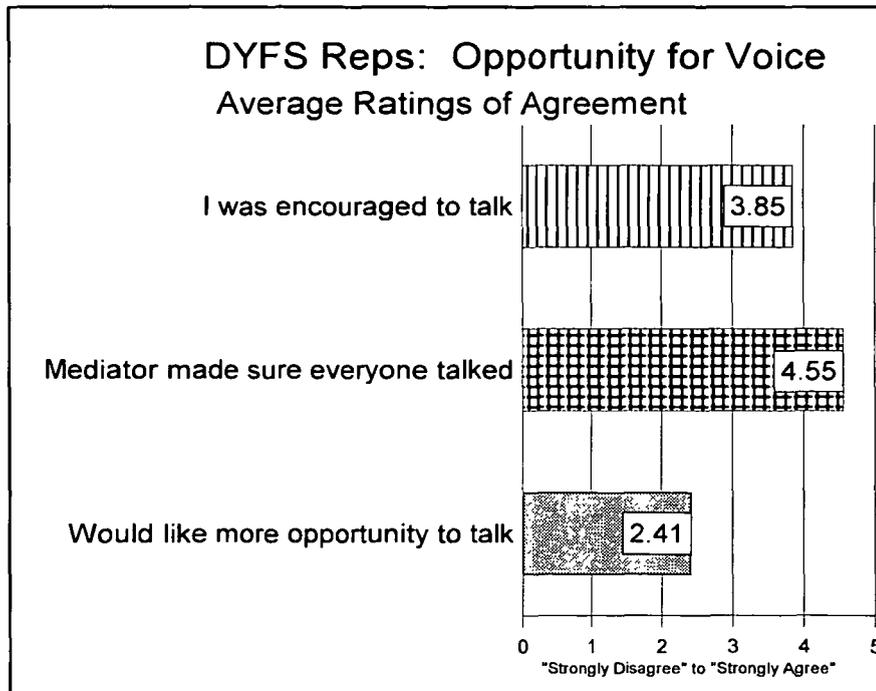


Figure 26

• **Comparisons Across Mediation Participants**

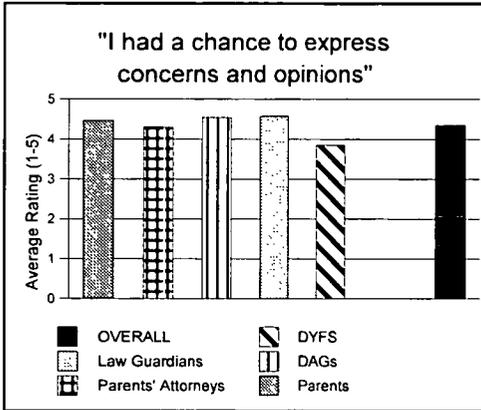


Figure 27

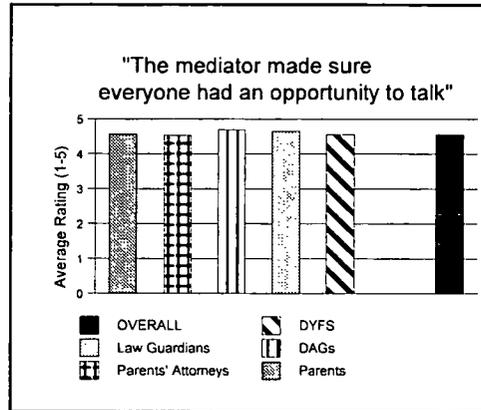


Figure 28

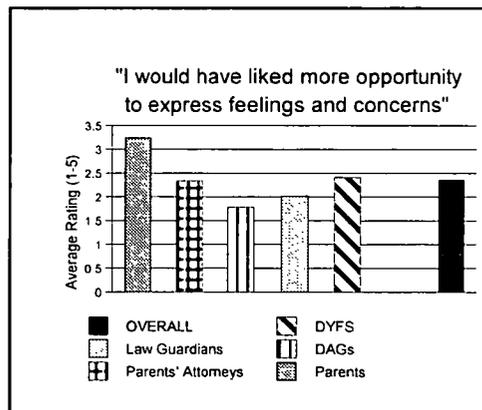


Figure 29

➔ EFFECTIVENESS OF THE MEDIATOR

PROCESS GOAL:	
◆	All mediators should be appropriately competent in managing the group dynamics of the mediation process to ensure that everyone has the opportunity to participate and is treated fairly and respectfully.
FINDING:	
◆	All mediation participants reported that the mediators were very effective in managing the group dynamic of the mediation process.

The vast majority of mediation participants, including parents and professionals, indicated that the mediator made them feel comfortable during the mediation process – 96% of parents and 99% of professionals indicated that the mediator made them feel comfortable. Ninety-seven percent of respondents who represent clients (i.e., attorneys, DAGs, Law Guardians) also believed that the mediator made their clients feel comfortable. Those parents who were not made to feel comfortable were asked to explain why. One parent indicated that the mediator explained the confidentiality statement and the limits to confidentiality before his/her attorney had explained it. Another parent indicated that he/she was uncomfortable because he/she did not really understand what was going on and the goal of the mediation session.

Table 10* Mediator Effectiveness						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"The mediator treated everyone fairly"</i>						
Parents	7%	3%	4%	11%	73%	4.59
Attorneys for Parents	0%	0%	8%	28%	64%	4.56
DAGs	0%	4%	2%	9%	83%	4.67
Law Guardians	0%	0%	2%	14%	85%	4.83
DYFS	0%	0%	3%	22%	73%	4.63
						Avg:4.66

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Table 10 Mediator Effectiveness (Continued)						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"The mediator treated me with respect"</i>						
Parents	6%	2%	4%	8%	75%	4.57
Attorneys for Parents	0%	0%	8%	32%	59%	4.43
DAGs	0%	0%	6%	11%	83%	4.78
Law Guardians	0%	0%	2%	14%	85%	4.83
DYFS	0%	0%	4%	27%	67%	4.59
						Avg: 4.64
<i>"The mediator really listened to what I had to say"</i>						
Parents	6%	4%	5%	11%	70%	4.52
Attorneys for Parents	0%	0%	11%	32%	57%	4.45
DAGs	0%	2%	6%	22%	70%	4.61
Law Guardians	0%	0%	2%	19%	79%	4.77
DYFS	0%	9%	2%	30%	59%	4.44
						Avg: 4.56
<i>"The mediator made sure everyone had an opportunity to talk"</i>						
Parents	6%	2%	6%	14%	66%	4.57
Attorneys for Parents	0%	0%	8%	32%	60%	4.53
DAGs	0%	2%	4%	19%	76%	4.69
Law Guardians	0%	0%	6%	23%	71%	4.65
DYFS	0%	0%	4%	26%	68%	4.55
						Avg: 4.60
<i>"The mediator equalized power imbalances among the parties as well as possible"</i>						
Parents	-	-	-	-	-	-
Attorneys for Parents	0%	0%	17%	43%	38%	4.13
DAGs	0%	2%	6%	24%	63%	4.31
Law Guardians	0%	0%	10%	15%	73%	4.56
DYFS	0%	0%	12%	38%	48%	4.30
						Avg: 4.33
<i>"The mediator demonstrated a high degree of neutrality with respect to outcome"</i>						
Parents	-	-	-	-	-	-
Attorneys for Parents	0%	0%	11%	30%	57%	4.37
DAGs	0%	0%	9%	11%	75%	4.26
Law Guardians	0%	0%	2%	12%	83%	4.65
DYFS	0%	0%	5%	32%	62%	4.50
						Avg: 4.45

* Percentages may not sum to 100% due to rounding.

PROGRAM OUTCOMES: RESULTS AND RECOMMENDATIONS

➔ *MEDIATED AGREEMENT*

OUTCOME GOALS:

- ◆ To resolve, through the mediation process, issues that have remained unresolved through the traditional legal process.
- ◆ To produce, through the mediation process, agreements which serve to move the case towards permanency.

FINDINGS:

- ◆ 35% of participants reported that their mediation had resolved “all of the issues;” 56% of participants reported that their mediation had resolved “some of the issues;” and 9% of participants indicated that “none of the issues” were resolved in their mediation session.
- ◆ The majority of professional participants felt that mediation had “resolved more issues than not.”
- ◆ The majority of professional participants believed that they would not have achieved a better outcome in court.
- ◆ The majority of professional participants believed that the mediation had served to move the case forward.

Based upon the 69 mediator forms completed, 54% (n=37) of the mediation sessions were “full agreements,” 23% (n=16) were “partial agreements,” and 19% (n=13) resulted in “no agreement.”

Participants in the mediation program were asked to indicate whether their specific mediation session had resolved “all of the issues,” “some of the issues,” or “none of the issues.” Based on the responses from all participants in the mediation program who returned an exit survey ($N_{TOT}=472$; multiple participants per mediation completed surveys), 35% of the mediation participants reported that the mediation session resolved “all of the issues,” 56% of the participants reported that the mediations resolved “some of the issues,” and 9% of participants reported that

the mediations resolved “none of the issues.” Note that a single mediation session may have addressed multiple issues. (See Figure 30).

Professional participants reported that at least *some* agreement on issues was accomplished in over 90% of the mediations. The most common reasons for not reaching an agreement were, in order of frequency of mention: more time needed; more information needed; defense attorney had not fully explained the situation to the parent; and expert testimony was needed to better explore options.

Professional participants ($n_{\text{PROF}}= 237$), includes legal representatives and DYFS professionals were also asked to indicate whether they thought the mediation session “settled more issues than not.” Overall, 71% ($n_{\text{PROF}}=168$) of the professional participants believed that mediation “settled more issues than not,” 12% ($n_{\text{PROF}}=28$) of professionals believed that mediation did not “settle more issues than not,” and 17% ($n_{\text{PROF}}=40$) were unsure. (See Figure 31 and Table 11).

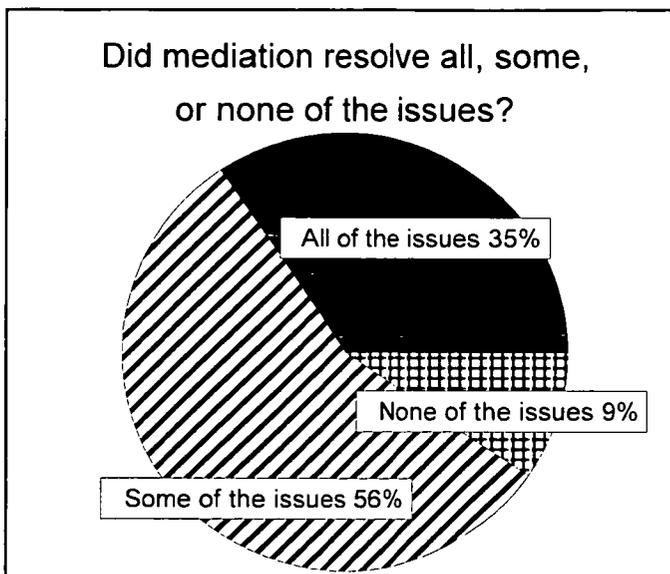


Figure 30

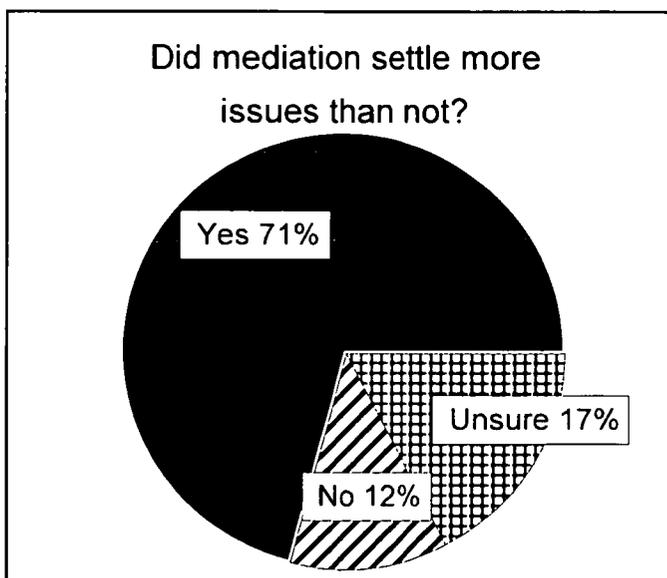


Figure 31

Table 11*			
Did the mediation session settle more issues than not?			
	Yes	No	Unsure
Parents' Attorneys	64%	16%	20%
Deputy Attorneys General	71%	8%	21%
Law Guardians	73%	8%	19%
DYFS Professionals	75%	16%	9%

* Percentages may not sum to 100% due to rounding.

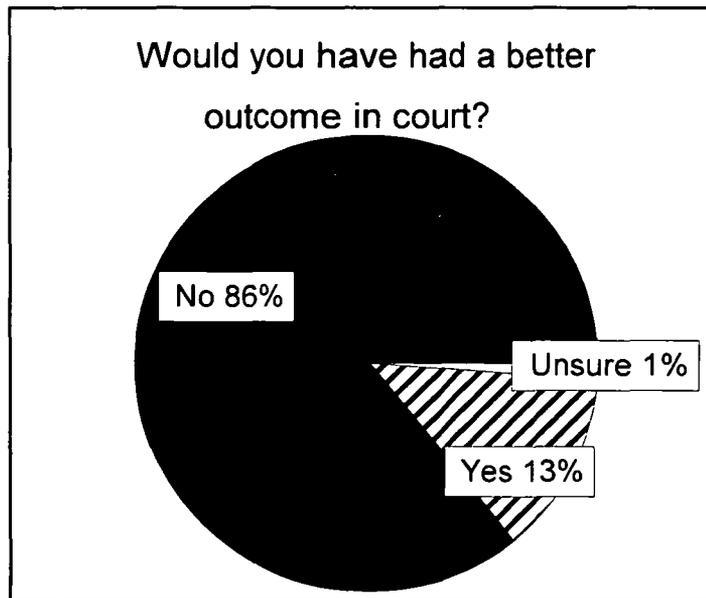


Figure 32

• **Comparing Agreements Reached in Mediation with Traditional Litigation**

Professional respondents ($n_{\text{PROF}}= 237$) were asked to consider whether or not they would have achieved a better outcome had the case gone to court rather than to mediation. Overall, 86% of professional respondents ($n_{\text{PROF}}= 204$) felt that they would *not* have achieved a better outcome had they gone to court rather than mediation. Thirteen percent of professionals ($n_{\text{PROF}}=31$) believed that a better outcome would have been achieved through traditional litigation. (See Figure 32 and Table 12).

Table 12*			
Would you have had a better outcome in court?			
	Yes	No	Unsure
Parents' Attorneys	9%	89%	2%
Deputy Attorneys General	21%	79%	0%
Law Guardians	13%	87%	0%
DYFS Professionals	22%	78%	0%
OVERALL	16%	83%	1%

* Percentages may not sum to 100% due to rounding error.

When asked to explain how the mediated agreement compared with court ordered service plans and judicial resolutions, the most commonly offered responses were, in order of frequency of mention:

- the mediated plan addressed more issues and was more detailed;
- the mediated agreement was reached more quickly;
- the time in mediation allowed for matters to be discussed more fully and approved of by all parties; and
- everyone had the opportunity to participate in developing the plan and coming to agreement, rather than being told what to do.

• **Case Processing**

Overall, the majority of professional respondents (83%, $n_{\text{PROF}}= 197$ of 237) believed that mediation helped to move the case forward; only 6% ($n_{\text{PROF}}= 14$ of 237) believed that mediation did not help to move the case and 11% of respondents were unsure. (See Figure 33).

- 91% percent of *attorneys for parents* believed that mediation helped to move the case forward ($n_{\text{ATT-P}}=48$ of 53).
- 74% of *DAGs* believed that mediation helped to move the case forward ($n_{\text{DAG}}=40$ of 54).
- 85% of *Law Guardians* believed that mediation helped to move the case forward ($n_{\text{LG}}=44$ of 52).

- 84% of *DYFS* representatives believed that mediation helped to move the case forward ($n_{DYFS}=51$ of 61).

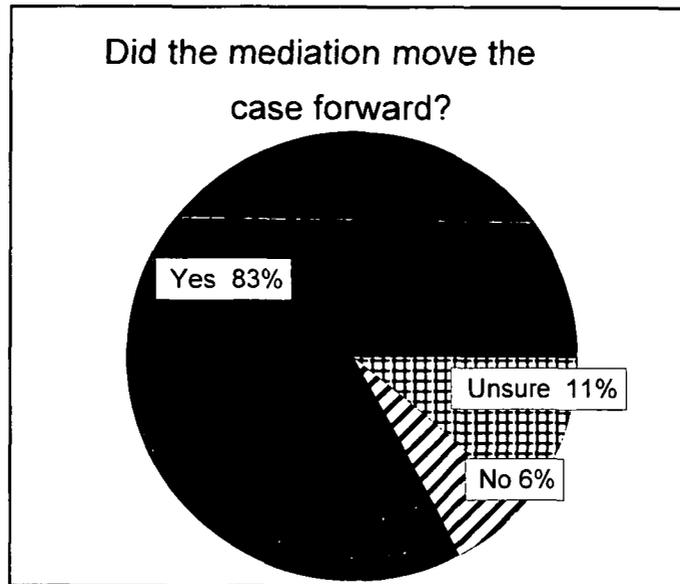


Figure 33

Recommendations:

- ▶ Clearly, mediation is serving as a tool for resolving issues and reaching agreement. Consider ways in which staffing can be enhanced to offer mediation in more cases earlier in the case process.
- ▶ Consider how agreement rates might be enhanced – for example, through better preparation of the parties and through enhanced perceptions of group value on the part of all parties, especially parents. Might agreement rates be higher if parents' attorneys had an increased sense of their value to the group?
- ▶ Consider whether the court is taking an appropriate leadership role in ensuring long-term parental, professional, and agency compliance with mediated agreements.

➔ **EMPOWERMENT OF PARENTS AS DECISION-MAKERS**

OUTCOME GOAL:

- ◆ To engage parents in the case planning process and empower parents as decision-makers.

FINDINGS:

- ◆ Overall, the Child Welfare Mediation Program appears to instill in parents a sense that they are a valued and important part of the mediation session.
- ◆ The majority of parents felt respected and listened to during the mediation.
- ◆ The majority of parents felt part of the problem-solving process.
- ◆ The majority of professionals believed that the mediation process had increased parental involvement in the development of the case plan.

To empower parents as decision-makers, the mediation process should instill in parents a sense that they are a valued and important part of the decision-making group, a sense of “group value,” and that they have an opportunity to contribute to the decision, a sense of “voice.” As indicated in the last section, the Essex County Child Welfare Mediation Program does appear to successfully instill in parents a sense of their group value and it does allow parents the opportunity for voice. Moreover, 80% of the professional participants believed that

the mediation process increased parental involvement in the development of a case plan. Only 12% of respondents believed that parental involvement was not increased, and 8% were unsure.

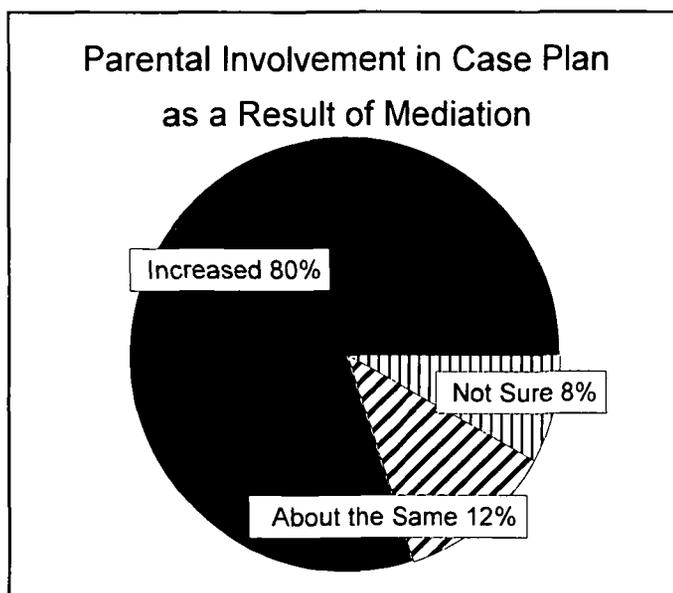


Figure 34

Recommendations:

- ▶ Consider tracking and monitoring cases that have been mediated to determine if case plan compliance is enhanced as a result of parental empowerment as decision-makers.
- ▶ Consider how further enhancement of parental perceptions of group value and voice might influence the extent to which parents are empowered as decision-makers.



IMPROVED UNDERSTANDING AND COMMUNICATION

OUTCOME GOALS:

- ◆ To improve the level of understanding among conference participants.
- ◆ To improve communication and working relationships among all parties and professionals involved in the case.

FINDINGS:

- ◆ The majority of participants – parents and professionals – felt that the mediation process helped them to better understand everyone's point of view.
- ◆ The majority of participants – parents and professionals – felt that the mediation process helped everyone else to better understand their point of view.
- ◆ The majority of professionals agreed that the mediation process had improved communication and their relationship with their client, whether their client was the parent, the child, or the social agency. DAGs rated the lowest level of agreement.

• ***Improved Understanding***

Professionals participating in mediation sessions were also asked to indicate whether they thought that as a result of the mediation process, they had a more complete understanding of the family's needs than they would have had if the case had been litigated. The majority of professionals (76%,

$n_{\text{PROF}}=180$ of 237) responded that “yes” as a result of the mediation process they had a more complete understanding of the family’s needs; 23% of professionals ($n_{\text{PROF}}=55$ of 237) believed that it did not give them a more complete understanding. (See Figure 35 and Table 13).

- 79% of *attorneys for parents* believed that mediation gave them a more complete understanding of family needs ($n_{\text{ATT.P}}=42$ of 53).
- 67% of *DAGs* believed that mediation provided a better understanding of family needs ($n_{\text{DAG}}=36$ of 54).
- 89% of *Law Guardians* believed that mediation provided a better understanding of family needs ($n_{\text{LG}}=46$ of 52).
- 75% of *DYFS representatives* believed that mediation provided a better understanding of family needs ($n_{\text{DYFS}}=46$ of 61).

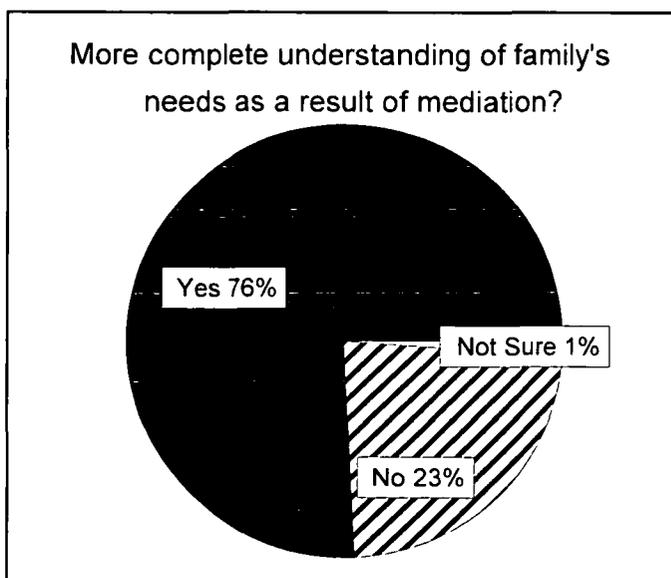


Figure 35

Table 13*						
Legal Representatives: Improved Understanding						
	1 "strongly disagree"	2	3	4	5 "strongly agree"	Average
<i>"The mediator helped me understand everyone's point of view better"</i>						
Attorneys for Parents	0%	2%	19%	36%	42%	4.11
Deputy Attorneys General	0%	2%	19%	26%	50%	4.13
Law Guardians	0%	0%	12%	27%	62%	4.50
						Av: 4.25
<i>"The mediator helped everyone to understand my point of view better"</i>						
Attorneys for Parents	0%	2%	13%	47%	32%	3.92
Deputy Attorneys General	0%	4%	20%	19%	50%	3.93
Law Guardians	0%	0%	10%	21%	65%	4.40
						Av: 4.08

* Percentages may not sum to 100% due to rounding.

• **Improved Communication**

Professional participants in the mediation program were asked whether they thought that as a result of the mediation process the level of communication between themselves and their client (whether the client is the parent, agency, or child) had been improved. Almost 3/4 of professionals (73%) believed that "yes," as a result of the mediation process, communication between them and their clients had been improved. (See Figure 36 and 37).

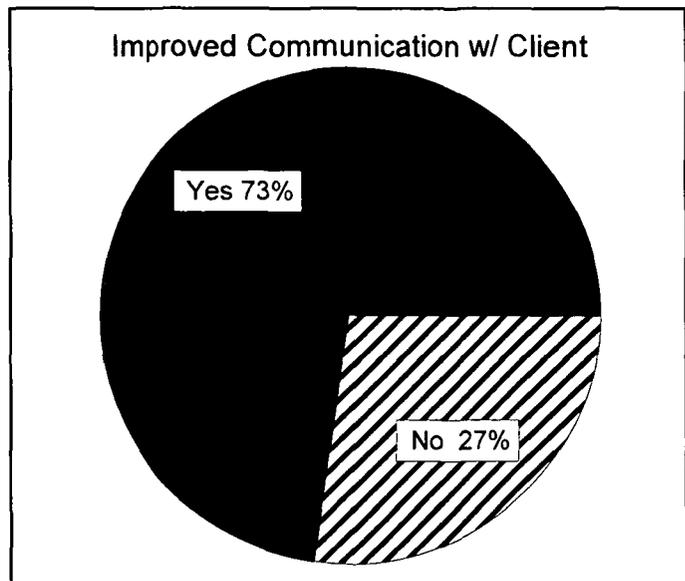


Figure 36

Essex County Child Welfare Mediation Program
Program Outcomes: Results and Recommendations

- 76% of *parents' attorneys* thought their relationship with their client was improved as a result of the mediation ($n_{ATT-P}=40$ of 53).
- 56% of *DAGs* thought their relationship with their client, the agency, was improved as a result of the mediation ($n_{DAG}=30$ of 54).
- 85% of *Law Guardians* thought their relationship with their client, the child, was improved as a result of the mediation ($n_{LG}=44$ of 52).
- 72% of *DYFS representatives* thought their relationship with their client, the parent, was improved as a result of the mediation ($n_{DYFS}=44$ of 61).

Twenty-seven percent of the professional participants responding to the question ($n=55$) reported that the mediation had *not* improved communication between them and their clients – 24% of attorneys for parents; 45% of DAGs; 15% of Law Guardians; and 9% of DYFS representatives.

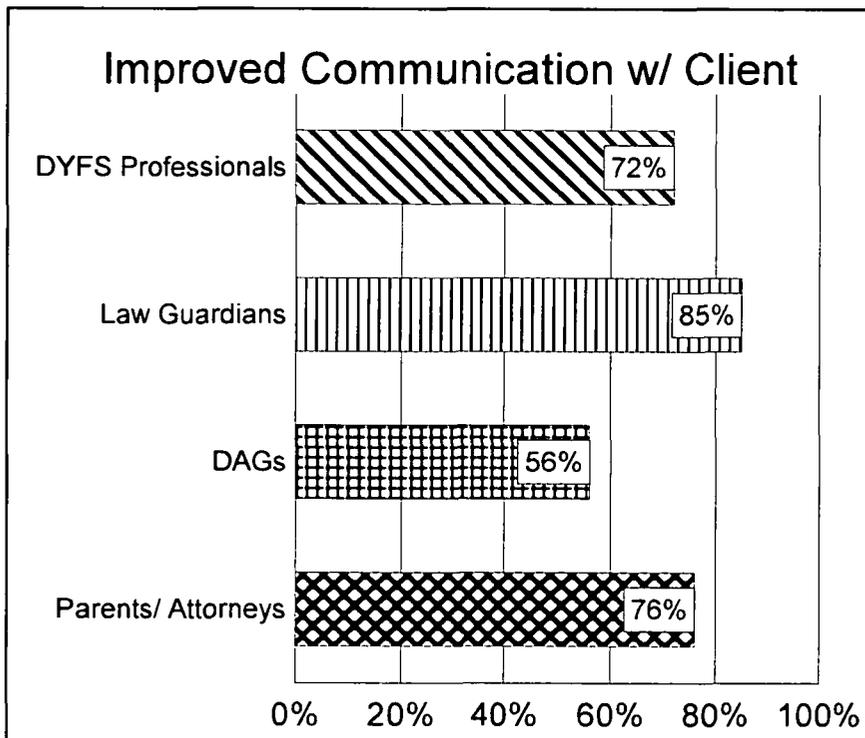


Figure 37

Recommendation:

- ▶ Follow-up with Deputy Attorneys General to determine why they felt less certain than other professionals that mediation had improved communication with their clients.



COLLABORATIVE PROBLEM-SOLVING AND AN IMPROVED SYSTEM RESPONSE

OUTCOME GOAL:

- ◆ To promote collaborative problem-solving to better meet the needs of the child and families in the child welfare system.

FINDINGS:

- ◆ The overwhelming majority of professionals believed that mediation was helpful to the family.
- ◆ The overwhelming majority of legal representatives believed that mediation was helpful to them by providing them a more effective opportunity to advocate for their clients.

Professionals participating in child welfare mediations were also asked to indicate whether they thought the mediation session was helpful to the family involved. The vast majority of professionals (94%, n=222 of 237) believed that the mediation was helpful to the family. (See Figure 38).

- 92% of attorneys' for parents believed that the mediation was helpful to the family (n_{ATT.P}=49 of 53).

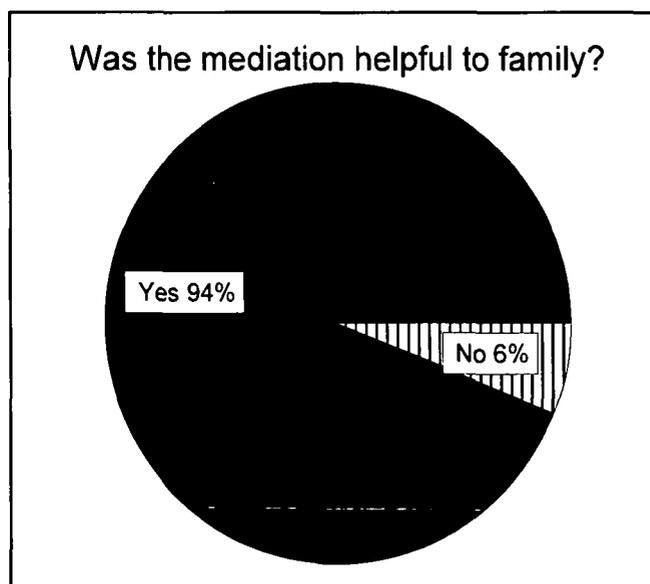


Figure 38

Essex County Child Welfare Mediation Program
Program Outcomes: Results and Recommendations

- 93% of *DAGs* believed that the mediation was helpful to the family ($n_{DAG}=50$ of 54).
- 96% of *Law Guardians* believed that the mediation was helpful to the family ($n_{LG}=50$ of 52).
- 96% of *DYFS supervisors* believed that the mediation was helpful to the family ($n_{DYFS-S}=47$ of 49).
- 83% of *DYFS caseworkers* believed that the mediation was helpful to the family ($n_{DYFS-CW}=10$ of 12).

The vast majority of legal representatives (94%, $n_{LEGAL}=149$ of 159) – parents’ attorneys, DAGs, and Law Guardians – believed that the mediation was helpful to them in providing an effective opportunity to advocate for their client’s position, with just over two-thirds (69%, $n_{LEGAL}=110$ of 159) believing the mediation was “very useful” for this purpose.

- 83% of parents’ attorneys ($n_{ATT-P}=44$ of 53) believed that the mediation was helpful to them in providing an opportunity to advocate for their client’s position, with just over half (56%, $n_{ATT-P}=30$ of 53) believing the mediation was “very useful.” Seventeen percent of parents’ attorneys ($n_{ATT-P}=9$ of 53), however, did not find that the mediation was helpful in letting them advocate for their clients’ position.
- 96% of DAGs ($n_{DAG}=52$ of 54) believed that the mediation was helpful to them in providing an opportunity to advocate for their client’s position, with three-quarters of DAGs (75%, $n_{DAG}=41$ of 54) believing the mediation was “very useful.” Only 4% of DAGs ($n_{DAG}=2$ of 54) did not find the mediation helpful in advocating their client’s position.
- All of the Law Guardians believed that the mediation was helpful to them in providing an opportunity to advocate for their client’s position, with almost three-quarters (73%, $n_{LG}=38$ of 52) believing the mediation was “very useful.”

When asked to provide a reason for why they thought mediation provided an effective opportunity to advocate for their clients, the most frequent reasons given were, in order of mention:

- the client’s needs were addressed and solutions suggested;

Essex County Child Welfare Mediation Program
Program Outcomes: Results and Recommendations

- everyone was in attendance and was able to hear all the statements that were made;
- the mediation allowed more time to thoroughly discuss everything and address issues;
- the mediation cleared up some issues and we finally got answers to some questions;
- the mediation reinforced time frames and expectations;
- the mediation allowed more involvement from the family;
- parents had the opportunity to express their concerns and feelings in a less threatening environment;
- the mediation kept the focus on the child; and
- the mediation kept the focus on developing a plan for the child.

The Essex County Child Welfare Mediation Program appears to be meeting, and in some cases surpassing, its operational and process goals. Successful achievement of operational and process goals suggest that over time, the program will successfully achieve its overall goals related to the development of more family-specific case plans, increased parental compliance, reduction in the use of contested cases, more effective use of judicial and court time, and, ultimately, the achievement of timely permanency for children.

In order to determine whether the child welfare mediation program is achieving long-term systemic goals, steps need to be taken to fund further evaluation. Ideally, the next stage of evaluation should incorporate a comparison sample of similar non-mediated cases so that assessments can be made about the impact of mediation on such key indicators as:

- the breadth of services and level of detail in case plans;
- parental appearances;
- level of parental involvement in the development of case plans;
- level of parental compliance with case plan;
- number and length of court appearances;

- case outcomes (e.g., reunification, kinship placements; identified surrenders, contested TPRs, adoption);
- overall timeliness of case processes from the initial filing of the petition to the achievement of permanency;
- re-entry into care and recidivism rates; and
- overall satisfaction of parents, family members, and system professionals with case progress and outcomes.

Subsequent program evaluation should include empirical case file reviews, observation of mediation sessions, client satisfaction surveys, and interviews with key program stakeholders. In order to determine parental compliance with either court-ordered or mediated case plans, case related information needs to be tracked over time (e.g., at three, six, and nine months post-disposition). In order to determine the impact of mediation versus traditional litigation on overall case outcomes and timeliness, a sample of both mediated and non-mediated cases should be tracked through the termination of court jurisdiction. And, to determine whether mediation decreases re-entry and recidivism rates, a sub-sample of cases should be tracked at least six months beyond case closure.

If such an evaluation is to be conducted, whether formally or informally, care needs to be taken to ensure that the appropriate questions are being asked, that the necessary data is being collected and available in case files, and that mechanisms are put in place to ensure ongoing evaluation and feedback to program leaders.

APPENDIX A: INSTRUMENTATION

- ◆ Parent Satisfaction Questionnaire
- ◆ Attorney and DYFS Representatives
- ◆ Mediator Questionnaire



EVALUATION OF ESSEX VICINAGE DEPENDENCY MEDIATION PROGRAM

PARENT SATISFACTION QUESTIONNAIRE

Your answers to these questions will be used to improve our program. Your answers will only be used to measure our program's strengths and weaknesses. Your comments are very important to us and the success of this program. Thank you.

Please check the appropriate box

- 1. How did you find out that you needed to come to a mediation? (Check all that apply)
[] From Court/Judge [] From attorney [] From DYFS/caseworker [] From other family
[] Received notice in the mail [] Other
2. How prepared did you feel for the mediation?
[] Very prepared [] Somewhat prepared [] Not at all prepared
3. Which of the following was most helpful in preparing you for the mediation?
[] Discussions with attorney [] Discussions with DYFS/caseworker [] Mediation Brochure [] Judge
4. Did your attorney talk to you about the mediation process before mediation began? [] Yes [] No
5. Did your attorney explain the confidentiality statement to you before the mediation began? [] Yes [] No
6. Was your attorney's explanation of confidentiality in mediation clear? [] Yes [] No
7. Did the mediator make you feel comfortable with the process? [] Yes [] No
7A. If no, please explain why you did not feel comfortable.

8. Please circle the number which best reflects how strongly you agree with the following statements.

Table with 5 columns: Statement, 1, 2, 3, 4, 5. Rows include statements like 'I was encouraged to express my feelings and opinions' and 'The mediator really listened to what I had to say'.

- 9. Did the mediation solve (Check One):
[] all of the issues [] some of the issues [] none of the issues
10. Were there issues that you would have like to discuss in mediation, that you could not? [] Yes [] No
10A. If yes, what issues would you have liked to discuss?

EVALUATION OF ESSEX VICINAGE DEPENDENCY MEDIATION PROGRAM

ATTORNEY & DYFS REPRESENTATIVES

Your answers to these questions will be used to improve our program. Your answers will only be used to measure our program's strengths and weaknesses. Your comments are very important to us and the success of this program. Thank you.

Please check the appropriate box

Your answers to these questions will be used to measure our program's strengths and weaknesses so that we can improve our program. Your comments are very important to us! Thank you.

Please check appropriate box

Please indicate your role in the dependency mediation:

Attorney for Parent Deputy Attorney General Law Guardian DFYS Supervisor
 DYFS Caseworker Other: _____

1. How prepared did you feel for the mediation?
 Very prepared Somewhat prepared Not at all prepared
2. Did you talk with our client before mediation began? Yes No
3. Did you think the mediation was helpful for the family involved? Yes No
4. How useful was the mediation for you in advocating for your client's position?
 Very useful Somewhat useful Not at all useful

4A. Why? _____

5. Was the confidentiality statement sufficient? Yes No
6. At the beginning of the mediation session, did the mediator explain what the mediation process was going to be like? Yes No
7. Did the mediator make you feel comfortable with the process? Yes No
8. Please **circle the number** which best reflects how strongly you agree with the following statements.

	Strongly Disagree			Strongly Agree	
8A. "The mediator listened to what I had to say"	1	2	3	4	5
8B. "Everyone listened to what I had to say"	1	2	3	4	5
8C. "I would have liked more opportunity to express my feelings and opinions"	1	2	3	4	5
8D. "I felt ignored and unimportant during the mediation"	1	2	3	4	5
8E. "The mediator made sure that everyone could talk"	1	2	3	4	5
8F. "I was able to be a part of finding answers to the problems we discussed"	1	2	3	4	5
8G. "The mediator treated me with respect"	1	2	3	4	5
8H. "The mediator treated everyone with respect"	1	2	3	4	5
8I. "Everyone treated me with respect"	1	2	3	4	5
8J. "The mediator helped me to understand everyone's point better"	1	2	3	4	5
8K. "The mediator helped everyone to consider other ways of thinking about things"	1	2	3	4	5
8L. "The mediation helped everyone to understand my point of view better"	1	2	3	4	5
8M. "I had a chance to express my clients needs and opinions"	1	2	3	4	5
8N. "The mediator equalized power imbalances among the parties as much as possible"	1	2	3	4	5
8O. "The mediator helped to reduce the level of animosity among the parties"	1	2	3	4	5
8P. "The mediator demonstrated a high degree of neutrality with respect to outcome"	1	2	3	4	5

9. Did the mediation solve (Check One):
 all of the issues some of the issues none of the issues
10. Were there issues that you would have like to discuss in mediation, that you could not?
 Yes No
 10A. If yes, what issues would you have liked to discuss? _____

11. Was there anyone else that you felt should have attended the mediation? Yes No
 11A. If yes, who and were they asked to come? _____

12. If the need arose, would you be willing to be involved in another mediation? Yes No
13. Would you recommend mediation to others? Yes No
14. Any other comments you would like to make or suggestions that you have for how we might improve the program? Did it meet your expectations? _____

15. At the beginning of the mediation session, did the mediator sufficiently explain what confidentiality means to everyone present? Yes No
16. Before the mediation began, did the mediator adequately explain what the mediation process was going to be like? Yes No
17. Did the mediator make you feel comfortable with the process? Yes No
18. Did the mediator make your client feel comfortable with the process? Yes No
19. Do you think that as a result of the mediation process you have a more complete understanding of the family's needs than you would have had the case been litigated? Yes No
 19A. Explain _____

20. Do you think that as a result of the mediation process the level of communication between you and your client (whether your client is the parent, agency, or child) has been improved? Yes No
 20A. Explain _____

21. Did you reach an agreement in mediation? Yes No
 21A. If yes, was it a partial agreement? Full Partial
 21B. If no, why do you think an agreement could not be reached? _____

22. How does your mediated agreement compare with court ordered service plans or judicial resolutions?

23. Do you think that you would have had a better outcome in court? Yes No
 23A. Why? _____

24. At what stage in the dependency process was this case mediated? _____
24A. Do you think this was the most appropriate time in the process
for the case to be referred to mediation? Yes No

24B. If no, at what point in the process would mediation have been more appropriate? Explain.

25. In your opinion, did the mediation process:

25A. settle more issues than not Yes No Unsure
25B. increase parental participation with the case plan Yes No Unsure
25C. help move the case forward Yes No Unsure

26. Comments you would like to make with respect to:

26A. The mediation process: _____

26B. The mediator: _____

26C. Dependency Mediation Program and Protocols: _____

Thank you for your time and your comments.

PLEASE PLACE THE COMPLETED QUESTIONNAIRE IN THE BOX ON THE TABLE TO THE LEFT OF THE DOOR AS YOU LEAVE.

EVALUATION OF ESSEX VICINAGE DEPENDENCY MEDIATION PROGRAM

MEDIATOR QUESTIONNAIRE

Case Name: _____ Case # _____

Case Type: FN _____ FG _____ FC _____ Other _____

Reason for Referral to Mediation: _____

Party Requesting Mediation (Check all that apply):

- | | |
|------------------------------------|-------------------------|
| _____ Mother | _____ Father |
| _____ Mother's Attorney | _____ Father's Attorney |
| _____ Deputy Attorney General | _____ Law Guardian |
| _____ Child(ren) | _____ Foster Parent |
| _____ DYFS Caseworker | _____ DYFS Supervisor |
| _____ DYFS Casework Supervisor | _____ CASA |
| _____ Relative(s) (specify): _____ | |
| _____ Other (specify): _____ | |

Children Who are Subject of Mediation:

Name: _____	Date of Birth: _____
Name: _____	Date of Birth: _____
Name: _____	Date of Birth: _____
Name: _____	Date of Birth: _____
Name: _____	Date of Birth: _____

Whereabouts of Children:

- | | |
|------------------------------|-----------------------------|
| _____ Living with Parent | _____ Living with Relative |
| _____ Foster Home Placement | _____ Residential Placement |
| _____ Other (specify): _____ | |

Present at Mediation (Check all that apply):

- | | |
|------------------------------------|-------------------------|
| _____ Mother | _____ Father |
| _____ Mother's Attorney | _____ Father's Attorney |
| _____ Deputy Attorney General | _____ Law Guardian |
| _____ Child(ren) | _____ Foster Parent |
| _____ DYFS Caseworker | _____ DYFS Supervisor |
| _____ DYFS Casework Supervisor | _____ CASA |
| _____ Relative(s) (specify): _____ | |
| _____ Other (specify): _____ | |

Issues Addressed at Mediation (Check all that apply):

- | | |
|---------------------------------|------------------------------|
| _____ Permanency Plan for Child | _____ Placement Alternatives |
| _____ Services to Parent | _____ Services to Child |
| _____ Visitation | _____ Open Adoption |
| _____ Other (specify): _____ | |

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NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

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