

Child Protection Co-Mediation:

Outcome Assessment of the Child Protection Co-Mediation Pilot Project

A Joint Project of the Child Protection Mediation Program and Mediate BC Society

Prepared for:

*Ministry of Justice
The Child Protection Mediation Program*

May 2012

*Prepared by:
Colleen Getz*

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Pulling together the many details and reporting on the achievements of a project like the *Child Protection Co-Mediation Pilot Project* is always a group effort. First and foremost, this work could not have been done without the time and effort taken by both the mediation participants and the mediators in providing feedback about their experiences in co-mediation. After all, they're the point of it all!

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Executive Summary

I. Background

The training needs in child protection mediation in British Columbia are changing. In particular, the emphasis in training has shifted from educating new mediators to providing professional development opportunities for experienced mediators. To address this shift, and to build on the extensive experience that has accumulated through the delivery of a comprehensive practicum in child protection mediation¹, the Child Protection Mediation Program of the Ministry of Justice and the Mediate BC Society jointly initiated the *Child Protection Co-Mediation Pilot Project*. The broader goal behind this project was "... to enhance services to children and families throughout the province, while also providing opportunities for mediators to enhance and enrich their knowledge and skill directly in experiential practice"².

This report documents the results of an outcome assessment of the project that was conducted near the end of the pilot period, in the late winter of 2012. Although focused primarily on answering a series of questions or issues that were identified in connection with each of three objectives articulated for the project, the assessment also yielded some important reflections on the lessons learned — through co-mediation, and through the particular model of co-mediation service delivery adopted by the *Child Protection Co-Mediation Pilot Project*.

II. Project Aims and Achievements

Objective 1: To provide professional development and practice support for child protection mediators.

- Mediators' comments suggest that, although case scenarios didn't necessarily oblige in helping them to meet their learning goals, they found the co-mediation process to be a very valuable learning opportunity.
- Many examples of learning were documented in three main categories of mediation practice: administration, skills, and process. Mediators also found their co-mediation experience particularly useful as a means of connecting with fellow mediators and nurturing a feeling of community amongst mediators.
- The co-mediation tools or supports provided for the pilot project were well utilized by the participating mediators. Mediators were, however, neutral —neither very complimentary nor very critical — in terms of how useful they found these tools to be.

¹ The Child Protection Mediation Practicum has been in place since the spring of 2006. In this program, practicum students were given hands-on practice in mediation in the presence of 'mentors' or senior mediators. The program was particularly oriented to enhancing child protection mediation in Aboriginal and geographically remote communities in the province.

² *Child Protection Mediation: Guidelines for Co-Mediation*. Ministry of Justice and Mediate BC Society, 6 May 2011, p. 4.

- Most Mediator Survey respondents were comfortable giving and receiving feedback with their co-mediator. More structure or guidance around the feedback process, however, might have improved the content and value of the feedback given.
- Nearly all respondents in the Mediator Survey reported that they would be interested in co-mediating again.

Objective 2: To increase internal capacity of the CPM Program to deliver culturally relevant mediation services through mediators on the CPM Roster.

- For some mediators, exposure to a colleague with a different professional background introduced new skills and knowledge. For nearly all, it brought about a new understanding and appreciation of their co-mediator's working milieu.
- Mediators did not have a lot to relate about the urban/rural factor as a learning experience, perhaps because they were exposed to differing sized communities in their mediation practices or previous training.
- Mediators commented about their experiences working with a co-mediator or with mediation participants from different-sized communities and from different regions of the province. While they felt the mediation process itself can be relied upon to bring about a certain 'sameness', their experiences reinforced the need to be sensitive to community and regional conditions
- Some mediators indicated that they were already familiar with a cross-cultural dynamic. Others indicated that their co-mediation experience with someone of a different linguistic or ethno-cultural background opened new vistas for them.
- Exposure to different linguistic or ethno-cultural backgrounds resulted in learning about participants' expectations, communication, and lifestyles. It also resulted in an appreciation of storytelling, or drawing on the participants' own cultural experiences to ensure that mediation proceeds in a culturally meaningful fashion.
- Mediators comments suggested a willingness to change their practices and an eagerness to apply what they learned in co-mediation.

Objective 3: To design, develop and provide opportunities to explore the effectiveness of a new model of mediation service delivery in child protection mediation.

- Of the 66 mediators on the Child Protection Mediator Roster at the outset of the pilot project, 53 (80.3%) mediators indicated their interest in participating in the project, and 41 (62.1%) mediators completed at least one co-mediation. Eleven (16.7%) were offered a co-mediation opportunity, but declined, and 1 (1.5%) mediator formally withdrew.
- Mediators tended to choose the roles suggested in the Models of Co-Mediation "Menu", with the Division of Tasks and Taking Turns models being identified most frequently.
- Most respondents in both the Participant and Mediator Surveys reported that the two mediators worked well together. Of all the different parts of the mediation, the planning and concluding

sessions seemed to be most challenging in terms of teamwork. Mediators' comments suggest that, most importantly, effective pre-planning and determination of a useful model of co-mediation is an aid to effective teamwork.

- The results of the assessment show that the knowledge and experience of the project's scheduling coordinators contributed greatly to the project's success. Most participant and mediator survey respondents reported that they were satisfied or very satisfied with the administrative arrangements made for them.
- In order to maintain control of travel expenses, the proximity of the two mediators is a necessary and practical constraint on the delivery of co-mediation services.
- Although participants' comments were, overall, very positive, many were somewhat ambivalent or unsure of the particular benefit they received from co-mediation. Their ambivalence could be a result of needing more information about the pilot project and its objectives, and about the Project's anticipated benefits for participants and mediators alike.
- The majority of mediators, from all sources, indicated they benefited from having two mediators conduct the mediation. Mediator Survey respondents with more years of mediation experience, however, were less likely to indicate that this was so. Nevertheless, even these more experienced mediators could see the potential for co-mediation to benefit them in a range of different ways.
- Both Mediator and Participant Survey respondents identified a broad range of case types as ideally suited to this method of mediation. The majority of both groups, however, identified large mediations, with multiple parties or participants, as the main type of case for which co-mediation is well-suited.
- Feedback from all sources during the pilot project suggested that the way the main purpose behind a particular co-mediation program is framed — as well as the associated reasons for different methods of program delivery and funding — will impact the degree to which it is supported by both mediators and mediation participants.
- Participants who completed the Co-Mediation Services questionnaire and the on-line Participant Survey indicated that they were broadly satisfied with their co-mediation experience. As some participants appeared to query the purpose of the program, it may be that greater clarity about the program's purpose might give participants a different impression of their co-mediation experience and of the anticipated benefits of co-mediation for participants and mediators alike.
- By the close of the pilot period, all or some issues were settled in all but three of the cases initiated under the project — and in one of these three cases, the matter did not proceed to mediation.

III. Conclusion and Recommendations

Co-mediation offers a creative opportunity for experiential learning. There is every indication that co-mediation is likely only to strengthen the high standards set for child protection mediation in the province, and that it will help to nourish the Child Protection Mediation Program from within.

As a result of the assessment of the *Child Protection Co-Mediation Pilot Project*, the following recommendations are made as a guide to next steps:

- Continue to offer co-mediation as a means of providing professional development and practice support for child protection mediators, and for delivering culturally relevant mediation services through mediators on the CPM Roster.
- Further explore the effectiveness of co-mediation as a means of managing a variety of types of cases, including those involving: large numbers of parties, domestic violence, substance abuse, and developmental or other disabilities.
- In order to accommodate mediators practicing in remote areas, explore ways of giving priority to mediators who do not have peers in close proximity while still respecting travel budget limitations.
- Communicate clearly about the main purpose of a co-mediation program, to both mediators and mediation participants.
- Develop additional materials and design resources such as pod casts or other Internet-accessible information to guide mediators participating in a co-mediation program.
- Continue offering incentives such as professional development hours for participation in co-mediation.
- Explore ways of helping mediators better meet their learning goals in co-mediation, perhaps by involving mediators in the process of matching co-mediators or in selecting cases with particular fact patterns.
- In order to support newly qualified or less experienced mediators, offer co-mediation on a priority basis to mediators who have recently come on to the Child Protection Mediator Roster or who otherwise have a greater need to develop their mediation skills.
- If necessary, and if the time between pre-mediation orientation meetings and mediation sessions is short, encourage mediators to connect with parties and participants by phone or tele/web-conference prior to pre-mediation orientation meetings.
- As part of the pre-mediation orientation, ensure that the purpose of having two mediators is explained to mediation participants.
- Provide more structure to the post-mediation debriefing process by developing a debriefing questionnaire, or otherwise suggesting specific categories of content that should be explored following a co-mediation.

I. Introduction and Background

A. About Co-Mediation and the Child Protection Co-Mediation Pilot Project

Co-mediation is defined by David Richbell³ as “the harmonious working of two complementary mediators who offer a diversity of skills, experience and personality”. Even its definition hints at the enriched experience of mediators who engage in this process — not to mention the potential co-mediation has for managing the complexity that is so often a characteristic of child protection cases. It is the promise that co-mediation held in both these respects that prompted the initiation of British Columbia’s *Child Protection Co-Mediation Pilot Project*.

Co-mediation opportunities for mediators were available under the auspices of this pilot project for a ten month period, from May 1st, 2011, to March 31st, 2012. The pilot project was a joint initiative sponsored by the Child Protection Mediation (CPM) Program of the Ministry of Justice and the Mediate BC Society. These two organizations (and previous iterations of them⁴) have long had a close working relationship. The CPM Program provides mediation services in child protection disputes by contracting with private sector mediators to deliver these services⁵. As part of this program, a roster or listing of qualified child protection mediators is maintained through which parties to a dispute (typically social workers and families) select their mediators. The Mediate BC Society houses the roster on their website on behalf of the CPM Program. Additionally, until recently, the Society delivered a practicum program which was originally established as a means of helping to populate this roster with fully trained and qualified mediators — particularly in underserved areas of the province, such as in remote and Aboriginal communities. The Society provides some ongoing professional development services in collaboration with the CPM Program in support of the program’s mediators, and also makes available to child protection mediators other professional development opportunities offered to mediators across the province.⁶

Both organizations, therefore, are working partners and have a fundamental interest in the provision of training and professional development programs for child protection mediators. They collaborated to introduce the Child Protection Co-Mediation Pilot Project as a means “... to enhance services to children and families throughout the province, while also providing opportunities for mediators to enhance and enrich their knowledge and skill directly in experiential practice”⁷. Within the context of this more comprehensive statement of purpose, three specific objectives were articulated for the project:

³ Richbell, David. *Co-Mediation*. MATA – Mediation and Training Alternatives, 2010, p. 1. <http://mata.org.uk/>, retrieved April 2012.

⁴ In April 2010, the Dispute Resolution Innovation Society and the B.C. Mediator Roster Society merged to become the Mediate BC Society.

⁵ For more information about the Child Protection Mediation Program, see their website at: <http://www.ag.gov.bc.ca/child-protection-mediation/index.htm>

⁶ For more information about the Mediate BC Society, see their website at: <http://www.mediatebc.com/>

⁷ *Child Protection Mediation: Guidelines for Co-Mediation*. Ministry of Justice and Mediate BC Society, 6 May 2011, p. 4.

1. To provide professional development and practice support for child protection mediators.
2. To increase the internal capacity of the CPM Program to deliver culturally relevant mediation services through mediators on the CPM Roster.
3. To design, develop and provide opportunities to explore the effectiveness of a new model of mediation service delivery in child protection mediation.

The co-mediation process in this pilot project conceived of two client groups. The first of these were mediation participants, including children, their families, and the various representatives and professionals — such as social workers, counsel for family members and the Director of Child Welfare, and a range of other family support or community representatives — who were either parties in a dispute or people who otherwise represented or supported those parties in mediation (see chart 1). It is perhaps not surprising that these participants came from a broad spectrum of backgrounds and infused the mediation environment with a broad range of concerns and interests. It is the very nature of child protection mediation — its dynamics, the multiple parties, their varying backgrounds and interests — which contrives to make it probably the most complex of all the subject areas in which mediators practice their craft.

The other client group in the pilot project was, of course, the mediators. In this instance, they were both the deliverers of the service and the beneficiaries of the wisdom they shared with each other as co-

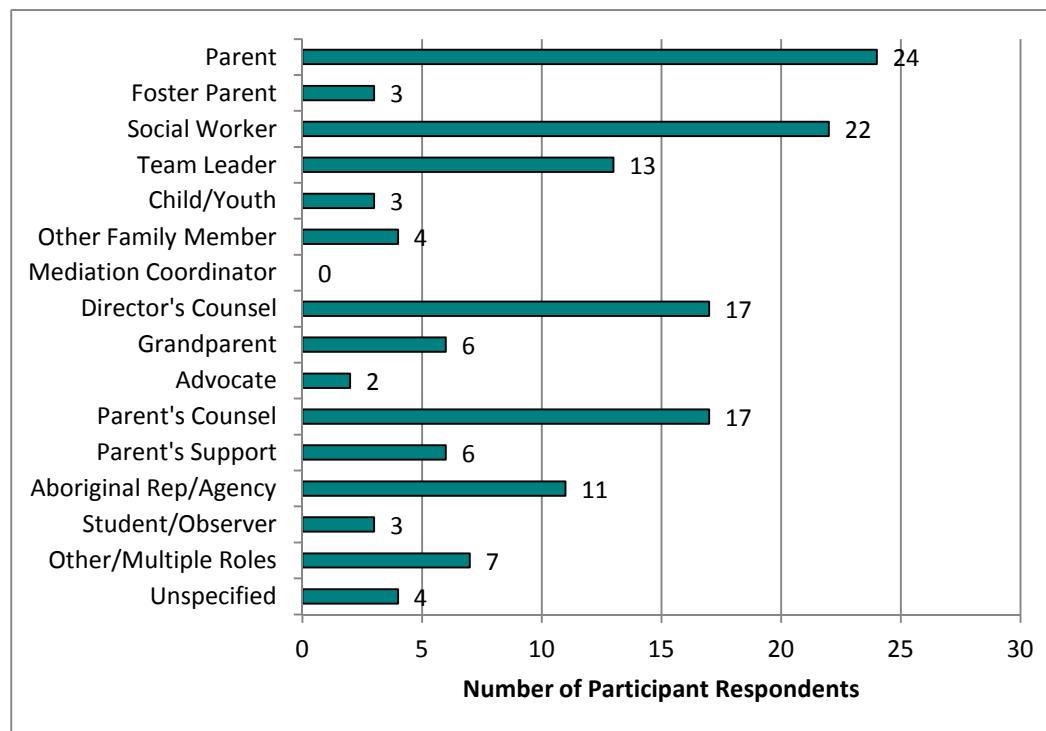


Chart 1. The diversity of mediation participants, as exhibited by those who submitted Co/Mediation Services Questionnaires during the pilot project.

mediators. Like the participants, the mediators in the project also come from a broad spectrum of backgrounds. This included people from different fields of dispute resolution (such as lawyers, negotiators, and arbitrators), child welfare and related professions, and a variety of other occupational backgrounds (see chart 2). The pilot project presented a means by which they could share their knowledge and expertise in a ‘hands on’ format. As well as providing an experiential learning environment, it was intended that the collaboration brought about by co-mediation would encourage collegiality amongst the mediators. Contributing to a larger “community of mediators” in this particular field of mediation was, therefore, another of the project’s underlying intentions.

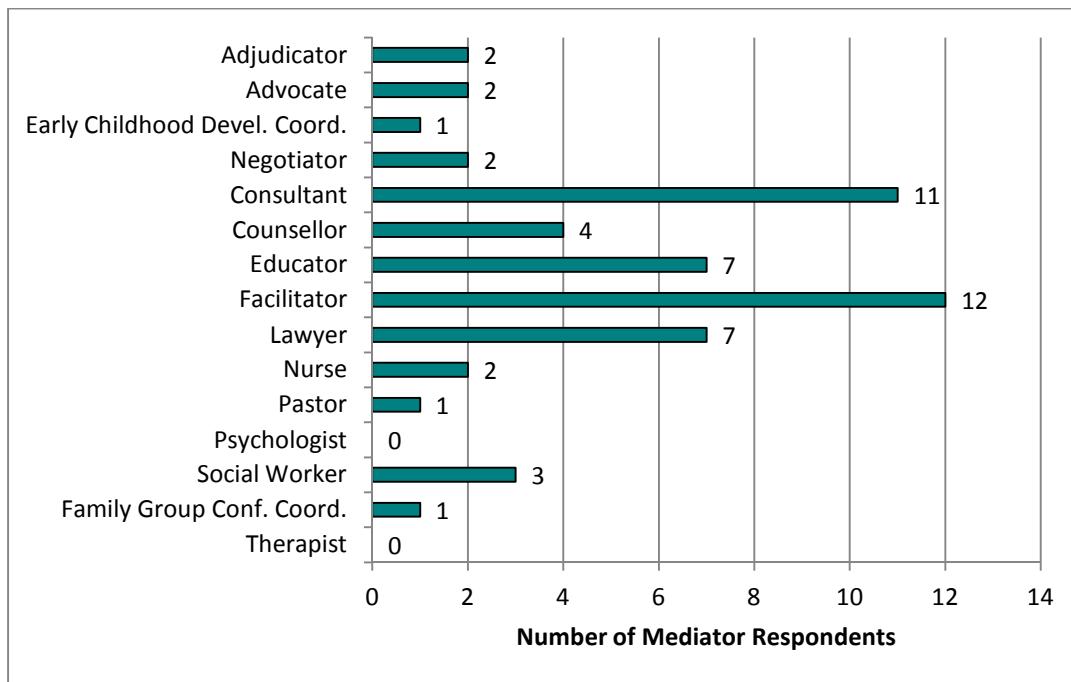


Chart 2. The diversity of mediators, as exhibited by those who submitted responses to the on-line Mediator Survey.

Clearly, the participant and mediator client groups brought a great deal of diversity in background and breadth of experience to the pilot project. This lack of homogeneity in both client groups presents both the challenge and the opportunity in co-mediation. On the one hand, there is the challenge of synchronizing very different styles, methods, and interests in aid of achieving a desired mediation outcome. On the other, there lies the rich opportunity of shared wisdom and growth through experience. The overall focus in assessing the achievements of the pilot project was, in a sense, a determination of whether or not the opportunities in co-mediation outweigh or, indeed, overcome the challenges. ■

B. About this Report

This report documents the results of an outcome assessment that was conducted at the conclusion of the pilot period in the late winter and spring of 2012. The assessment drew on information from two key texts that set out the overall approach and main administrative features of the project: *Child Protection Mediation: Guidelines for Co-Mediation* and *Models of Co-Mediation* (see appendices). Data was gathered from records and feedback forms provided by mediators and mediation participants in connection with the particular co-mediation in which they took part. Additionally, for a broader perspective on co-mediation and the pilot project as a whole, two follow up surveys were administered on-line: one to mediators, and one to professional (or non-family) participants. (See chart 3 for a list of the applicable documentary and survey information sources and the completion or response rates associated with them.) Finally, a selection of five mediators (chosen to represent a cross section of urban/rural, varying professional, gender, and regional characteristics), as well as two scheduling coordinators, and two program managers with the pilot project, were interviewed to gather more specific details of “what worked, and what didn’t”.

Project Forms and Surveys	Completion Rate (Sample/Population)	Completion Rate (Percent)
<i>Mediator Forms</i>		
▪ Areas of Interest Survey	46/53	86.8%
▪ Pre-Mediation Plan	20/23	87.0%
▪ Post Mediation Evaluation	37/44	84.1%
▪ Case Management Form (selected summary and non-identifying data)	23/23	100.0%
<i>Participant Form</i>		
▪ Co-Mediation Services Questionnaire	142/228	62.3%
<i>On-Line Follow Up Surveys</i>		
▪ Mediator Survey	26/41	63.4%
▪ Participant Survey (Non-Family Participants)	34/87	39.1%

Chart 3. Project forms and surveys with associated rates of completion.

The assessment was focused, primarily, on answering a series of questions or issues that were identified in connection with each of the three objectives articulated for the project. In that process, there emerged some reflections on the lessons learned through co-mediation, and through the particular model of co-mediation service delivery adopted by the Child Protection Co-Mediation Pilot Project. The practical applications that derive from those lessons are ultimately what concerns both the Justice Ministry's Child Protection Mediation Program and the Mediate BC Society. ■

II. Project Aims and Achievements

A. Professional Development and Practice Support

For a number of reasons, the training needs in child protection mediation in BC are changing. As the Child Protection Mediator roster now has a full and diverse complement of trained child protection mediators, the practicum previously administered by the Mediate BC Society has wound down. It is important, however, that mediators on the roster continue to grow and upgrade their skills. As a result, the emphasis in training has shifted from educating new mediators to providing professional development for experienced mediators on the child protection roster.

In this context, the primary aim of the Co-Mediation Pilot Project was to examine whether or not co-mediation might be a means of delivering professional development and practice support services to the mediators on the Child Protection Mediation roster. In addition, a related aim was to examine whether — in support of professional development and practice support — co-mediation might be a means of building a ‘community of mediators’. These purposes were articulated in the project’s first objective as, simply:

To provide professional development and practice support for child protection mediators.

1. Do mediators believe that valuable learning occurred as a result of their participation in co-mediation? If so, what did they learn?

As noted by an interview respondent, providing professional development opportunities to experienced mediators can be a complex business. The extent to which mediators find it valuable depends, very much, on the extent of their experience. But it can also depend on more ambiguous factors, such as personal temperament. Some people reach out to any opportunity, and find every experience of value from a learning perspective. Others have very specific expectations or explicit learning objectives that can be difficult to meet.

Through the Post Mediation Evaluation form, mediators were asked to rate how useful they found co-mediation on a scale from 1 to 7. As shown in chart 4 (next page), the average rating mediators gave to achieving personal learning goals was 5.3 — certainly above the mid-point of 4 in the



“Definitely a great learning environment and a supportive setting. It's the only way to really learn and understand the process: by being an active participant in a live mediation. It's a real event with no text book on hand!”

— a Mediator Survey Respondent

A decorative curly brace graphic at the bottom right, pointing towards the author's name.

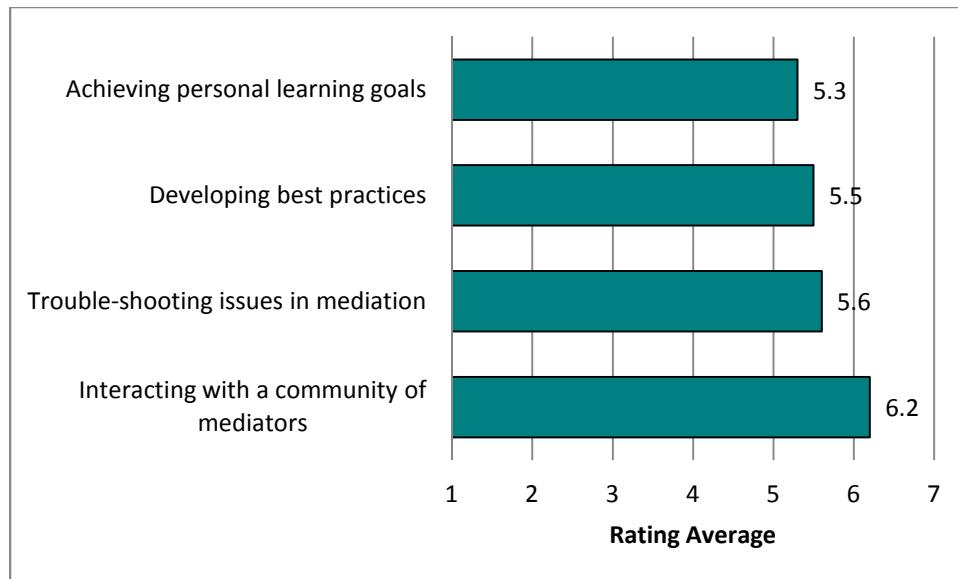


Chart 4. On a scale of 1 to 7, ratings of how useful mediators found their co-mediation experience.

scale, but perhaps not the high rating that was anticipated. One of the main reasons offered for why their personal learning goals were not met had to do with the fact that the case scenarios that presented themselves during the pilot project didn't necessarily oblige in helping them meet those goals. Nevertheless, from the comments in the Post-Mediation Evaluation, most still felt the process to be a very valuable learning opportunity. Even those who did not feel their particular co-mediation fully met their expectations recognized the potential this mode of mediation has as for experiential learning.

The examples of learning identified by the mediators were extensive, and fell largely into the categories of administration, skills, and process. The long list of examples they identified included:

- working with impasse
- agreement writing
- culturally meaningful practice
- information sharing
- confidentiality
- exposure to different mediation styles
- open questioning
- role of and caucusing with counsel
- dealing with conflict/difficult parties
- team work and taking turns
- neutrality
- working with young teens/youth

- managing the mediation process (including use of electronic and other presentation aids, agenda use, and the importance of pre-planning/pre-mediation work)
- dealing with complex/multi-party mediations
- dealing with disabilities
- self reflection
- transitions, reframing/re-directing, and summarizing
- affirming and clarifying mediation skills and best practice

Mediators found their co-mediation experience especially useful as a means of connecting with fellow mediators and nurturing a feeling of community amongst mediators. This issue is of considerable importance, as it addresses more than just the need for collegiality amongst mediators. Particularly for mediators in regions where geography or distance has isolated them from their colleagues, connecting them with others with whom they can consult on issues or trade practice tips is a very important aspect of practice support. A more experienced mediator observed in an interview that long years of practice can also be very isolating. It is easy to become entrenched in methods that are simply familiar. Co-mediation has the potential to expose even veteran mediators to new or, at least, different ways of applying their skills.

“... We took the opportunity ... to discuss a variety of different general practice subjects such as open questioning, role of counsel, whether to review the form of agreement at orientation, confidentiality, etc., all of which was useful.”

— a Post Mediation Evaluation Respondent

2. Did mediators find the co-mediation tools to be helpful?

The co-mediation tools and materials provided for the pilot project were well utilized by the participating mediators. For example, 34 mediators participated in one of three one-hour information teleconference sessions prior to signing up for co-mediation; 46 of a possible 53 areas of interest surveys were returned; and 20 of a possible 22 pre-mediation plans were returned. Additionally, the use mediators made of project materials such as the Guidelines and the Models of Co-Mediation Menu were evident in the details they included in their pre-mediation plans and Post Mediation Evaluation comments.

When asked to rate the usefulness of the co-mediation tools, however, the mediators who responded in the Mediator Survey were fairly neutral — neither very complimentary nor very critical — about the tools and materials that were provided for them during the pilot project (see chart 5, next page). One mediator commented that “... The areas of interest survey helped me focus on areas I want to improve or have experience in.” Another commented that “The guidelines and Models of Co-Mediation Menu felt restrictive.” There were otherwise few comments that provide much insight into their impressions of the co-mediation tools provided.

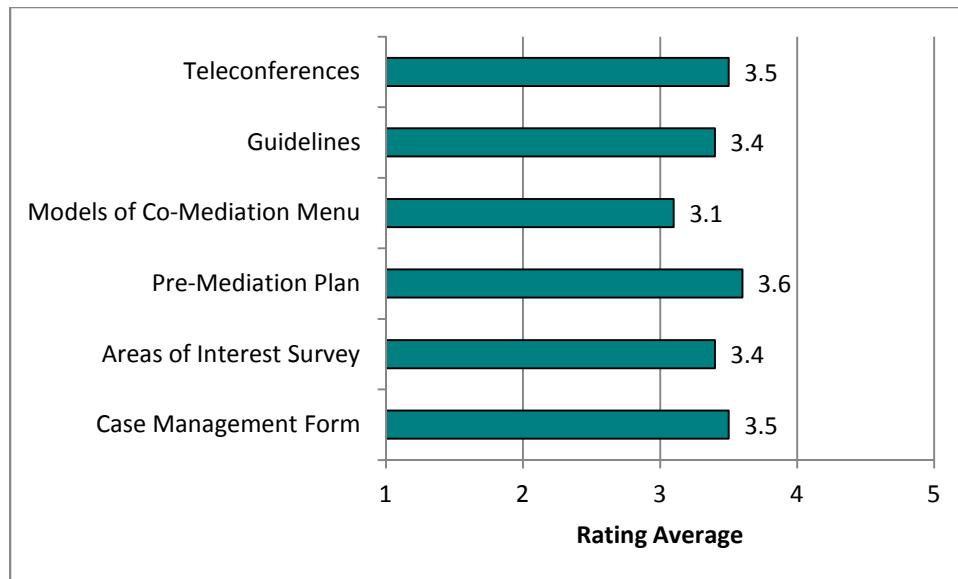


Chart 5. On a scale of 1 to 5, ratings of how helpful mediators found the tools for preparing, conducting, and debriefing/reporting their co-mediation.

3. To what extent did mediators find the peer feedback post mediation to be beneficial?

From a professional development perspective, the ability to both give and receive peer feedback to a co-mediator is very important. For some mediators who currently are or have previously been mentoring mediators in other programs, this is a familiar and comfortable aspect of the co-mediation experience — at least, in respect of giving the feedback. For others, it may have been a fairly new and not necessarily comfortable experience, either on the giving or receiving end.

There can be different factors that contribute to comfort. For example, one mediator commented that it was “a little uncomfortable, as we know each other.” Another commented, “We were able to chat freely and vent about what worked and areas where we both really valued having a co-mediator. It felt a supportive experience all the way through.” And, certainly, beyond the comfort in giving or receiving it, the content of the feedback should be useful in order to be beneficial. In the Mediator Survey, nearly all respondents reported being comfortable both giving and receiving feedback with their co-mediator. In that survey, 18 (72.0%) of the mediators also said they felt the feedback from their co-mediators was beneficial or very beneficial.

“The co-mediator let me know what she wanted to work on or pay attention to and asked for my feedback and asked a lot of questions. We had a very respectful and educational experience.”

— a Mediator Survey Respondent

It may be that somewhat more structure or guidance around the feedback process could have improved the content, and therefore also increased the value of the feedback given. It was anticipated that mediators would base their feedback on their Pre-Mediation Plan and the learning goals they articulated together prior to the mediation. For some, however, more specific direction on what to explore during a post-mediation feedback session may have been helpful. For example, a feedback questionnaire, or guidelines suggesting suitable feedback topics, could be a useful complement to the project's resource materials.

4. Would the mediators be interested in co-mediating again, and why or why not?

A very clear indicator of whether mediators felt their co-mediation experience was valuable is, surely, whether or not they would want to do it again. Nearly all respondents in the Mediator Survey (24 or 92.3%) reported that, yes, they would be interested in co-mediating again. Just one mediator indicated that they would not want to co-mediate again, and it would seem even that person intended to say 'yes' by their comment: "Particularly with larger groups it makes the entire process more workable, and since we work in isolation I think that co-mediation is our primary way of learning and expanding our skills. I think it is a vital way of providing support, and learning."

Other comments showed a range of reasons for why mediators might like to co-mediate again, and some qualified their answers with conditions for their involvement. As expected, the learning opportunities offered through co-mediation is an important factor, as one mediator enthused: "It was one of the best learning experiences in my career." Others, while eager for another co-mediation opportunity, nevertheless indicated that they might like to have somewhat more control over the selection/matching of the co-mediators. For example, one mediator commented that: "... I would want to know who the co-mediator might be in advance so I could see their profile, and then maybe we can talk on the phone and decide if we want to proceed." Another said they would do this again "Only if the case required 2 mediators of a specific skill set."

Future participation in co-mediation will also depend on whether or not mediators can be offered a different experience the next time — an experience that puts their own styles and techniques in contrast. For example, one mediator commented: "I worked with someone [whose] style was very similar to my own. I would like to work with someone with a very different style. I think that when we see others work we tend to take the parts of them that would work with our style and in that way help us to improve." ■



"Overall, this was a great experience and the opportunity to get feedback on my mediation style was invaluable. I would be willing to co-mediate again and, specifically, to co-mediate with this mediator. Thank you for this opportunity!"

— a Post Mediation Evaluation Respondent



B. Culturally Meaningful Service Delivery

As mentioned, the very diverse nature of both the participant and mediator client groups in the Child Protection Co-Mediation Pilot Project represented, at the same time, both a challenge and an opportunity. In this project, there was an effort to mobilize the diversity in one client group to address the challenges of diversity in the other, the objective being:

To increase internal capacity of the CPM Program to deliver culturally relevant mediation services through mediators on the CPM Roster.

There are different ways of providing cultural training and education. Most typically, it involves bringing in experts or community representatives from outside an organization to provide instruction or to help in the development of practice guidelines. In this instance, however, it wasn't necessary to bring the experts in from the outside. The mediators on the Child Protection Mediator Roster already display a broad mix of professional, regional, linguistic, and ethno-cultural backgrounds. Co-mediation was seen as a possible mechanism by which these mediators could share their knowledge with each other, and pass on the skills to provide more culturally meaningful or relevant mediation services.

5. What did mediators learn from their experience of co-mediating with a mediator, or working with participants, of a different cultural background?

'Different cultural background', in connection with this question, was broadly defined as including mediators and participants with different professional, regional, linguistic, and ethno-cultural characteristics. The issue was, essentially, whether or not exposure to these different characteristics through co-mediation enhanced the mediators' understanding of culturally meaningful program delivery.

Although the mediators commented on their cross-cultural experiences through a number of different feedback sources during the project, they were specifically asked questions about this through the online Mediator Survey. Beginning with professional culture, a majority (22 or 84.6%) of the 26 survey respondents indicated that they had co-mediated with someone from a different 'professional/occupational/role' background.

Some noted, more particularly, style differences between themselves and their co-mediator rather than knowledge or skills that derived specifically from their differing professional backgrounds. Others did pick up some new skills and knowledge because of their different backgrounds. For example, pairing with someone with a professional legal background helped one mediator gain more confidence in the way they approached agreement writing. Another mediator learned from a co-mediator who had a better understanding of a mental health diagnosis that was a factor in their approach to the mediation. For nearly all respondents, exposure to a colleague with a different professional background appeared

to have brought about, simply, a new understanding and appreciation of the other person's working milieu.

Mediators were also asked whether they had a co-mediation partner or participants who came from a larger or smaller population centre (e.g. urban/rural). Nineteen (73.1%) of the Mediator Survey respondents indicated they co-mediated with someone from a larger or smaller population centre. Seventeen (65.4%) also had mediation participants who were from a larger or smaller population centre. Mediators did not have a lot to relate about the urban/rural factor as a learning experience, perhaps because they were exposed to differing sized communities in their mediation practices or previous training. Also, as one mediator observed, the mediation process can be relied upon to bring about a certain 'sameness': "I worked with a mediator from a larger more urban area than the area I normally work in. I learned that mediations are more similar than different."

Nevertheless, several mediators did share some thoughts about the need to be sensitive to community size issues. A mediator who came from a smaller community to a larger one observed: "There was less personal familiarity amongst all participants which was different for me, and [I was] reminded about the importance of understanding and respecting process, and not sub-consciously relying on that familiarity." Another, mediating in a smaller community, noticed that: "The co-mediator who was from a larger centre than I was had problems relating to the participants who were from a very rural area. It was evident to me how easy it is for people to disconnect when even though they speak the same language their backgrounds are foreign to each other."

Mediators had similar comments to relate about their experience mediating with or having participants from a different region. Eighteen (69.2%) of the Mediator Survey respondents indicated they had co-mediated with someone from a different region, and 14 (56.0%) had mediation participants from a different region. Primarily, mediators noted that regional differences exposed differing practices on behalf of the professionals at the table — social workers and legal counsel, in particular. Practical considerations, such as differing resource options for the child and family, were also observed by mediators who went to a different region. Additionally, sensitivity to transportation issues faced by participants was highlighted, as was illustrated by a mediator's comment that "... the participants struggle with different challenges such as travel and weather conditions that may not impact participants in other areas of the province as much. "

Lastly, co-mediating with someone of a different linguistic or ethno-cultural background was of particular interest to mediators in the project. Fourteen (30.4%) of the 46 mediators who returned Areas of Interest Surveys expressed an interest in a co-mediation experience that would expose them



"The mediators came from medium to high density communities into a mediation where the participants were from a rural community. Reminded to slow down the pace and meet the participants where they were. In this particular case we had to drive to their community to complete orientations as transportation was an issue for them."

— a Mediator Survey Respondent

specifically to aboriginal culture; 18 (39.1%) expressed an interest in a co-mediation that would expose them to different linguistic or ethnic cultures in general. Many of the mediators did get this experience, as 14 (53.8%) of the respondents in the Mediator Survey indicated they co-mediated with someone from a different linguistic or ethno-cultural background than they were, and 19 (73.1%) indicated that they had participants at their mediation who were from a different linguistic or ethno-cultural background.

While some mediators indicated that they were already familiar with a cross-cultural dynamic, others indicated that their co-mediation experience in this respect opened new vistas for them. These included learning "... about the participants' expectations, manner of communication and lifestyles". Mediators also learned about the importance of story-telling, or how to draw more on the participants' own cultural experiences to ensure that mediation proceeds in a culturally meaningful fashion. In one case, for example, a mediator observed "The participants are Metis. The paternal grandmother is very involved in the Metis community and provided a tremendous amount of information, and gracious support for the mediation. She was a joy to work with!"



"... I did enjoy the experience of working with an Aboriginal mediator in her own community and observing how she handled the perception of conflict with the participants."

— a Mediator Survey Respondent



6. How would mediators' practice change as a result of the learning gained through their co-mediation experience?

Mediators were somewhat unsure about the likelihood of their mediation practice changing as a result of what they learned in co-mediation. Only 10 (38.5%) of the Mediator Survey respondents reported that it was likely or very likely that their mediation practices would change as a result of what they learned through their co-mediation experience. Their comments nevertheless suggest a willingness to change their practices, or at least an eagerness to apply what they learned in co-mediation.

A selection of the areas in which mediators thought they might make changes, along with associated comments from Mediator Survey and Post Mediation Evaluation respondents, included the following:

- New styles/approaches: "My co-mediator used a very different approach than mine in some cases and I saw it work well. It has led me to re-think some of my assumptions and improve my approach to mediation."
- Culture and process: "I have adapted my practice to take account of what I learned about culture and process etc from the co-mediation."
- Techniques/presentation aids: "I might utilize different techniques utilized by my co-mediator in the future (ie., present agreement on projector). With more co-mediation opportunities, the ability to observe/learn new techniques to utilize will increase."

- Mediation process/cultural awareness/information sharing:
 - Always organize your own pre-meets
 - Every area has its own culture that you need to be aware of
 - Share more information with all the parties before the mediation and give them more time to prepare themselves if it's big new information ..."
- Caucusing/empowerment/management of the mediation process: "The best practice of what kind of questions are most effective while caucusing with lawyers around discovering their interests and their strategies for the mediation. I also was reminded of the best practice of caucusing with individual participants to keep their issues from becoming bigger. ... Also, in the debrief, we discussed the value of empowering the social worker in her relationship with the team leader. I also saw how being more directive in procedural matters helps the parties gain trust in the process and the mediator(s)." ■

"I'm not certain if the benefits of one co-mediation could lead to changes one would make in practise.

Would probably need more opportunity to co-mediate and perhaps with different mediators to look at what you might change in your own practice."

— a Mediator Survey Respondent

C. A New Model of Service Delivery

Co-mediation in child protection cases was not unfamiliar in British Columbia prior to the pilot project. For many of the mediators on the Child Protection Mediator Roster, it was something they experienced in a mentoring format through the Child Protection Mediation Practicum Program. A format in which co-mediators share the mediation responsibilities as peers, however, had not been 'tried out' on a formal or organized basis prior to the pilot project. Therefore, the third and last objective for the project was:

To design, develop and provide opportunities to explore the effectiveness of a new model of mediation service delivery in child protection mediation.

It was recognized that the very substantial experience gained through the administrative model used for the practicum program was a firm foundation upon which to build. It was important, however, to learn about what different policies and practices were needed in support of a co-mediation program oriented to experienced mediators rather than new mediators. Therefore, this objective simply sought to examine 'what worked, and what didn't' in delivering co-mediation services.

7. How many mediators opted into the program? How many co-mediations took place?

The volume of uptake for the pilot project was an important gauge of the interest child protection mediators might have in co-mediation as a professional development option. As it turned out, the results in this respect were very gratifying. Of the 66 mediators on the Child Protection Mediator Roster at the outset of the pilot project:

- 53 (80.3%) mediators returned Areas of Interest Surveys, or otherwise indicated their interest in participating in the project
- 41 (62.1%) mediators completed at least one co-mediation
- 11 (16.7%) were offered a co-mediation opportunity, but declined
- 1 (1.5%) mediator withdrew

In all, 23 co-mediations were initiated during the pilot period. Although initial expectations were that 40 to 50 co-mediations would take place, mediator-availability challenges and budget limitations⁸ resulted in roughly half this number being possible within the time and operating budget allotted for the pilot project. Nevertheless, all 53 mediators who initially expressed an interest in co-mediation were offered at least one co-mediating opportunity. Eleven (16.7%) of these, however, declined an offer, most because of scheduling difficulties and one because the offered opportunity did not reflect their areas of interest.

8. What roles did the mediators choose?

Among the materials developed in support of the Child Protection Co-Mediation Pilot Project was a document titled the *Models of Co-Mediation “Menu”* (see Appendix B). Although mediators were free to develop their own overall approach, or to mix and match different combinations of approaches, this menu described three modes of co-mediation in particular: division of tasks, front-seat/back seat, and taking turns. As part of the planning process for their co-mediation, mediators were asked to record the arrangements they had made between themselves in a *Pre-Mediation Planning Guide*, which they then submitted to the project office.

“We chose [a division of tasks/specific roles; working together; free-flowing] model because we are familiar with each other's mediation styles. Also familiar with the challenges of some of the participants. We decided this would be the best way to assist each other and meet our learning goals.”

— *a Pre-Mediation Planning Guide Respondent*

⁸ The budget limitations had to do with the distance and geographical characteristics of this vast province. Travel expense projections were based on mentor bills from the Child Protection Mediation Practicum program. This, however, turned out to be a low estimate, as more referrals in the pilot project were from the Interior and North regions of the province and fewer from the Lower Mainland – which had been the norm in the practicum program.

A Pre-Mediation Planning Guide was submitted by all 23 pairs of mediators in the Project. On this form, the mediators described their role choices, the reasons why they chose those roles, and the impact they anticipated their role choices would have on both the parties and their own learning goals. Perhaps as expected, mediators tended to choose the roles suggested in the Models of Co-Mediation “Menu”, with the Division of Tasks and Taking Turns models being identified most frequently.

The following co-mediation roles were specified in the Pre-Mediation Planning Guides submitted (note that more than one role could be specified by each co-mediation pair):

- division of tasks/specific roles (14 or 60.9%)
- taking turns (11 or 47.8%)
- ‘front seat/back seat’; assigning a ‘lead mediator’ (5 or 21.7%)
- working together; free-flowing model (4 or 17.4%)
- sharing of techniques; observation of each other’s skills (2 or 8.7%)
- taking short breaks to clarify roles (2 or 8.7%)
- creating a back-up plan for a ‘default leader’ (1 or 4.3%)
- none submitted (2 or 8.7%)

9. How effectively did the co-mediators function as a team at all stages of the mediation?

As co-mediation involves two mediators working as peers in a complementary and harmonious fashion, the process necessarily relies heavily on good teamwork. The importance of working together as a team was reinforced through the project materials, and through other reading to which the project’s mediators were referred⁹. Different strategies to bolster teamwork were offered, and teamwork was stressed at all stages of the mediation, from the orientation session through to the concluding session. The results of the assessment show that mediators in the project understood the importance of teamwork, and that most came to the project with a team spirit in mind. Nevertheless, those who were accustomed to solo mediation work also recognized the challenges it presented.

In the on-line Participants Survey, most respondents (28 of 34, or 82.4%) indicated that they believed the two mediators worked well together. The feedback from mediators also suggests



“Continuing the goal of being seen to be a team, it is important for the mediators to arrive together on the day, and to greet the parties together when they arrive. Neither one should take the lead or appear to be dominant over the other.”

— *Child Protection Mediation: Guidelines for Co-Mediation*, p. 10

⁹ Richbell, David. *Co-Mediation*. MATA – Mediation and Training Alternatives, 2010. <http://mata.org.uk/>, retrieved April 2012.

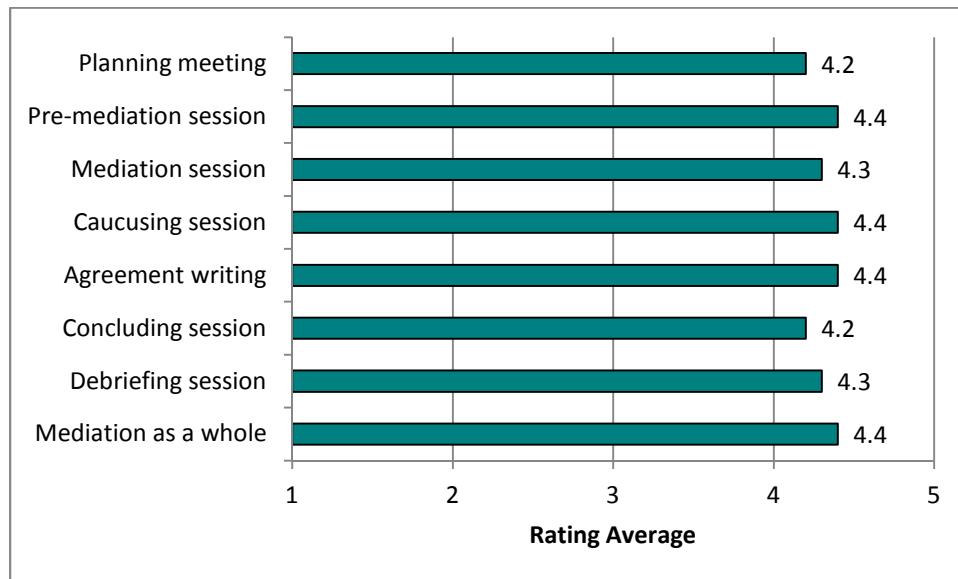


Chart 6. On a scale of 1 to 5, ratings of how effectively mediators felt they were able to work together during various parts of the mediation process.

that, in most aspects of their mediation work, they were able to work very effectively as a team (see chart 6). Of all the different parts of the mediation, the planning and concluding sessions seemed to be most challenging in terms of teamwork. The mediators' comments suggest that, most importantly, effective pre-planning and determination of a useful model of co-mediation is an aid to effective teamwork. Comments from all sources reflected on both teamwork challenges and successes:

Comments from Post Mediation Evaluation Respondents:

- “Thank you for the opportunity to participate in the co-mediation. The experience I had with a newer co-mediator was more valuable than this experience in that [my co-mediator] was more in a leadership role. I did not feel like I was an equal.”
- “Team work was essential, and I don’t think we would have reached an agreement if there was just one of us. I really appreciated [the other mediator’s] knowledge and skills and respect for the process of mediation. … at one point I felt more of a broker as [the other mediator] kept the paper work/agreement in the updating mode!”

Comments from Mediator Survey Respondents:

- “The mediator I was paired with had arbitrarily decided that [s/he] would be the “lead” or “mentor” and my role was to assist/observe. … it lessened my role and ultimately my learning experience. …”

- “This was the first time that we had mediated together and, although it was a pleasant experience, it took time to figure out how to merge our somewhat different styles.”

Comments from Participant Survey Respondents:

- “There were times when [one mediator] cut off the [other] first nations mediator when I believe [s/he] shouldn't have. In particular, when everyone was telling their story at the beginning of the mediation, [s/he] stopped after only about half the people had spoken - this is wrong and especially wrong in a First Nations mediation. ...”
- “I have been at many mediations where there are two mediators though mostly where one mediator is mentoring another. I have attended two mediations where there have been co-mediators. It was my experience that both mediators ... worked together professionally, though in both cases, one mediator appeared to lead.”

10. What worked or didn't work in the scheduling/matching process?

A pilot project is, by its very nature, a means of identifying ‘what works’ and ‘what doesn’t’. Among the many focal points for this project was determining which features of the scheduling and matching process were most successful in the delivery of co-mediation services. As one Participant Survey respondent commented, “The scheduling for mediations is always painful as there are so many people involved. This problem is not specific to co-mediation”. On the other hand, the administrative process behind the delivery of a co-mediation services does pose some unique challenges — especially when the delivery of those services is oriented to providing professional development opportunities as well as addressing the usual complexities of child protection mediation.

Clearly, the administrative process in this project involved so much more than just scheduling and matching. For example, the results of the assessment show that the knowledge and experience of the scheduling coordinators contributed greatly to the project’s success in the following ways:

- interpreting case characteristics on referral, and knowing when to refer a case back for regular mediation, to the Practicum Program, or to the new mentoring program for new Mediator Roster members (this occurred when the case characteristics were unsuitable for the project or a suitable mediator pairing was not possible – as happened in 35 instances);
- knowing the styles and learning expectations of the mediators so that they could be paired appropriately for a co-mediation opportunity;



“The Mediation Co ordinator did an excellent job in scheduling in accordance with the co-mediators availability and also in locating a venue that suited all the participants.”

— a Mediator Survey Respondent

- at the time of scheduling, knowing the right questions to ask in gathering information about participant needs, and in providing family members and other non-professionals with information about the mediation process;
- having a working knowledge of mediation venues and supports in communities across the province;
- understanding how different operating practices in different offices and organizations impact the scheduling process; and
- building on a process already established through the Practicum Program to help mediators get the most out of their co-mediation experience.

There was, really, just one administrative practice in the ‘didn’t work’ category — and this, fortunately, was identified and resolved in a timely fashion during the pilot period. Initially, because of the project’s professional development focus, the mediators’ areas of interest were given priority in the matching process. It was soon discovered, however, that matching areas of interest alone meant that mediators would often need to travel long distances for their co-mediation experience. Therefore, the mediators’ stated areas of interest had to be weighed in relation to their regional proximity. While this meant that not all mediators could be matched up with the case scenario or paired with a co-mediator that best met their learning goals, it did keep the project within budget. Proximity, as it turns out, is a necessary and practical constraint on the delivery of co-mediation services.

There were other small issues that arose under the topic of scheduling. Several mediators mentioned dissatisfaction with pre-mediation orientations being scheduled the day prior to mediation. If mediators have to travel long distances, however, there seems no ready alternative if travel budgets are to be kept in line. Perhaps, as one Mediator Survey respondent suggested, teleconferencing (or web/video conferencing for the tech savvy) may offer a solution:

“Pre-mediations are not as effective if scheduled for the day before the mediation, which unfortunately was usually the case when mediators needed to travel long distances to the location. In these instances initial teleconference pre-mediation meetings need to be scheduled as well in advance of the face-to-face. If new participants or additional information is identified the day before the mediation, it is usually too late to make the necessary accommodations required to ensure a more successful outcome.”



“Found the referral process easy. Good communication with schedulers with timely response to enquiries. Very considerate of challenges faced by participants, especially transportation. Sensitive to clients needs when booking location of mediation but also were flexible to accommodate everyone involved as necessary. Extremely satisfied with mediators and outcomes.”

— a Participant Survey Respondent



The behind-the-scenes administrative work is clearly critical to the success of a co-mediation program. It is, in many ways, an exercise in compromise or optimization. In trying to make the best decisions possible for all involved, it's likely not possible to fully satisfy any one individual in the process. Indeed, the situation is much like Aesop's fable *The Man, the Boy, and the Donkey*¹⁰, in which the effort to please everyone ends in pleasing no one. This difficulty is not lost on either the mediators or the participants, however. As one Participant Survey respondent commented, "Rarely are we offered a date choice when it comes to mediations. Usually it is up to the family and then we work around that schedule, or the lawyers schedule." Another observed, "Some referrals took a long time to arrange - some longer than the next court date. This may have been due to lawyer availability. I know the administrator ... worked very hard to find dates that worked for everyone." Indeed, scheduling a convenient mediation date, sometimes for up to twenty participants, is hugely challenging — whether it involves two co-mediators or a single mediator.

The scheduling coordinators for the pilot project should, nevertheless, be very pleased with the degree to which they were able to satisfy most of the people most of the time. In the on-line Mediator and Participant Surveys, most mediator respondents indicated that they were satisfied or very satisfied with the administrative arrangements made for them (see chart 7). Participant respondents gave somewhat lower ratings, but most were also satisfied with these arrangements.

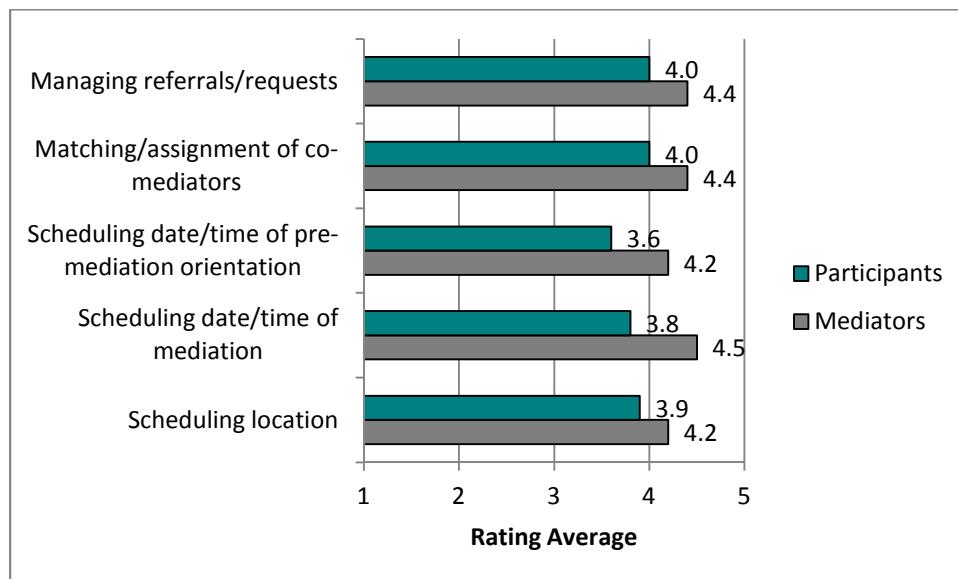


Chart 7. On a scale of 1 to 5, ratings of how satisfied participants and mediators were with administrative arrangements.

¹⁰ For those not familiar with this fable, it is about a man and a boy attempting to conform to the opinion of passers-by about whether to ride their donkey, and if so, which of them should ride it. In the end, the donkey fell off a bridge and drowned. The reader is left with the moral: "*Please all, and you will please none*".

11. To what extent, and in what ways, did participants benefit or not benefit from having 2 mediators?

The benefits of co-mediation have been discussed, so far, largely from the mediators' perspective. Intuitively, it is reasonable to think the benefits would accrue to the participants as well. To the extent that there is double the knowledge and skill brought to bear on the matter at hand — and double the ability to manage the complex scenarios and sometimes large numbers of participants that are characteristic of child protection mediations — co-mediation should be a benefit to the participants. But do they see it that way?

A question about whether or not the participants felt they benefited from having two mediators was not specifically asked in the Co-Mediation Services Questionnaire handed out at the time of mediation¹¹. Although their comments were, overall, very positive, most questionnaire respondents did not comment on the ways they felt they benefited from a co-mediation.

In the Participant Survey (which surveyed non-family participants only), respondents were specifically asked whether they and other participants benefited from having two mediators during various parts of the mediation. As shown in chart 8, the majority of respondents believed they benefited at all stages of

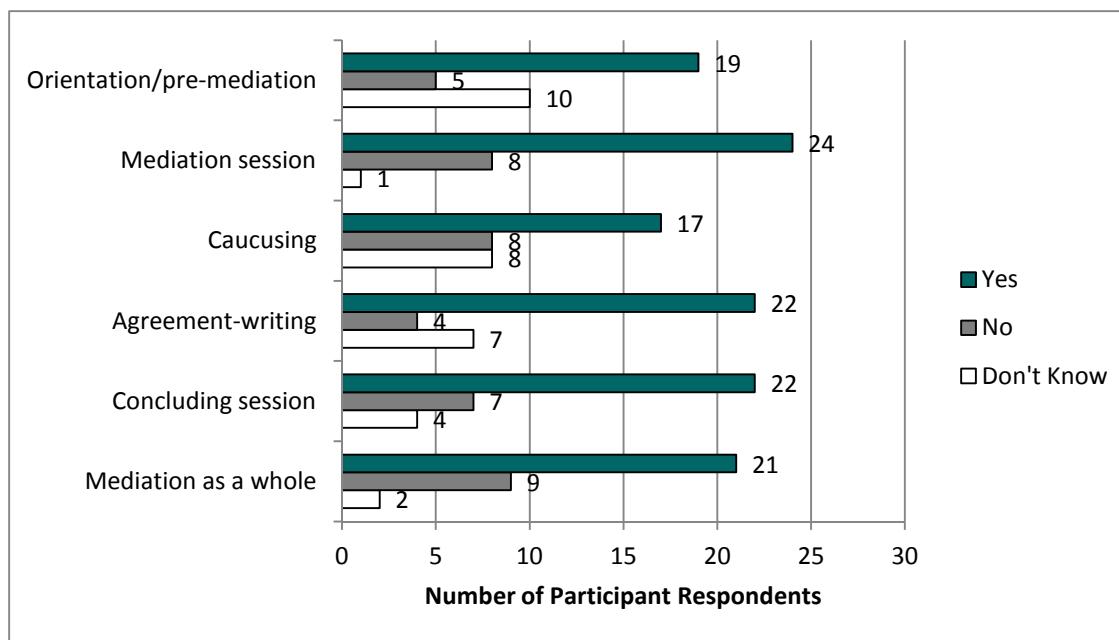


Chart 8. Answers by participants indicating whether or not they and other participants benefited from having two mediators during mediation.

¹¹ The Co-Mediation Services Questionnaire is distributed to all participants in a mediation, including family members. Of the estimated 228 participants in the 23 co-mediations (not including the two co-mediators in each case), 142 (62.3%) participants completed Co-Mediation Services Questionnaires (or the generic Mediation Services Questionnaires).

the mediation. In particular, their answers suggest that having two mediators is most beneficial during the actual mediation stage of the process. There were also quite a number of respondents, however, who felt they didn't benefit or that they didn't know whether they benefited from having two mediators. Their written comments were reassuring, as they suggested that participants didn't feel there was a detriment — only that they didn't particularly see a benefit.

As part of the pre-mediation orientation, it may be helpful to explain the purpose of conducting a mediation with two mediators. For example, the ambivalence about the benefit of having two co-mediators could be a result of participants needing more information about the pilot project and its objectives, *and* about the Project's anticipated benefits for participants and mediators alike. An explanation was helpful in at least one case, as one participant observed: "I think that initially the clients were confused in having two mediators but once explained they appreciated having the two; it was a difficult, highly emotional mediation and the two mediators were able to [spell] each other for 'breathing time'."

"2 sets of ears were a lot better than one set. Having 2 mediators present were able to hear all involved & perhaps different views."

— a Co-Mediation Services Questionnaire Respondent

12. To what extent and in what ways, did mediators benefit or not benefit from having 2 mediators conduct the mediation?

Mediators were asked in less direct ways about the benefits of co-mediation, for instance, by asking them what they learned or how they felt it helped them manage the mediation process. Without zeroing in on particular gains through co-mediation, however, getting a sense of whether mediators felt they benefited overall is a broader or more comprehensive indicator of whether they found it useful.

Mediator Survey respondents with more years of mediation experience were less likely to believe that they, personally, benefited from having two mediators conduct the mediation. Five (20.0%) of the respondents, all with six or more years of mediation experience, reported that they did not think they benefited — at least, not from the particular co-mediation in which they were involved during the pilot project. All nineteen (76.0%) of the other respondents, on the other hand, indicated that they did benefit from having two mediators conduct the mediation.

That is not to say, however, that even the more experienced mediators did not see the potential for co-mediation to benefit them in a range of different ways. Mediator Survey respondents were also asked to

rate the extent to which they agreed that the following benefits (from a list provided in the *Child Protection Mediation: Guidelines for Co-Mediation*¹²) could be realized through co-mediation:

- Co-mediation provides an opportunity to cross-pollinate skills and methods.
- Co-mediation allows mediators to learn from each other.
- Co-mediation allows mediators to develop best practices.
- Co-mediation promotes awareness of changing practices.
- Co-mediation promotes self awareness.
- Co-mediation allows mediators to learn what they choose, while remaining in charge of their own 'learning plan' or 'agreement' within the co-mediation guidelines.
- Co-mediation provides opportunities for mediators to share information.
- Co-mediation provides opportunities to reduce isolation, especially in areas where there are few or no other mediation colleagues.
- Co-mediation offers mediators an opportunity to work in new communities.
- Co-mediation provides mediators with the skills to identify the types of cases for which co-mediation is suitable or not suitable.
- Co-mediation helps to build a stronger, collaborative network of child protection mediators who can act as supports to each other.
- Co-mediation increases the capacity of the Child Protection Mediation Program to deliver culturally meaningful mediation services through mediators on the Child Protection Mediation Roster.

As chart 9 shows (next page), mediators felt that all the benefits listed could be realized through co-mediation. Of these, however, they were less likely to think that self-directed learning and acquiring the skills to determine the suitability of different cases for co-mediation would be among the key benefits.

Through the Post Mediation Evaluation forms, mediators also rated and commented extensively on the benefits they felt they received, specifically in connection with: achieving their personal learning goals, developing best practices, trouble-shooting issues, and interacting with a community of mediators. As discussed earlier, mediators felt all of these benefits were realized through co-mediation — although they emphasized, in particular, the chance to interact with colleagues as part of a 'community of mediators'. Also as discussed earlier, respondents in the Mediator Survey indicated they were well



"I found it to be a wonderful piece of experiential learning. The coordination of our different approaches required me to really think about what I was doing and to see the mediation unfold from another perspective than the one I am immersed in."

— a Mediator Survey Respondent



¹² *Child Protection Mediation: Guidelines for Co-Mediation*. Ministry of Justice and Mediate BC Society, 6 May 2011, p. 5.

pleased with, and commented extensively on, the benefits they received in gaining an understanding of regional, professional and/or cultural differences.

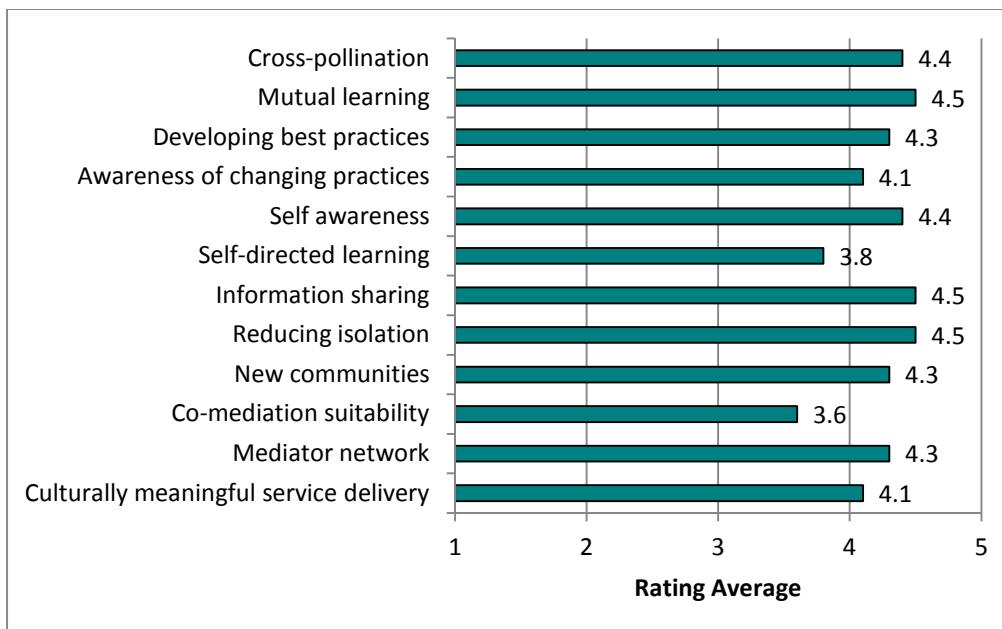


Chart 9. Ratings of the extent to which mediators agreed with statements about the benefits of co-mediation.

13. If co-mediation were readily available, what types of cases would be ideally suited to co-mediation?

As one Participant Survey respondent commented: "I would like to think that any [case] could be appropriate for mediation with skilled mediators (2) and supports that have positive relationships with the parents. It is worth trying and hopefully avoiding long court processes which are very adversarial." Co-mediation may not, however, be the right approach for every child protection case that comes forward. Certainly, there are cost considerations, and it can therefore only be offered selectively. Opinions vary, however, as to just what types of cases this style of mediation is *best* suited.

As most mediators and most non-family or professional mediation participants in the pilot project had previous experience with solo mediation, and many also had experience with co-mediation before (although more particularly with mentored co-mediations), both groups had some basis of comparison on which to reflect on this question. In the Mediator and Participant Surveys, respondents were asked: "If co-mediation were readily available, for what types of cases would it be ideally suited?"

As shown in chart 10, respondents could and did identify any number of case types as ideally suited to this method of mediation. The majority of both groups identified large mediations, with multiple parties or participants, as the main type of case for which it is well-suited. As one mediator commented, “I once did a mediation with more than 20 people at the table. Small groups were formed over the course of the day and having two mediators would have made it faster to know how each group was progressing as they considered the issues.” Mediations in which there is significant conflict between the parties were also high on the list for both groups as being particularly suitable for co-mediation.

Case Characteristics	Mediator Respondents #/%((n = 26)	Participant Respondents #/%((n = 34)
■ large mediations, with multiple parties or participants	24 92.3%	26 81.3%
■ mediations with multiple issues	14 53.8%	21 65.6%
■ mediations in which there is significant conflict between the parties	19 73.1%	24 75.0%
■ mediations in which the subject matter or other technical/legal requirements of the mediation are outside a particular mediator’s area of expertise	24 92.3%	21 65.6%
■ mediations in which there are mental health or substance abuse issues	14 53.8%	13 40.6%
■ mediations involving domestic violence	10 38.5%	17 53.1%
■ mediations in which there are gender or other equity imbalances	15 57.7%	16 50.0%
■ mediations in which there are people from multiple linguistic or cultural backgrounds	20 76.9%	15 46.9%
■ other ¹³	2 7.7%	0 0.0%
■ N/A or don’t know	0 0.0%	3 9.4%

Chart 10. Types of cases and the proportion of Mediator and Participant Survey respondents who identified these case types as ideally suited to co-mediation.

¹³ Two mediators offered “other” case types as ideally suited: mediations in which new mediators have an opportunity “...to be paired with more experienced mediators in a way that is more equal than mentored mediation”; and “Mediations where there is a long standing historical relationship with the MCFD”.

There were some differences of opinion between the participant and mediator respondents, however. For example, mediators were more likely than participants to think that mediations in which the subject matter or other requirements are outside a mediator's area of expertise are ideally suited to co-mediation. More mediators than participants also held the view that mediations in which there are people from multiple linguistic or cultural backgrounds are ideally suited. On the other hand, more participants than mediators indicated that mediations involving issues of domestic violence are ideally suited to this form of mediation.

14. How do mediators view the purpose of co-mediation, and do these views impact on their willingness to accept different remuneration arrangements?

This pilot project was based on a program delivery model that primarily emphasized co-mediation as a means of professional development. Nevertheless, first and foremost, the high standards of mediation service for the parties in a child protection dispute must be maintained, or even enhanced in the process. The mediators were mindful of this "clients-first" focus, as one commented: "... While I believe that there are definite benefits to the co-mediators, I would think that a wide ranging benefit to the parties would be of paramount importance. It is vital in the mediation process to make use of all tools/ resources that are potentially available to you so that you can provide the best possible service to the clients."

With service to the parties in dispute uppermost, the pilot project was otherwise devised with a view to determining what professional development opportunities there might be with co-mediation. Other benefits of co-mediation, such as managing complexity in mediation, were identified and acclaimed, but they were not the main focus of the pilot project. Rather, with the training needs of the CPM program shifting from preparing new mediators to providing continuing education for existing mediators, the pilot project was characterized as largely a professional development program.

It is conceivable, however, that program delivery options may vary depending on the main focus of co-mediation. It is also conceivable that mediators might be more or less inclined to accept different remuneration arrangements depending on how they perceive its main purpose. It was important to gauge the feelings of mediators on both these fronts, since their perceptions could affect how a co-mediation program can be offered within the limited funding available for the overall CPM Program.

The on-line Mediator Survey sought to address this question by asking, firstly, about how respondents perceived co-mediation's main or *primary* purpose. As shown in chart 11 (next page), 9 (36.0%)



"I do believe that a sole or single mediator who is skilled can work through the other issues, such as balancing, complex or management.

I would think that bringing two skilled mediators together, in a non mentorship model is for professional development and as well benefits the parties."

— a Mediator Survey Respondent



The Primary Purpose of Co-Mediation	Mediator Respondents #/%(n = 25)
■ Co-mediation is primarily a means of training new mediators.	4 16.0%
■ Co-mediation is primarily a professional development opportunity for experienced mediators.	7 28.0%
■ Co-mediation is primarily beneficial in building a collaborative network of child protection mediators.	4 16.0%
■ Co-mediation is primarily a management tool (e.g., a means of managing mediations with multiple parties, complex issues, or high conflict between the parties).	9 36.0%
■ Co-mediation is primarily a means of supplementing subject matter expertise (e.g. for use in cases in which the subject matter or other technical/legal requirements of the mediation are outside a particular mediator's area of expertise)	1 4.0%
■ Co-mediation is primarily a means of dealing with balance or representational issues in mediation (e.g. for use in cases where there are gender or other equity imbalances, or in which there are people from multiple linguistic or cultural backgrounds).	0 0.0%

Chart 11. The views of Mediator Survey respondents about the primary purpose of co-mediation.

respondents indicated that they believed co-mediation is primarily a management tool, and 7 (28.0%) indicated they believed co-mediation is primarily a means of providing a professional development opportunity. If the 4 (16.0%) respondents indicating that co-mediation is primarily useful as a means of training new mediators are added in, most of these respondents believed the main purpose of co-mediation is connected to the learning opportunities it presents.

Mediator Survey respondents were subsequently asked: “Within the constraints of a publicly funded child protection mediation service, do you have any ideas about how co-mediation might possibly be provided in the future? For example, what thoughts do you have about how the fees and expenses might be compensated?” Respondents were very forthcoming in their replies. Their answers implied

that the way they view the main purpose of co-mediation is, in fact, a factor in how they think a program of this sort is best delivered and funded. Unfortunately, there was no particular consensus about whether a co-mediation program should be administered according to a centralized or decentralized model, or whether fees should be charged in full, shared, or waived in exchange for creditable professional development hours. Particularly for the fees, different arrangements appear to be acceptable depending on the degree to which training/professional development benefits can be realized.

Feedback from all sources during the pilot project suggested that the way the main purpose behind a particular co-mediation program is framed — as well as the associated reasons for different methods of program delivery and funding — will impact the degree to which it is supported by both mediators and mediation participants.

For example, in connection with a question about how participants felt about having two mediators, one respondent in a Co-Mediation Services Questionnaire said, simply, “confused”. Another commented: “Both mediators are excellent & experienced & again, I see no reason for ... co-mediation in times of budget issues, reduced legal aid, reduced staff in court systems.” Clarity about the program’s purpose may have given these respondents a different impression of their co-mediation experience or, at least, a different way of reflecting on whether or not the service they received was in keeping with the stated purpose of the program.



“For cases where there is extreme personality volatility I think co-mediation is essential. I think where there are cultural differences, having co-mediators who are of different cultural [backgrounds] can serve as a model of working together. And with large mediations I think it is an essential way to help all participants feel heard, and prevent long waits ...”

— a Mediator Survey Respondent



15. To what extent were mediation participants satisfied with the co-mediation experience?

At all costs, the provision of co-mediation services must not sacrifice the high level of service that mediation participants have come to expect from the CPM Program. Their satisfaction with the service was, therefore, of the utmost importance in determining the success of the pilot project. Information about how satisfied participants were with their exposure to co-mediation was gained from two sources during the project: the Co-Mediation Services Questionnaire distributed to all participants on the day of mediation, and the on-line Participant Survey which was distributed to professional and non-family participants near the end of the pilot period.

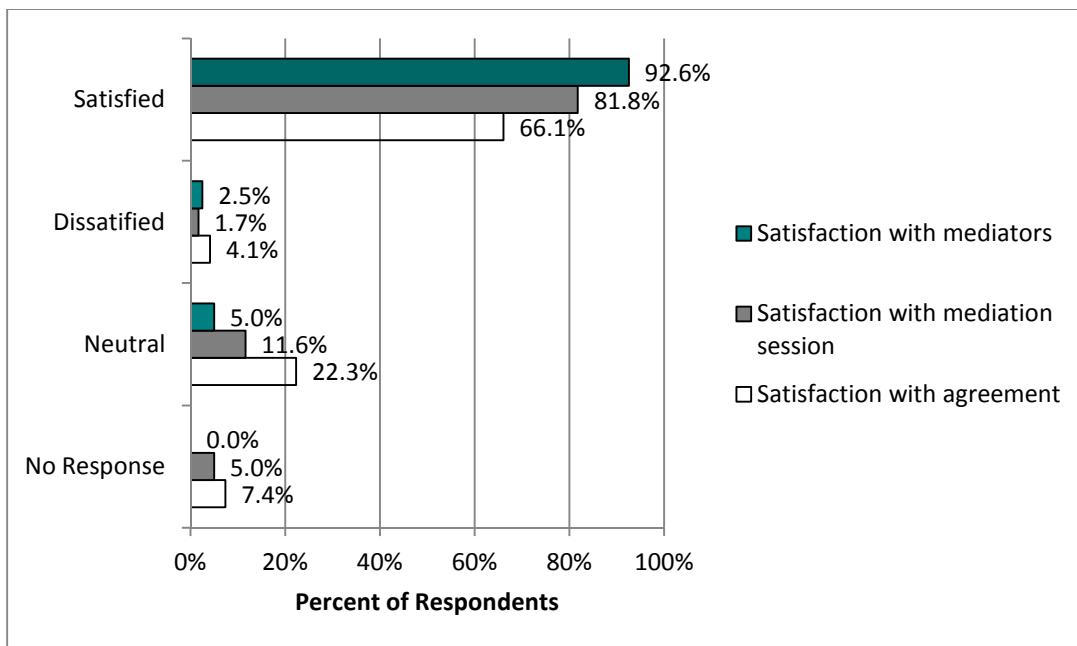


Chart 12. Ratings of satisfaction by participants as reported in the Co-Mediation Services Questionnaire.

Of the estimated¹⁴ 228 participants who attended co-mediations during the pilot project, 142 (62.3%) participants completed either the Co-Mediation Services Questionnaire or the generic Mediation Services Questionnaire. As of March 30th, results had been tallied for 121 (85.2%) of the 142 Co-Mediation Services questionnaires. Chart 12 shows that participants who completed these questionnaires were broadly satisfied — especially with the two mediators and their mediation sessions; somewhat less so with the agreements that were reached in mediation. Their comments were also thoughtful and generally positive, for example: “It was interesting to experience the two different styles. I believe the mediators prepared well & understood the complexity of the situation being mediated. Clearly the 2 mediators respected each other’s style so there was no dominant style at the table ...”

In the Participant Survey, which was completed by 34 (39.1%) of the 87 professional or non-family participants on file, 21 (61.8%) respondents indicated that they were satisfied or very satisfied with the co-mediation overall. There may have been some difference between participants’ feelings of satisfaction immediately after their mediation, expressed in the questionnaire, as compared with the feelings they expressed in the survey some period of time later. Unfortunately, as this survey asked only for satisfaction with the mediation overall, while the Co-Mediation Services Questionnaire asked for satisfaction with specific aspects of the mediation, a direct comparison between the results from these two instruments is not really possible.

¹⁴ With the exception of two cases, the numbers of mediation participants were reported in the Case Management Form submitted for all 23 co-mediation cases. For the two cases in which participant numbers were not available, an average participant number was used as an estimate.

Nevertheless, the comments tend to suggest that the particular group of professional and other non-family participants that responded to the Participant Survey may have had a different feeling about co-mediation than the larger group of mediation participants who responded in the Co-Mediation Services questionnaire. Some participants were not expressing so much dissatisfaction with the co-mediation they experienced as much as querying the purpose of the program. For example, one indicated they were “satisfied with the mediation but did not and generally do not require two mediators.” Another concurred, saying: “I believe both mediations would have ended with the same agreement and the process was not enhanced by having two mediators ...”. Once again, more clarity about the program’s purpose may have given these respondents a different impression of their co-mediation experience, and of the anticipated benefits of co-mediation for participants and mediators alike.



“My first time attending a mediation, however I think that having 2 mediators is beneficial in certain circumstances (i.e., when one mediator is less experienced). Collaborative atmosphere. Client was able to achieve her goals through friendly discussion. Overall, very satisfied with mediators and mediation process.”

— a Co-Mediation Services Questionnaire Respondent

16. What were the case outcomes (agreement rates) of co-mediations?

Lastly, as a final measure of the project’s achievements, the case outcomes or rates of agreement for the co-mediations that were undertaken during the pilot period were also assessed. The professional literature in this field often points out that there are so many more positive outcomes of mediation than just the settlement of a dispute. Nevertheless, although it is important that rates of settlement not be looked at in isolation, they are still a key measure of achievement in mediation.

By the close of the pilot period, all or some issues were settled in all but two of the cases *completed* under the project (the matter did not proceed to mediation in 1 case). The settlement rates for the 22 project cases that were completed, and rates for the estimated 634 cases that were completed under the Child Protection Mediation Program in the 2011/12 fiscal year, are shown in chart 13 (next page). It is arguable that the differences between the two can be attributed to the fact that the co-mediation cases chosen for the pilot project were really quite different from the solo-mediation cases in the larger pool of child protection mediations. In the pilot project, special care was taken to identify cases that had a degree of complexity or other case characteristics that would suit the interests of the co-mediators. On the other hand, it is equally arguable that, because there are two mediators to apply their skills in resolving the issues in co-mediation cases, the settlement rates should have been the same or higher than that observed in solo mediations. Perhaps these questions are food for thought in future studies about co-mediation.

Issues Settled	Pilot Project #/%((n = 22)	Child Protection Mediations 2011/12 (Estimated ¹⁵) #/%(N = 634
All	10 45.5%	398 62.8%
All or some	20 90.9%	611 96.4%
None	2 9.1%	50 7.9%

Chart 13. Rates of settlement in the pilot project and larger population of child protection mediation cases.

Unfortunately, because of the limited number of co-mediations during the pilot project, it is not possible to say that the differences observed between the results of co-mediation in the pilot project and the results of solo mediations conducted in the larger population of child protection mediations are *statistically significant*. In other words, it is not possible to generalize and say that these settlement rates would be likely in all child protection co-mediation cases. Rather, it can only be said that these were the results observed in the particular cases that were chosen for the pilot project. The settlement rates were, nevertheless, very satisfactory, and were seen as among the many successful outcomes that were realized through co-mediation during the pilot project. ■

¹⁵ These figures, although for the full 2011/2012 fiscal year, were not fully reconciled with data from all sources at the time this report was prepared.

III. Conclusion and Recommendations

A. In Summary

Overall, the assessment of outcomes for the Child Protection Co-Mediation Pilot Project indicates that the project was clearly a success. The broader focus in assessing the achievements of the pilot project was, essentially, in weighing the challenges of co-mediation against the opportunities it offers. The challenges were highlighted by the diversity shown in the project's two client groups — mediators and mediation participants — and in the complex nature of child protection mediation itself. The opportunities, on the other hand, lay in the prospect of shared wisdom and growth through experience.

The objectives that were articulated for the project set about to test whether or not co-mediation could be undertaken in such a way as to fully address the challenges, while at the same time maximizing the opportunities. The first of these objectives was “to provide professional development and practice support for child protection mediators.” The assessment results show that mediators were able to document learning outcomes in a broad range of categories in mediation practice. For most, co-mediation proved to be a very valuable hands-on learning experience. Additionally, the process developed through the pilot project supported them in connecting with their colleagues, and nurturing a feeling of community amongst mediators. A “community of mediators”, in which colleagues feel free to consult each other about issues and to share practice tips, is of considerable importance to furthering the goals associated with both professional development and practice support.

The assessment results were also very favourable in connection with the project’s second objective, “to increase the internal capacity of the CPM Program to deliver culturally relevant mediation services through mediators on the CPM Roster”. Through their co-mediation experience, mediators were exposed to both mediators and mediation participants with different professional, regional, linguistic, and ethno-cultural backgrounds. As a result, mediators were able to demonstrate new knowledge and skills. In this way, therefore, the CPM program is already better able to deliver culturally relevant or meaningful mediation services through its roster of mediators.

Finally, the last objective was “to design, develop and provide opportunities to explore the effectiveness of a new model of mediation service delivery in child protection mediation”. Put simply, the intention was to find out ‘what works, and what doesn’t’ by trying out a co-mediation program. The project’s rate of uptake, the learning outcomes documented by mediators, the achievements of the central



“This was an excellent opportunity and I felt that it met the needs of both the mediators and the participants. I think everyone walked away from the co-mediation feeling satisfied with the process and the outcome.”

— a Mediator Survey Respondent

coordination and support function, and the benefits reported by both mediators and mediation participants all point to successful program design and delivery. Observations were solicited about the most appropriate types of cases to which co-mediation is suited, as were suggestions about how best to deliver and fund a co-mediation program within the larger CPM Program's limited budget. Overall, both mediators and mediation participants were largely satisfied with their co-mediation experience during the pilot period.

B. Recommendations

Over the course of the project, staff, mediators, and participants made observations or suggestions for improvement, should a co-mediation program be offered on an ongoing basis. They were thoughtful, creative, and addressed some of the obstacles faced as the project progressed. In consideration of their comments, and in light of the assessment results, the following recommendations are presented as a guide to next steps:

- Continue to offer co-mediation as a means of providing professional development and practice support for child protection mediators, and for delivering culturally relevant mediation services through mediators on the CPM Roster.
- Further explore the effectiveness of co-mediation as a means of managing a variety of types of cases, including those involving: large numbers of parties, domestic violence, substance abuse, and developmental or other disabilities.
- In order to accommodate mediators practicing in remote areas, explore ways of giving priority to mediators who do not have peers in close proximity while still respecting travel budget limitations.
- Communicate clearly about the main purpose of a co-mediation program, to both mediators and mediation participants.
- Develop additional materials and design resources such as pod casts or other Internet-accessible information to guide mediators participating in a co-mediation program.
- Continue offering incentives such as professional development hours for participation in co-mediation.
- Explore ways of helping mediators better meet their learning goals in co-mediation, perhaps by involving mediators in the process of matching co-mediators or in selecting cases with particular fact patterns.
- In order to support newly qualified or less experienced mediators, offer co-mediation on a priority basis to mediators who have recently come onto the Child Protection Mediator Roster or who otherwise have a greater need to develop their mediation skills.

- If necessary, and if the time between pre-mediation orientation meetings and mediation sessions is short, encourage mediators to connect with parties and participants by phone or tele/web-conference prior to pre-mediation orientation meetings.
- As part of the pre-mediation orientation, ensure that the purpose of having two mediators is explained to mediation participants.
- Provide more structure to the post-mediation debriefing process by developing a debriefing questionnaire, or otherwise suggesting specific categories of content that should be explored following a co-mediation.

Co-mediation offers a creative opportunity for experiential learning. It is, seemingly, only limited by the people who choose to participate in it and by the extent to which they are willing to share the wealth of their knowledge with their colleagues. The mediators who participated in this project were eager to learn new skills, and willing and able to share what they had already learned with each other. There is every indication, therefore, that co-mediation is likely only to strengthen the high standards set for child protection mediation in the province, and that it will help to nourish the Child Protection Mediation Program from within. In closing, the assessment results of the *Child Protection Co-Mediation Project* show that co-mediation holds true to its promise — it offers enrichment, both to those who practice it and to those who seek to resolve their disputes by it. ■

Appendix A

*Child Protection Mediation:
Guidelines for Co-Mediation*



Child Protection Mediation: Guidelines for Co-Mediation



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1. The Co-mediation Model

1.1. Introduction

The Child Protection Mediation Program (CPMP) and Mediate BC Society and are collaborating to provide a co-mediation model of service for the Child Protection Mediation Program in BC. This pilot project is scheduled to continue from May 1, 2011 to March 31, 2012. Resources for this initiative have been provided by many key stakeholder sources (sources of funding include Legal Services Society of BC, the BC Ministry of Children and Family Development (MCFD), and the Law Foundation of BC) and will allow for approximately 40-50 co-mediations.

This project is open to all Child Protection Roster mediators on contract to the Ministry of Attorney General's (MAG) Child Protection Mediation Program and is *not* a mentoring project. It is intended to enhance services to children and families throughout the province, while also providing opportunities for mediators to enhance and enrich their knowledge and skill directly in experiential practice. This new initiative has been inspired by the success of Mediate BC's Child Protection Practicum Program.

The models to be used in co-mediation will require co-mediators to act as equals, share the responsibilities, mediate together and receive the same remuneration for their services as they would as single mediators. While the mediators will both be already on the Child Protection Roster, and act as equals, it is acknowledged that one may have more experience than the other or their approaches to practice and background experiences may differ. The expectation is that the key activities including the orientation and caucusing that take place in this model will involve both mediators working together.

1.2. What is Co-mediation?

Co-mediation involves two mediators working together as a team. According to Richbell¹⁶, "Co-Mediation is the harmonious working of two complementary mediators who offer a diversity of skills, experience and personality."

In 2007, the Association of Family and Conciliation Courts (AFCC) Think Tank on Child Protection Mediation conducted a survey of CP mediators in North America. "Many survey respondents supported the use of a co-mediation model rather than a solo mediator. Several respondents commented that co-mediation promotes a supportive environment in which the mediators can assist each other when they get stuck and it maximizes opportunities for the participants to feel as though they connect with someone at the mediation table."¹⁷

¹⁶ The Case for Co-Mediation (2010) <http://mata.org.uk/2010/06/case-comediation/>

¹⁷ Kathol, C. (2009) Trends in child protection mediation: Results of the Think Tank Survey and interviews. *Family Court Review*, Vol. 47 (1). pg. 119

The co-mediation model, it should be emphasized, places the needs of the parties as the **first priority**. While the mediators hope to benefit from learning more while working in pairs, they are always mindful that it is the clients' needs that are paramount.

There are many models of co-mediation. (See Appendices: *Co-mediation Menu*). The co-mediators need to be familiar with the various nuances that co-mediation can take and consider the best approach beforehand.

Depending on the outcome of the evaluation, this pilot may become a future model for the practice of child protection mediation is conducted in the province of BC.

1.3. Potential Positive Outcomes in Using Co-mediation

There are several benefits that can result from using a co-mediation model in child protection mediation. They are:

- To provide an opportunity to cross-pollinate skills and methods (especially between junior and senior mediators, gender, professional and cultural backgrounds);
- To allow mediators to learn from each other and to develop best practices;
- To promote awareness of changing practices and increase mediator self awareness;
- To allow mediators to learn what they choose, while remaining in charge of their own 'learning plan' or 'agreement' within the guidelines;
- To test different aspects of co-mediation models;
- To provide opportunities for sharing information, reducing the tendency of mediators, especially in remote areas, to work in isolation;
- To offer mediators an opportunity to work in new communities;
- To be able to identify which types of referrals would benefit from co-mediation in the future;
- To build a stronger, collaborative network of child protection mediators who can act as supports to each other; and
- To increase the capacity of the CPMP to deliver culturally relevant/appropriate mediation services through mediators on the CPM Roster.

1.4. Two Mediators

The project will involve child protection roster mediators currently on contract to MAG. While MAG's CPMP is responsible for child protection mediation services and the mediators, the CPMP and Mediate BC will work together in the development and implementation of this new model. Mediate BC is administering many aspects of this project, including the selection of mediators, scheduling support, learning tools, and overall progress reporting.

For each mediation, Mediate BC will select two mediators who will collaboratively plan and conduct a CP mediation service. In some situations the CPMP will assist Mediate BC in the selection of the co-mediators.

All Child Protection Roster mediators are expected to participate. There are benefits to be gained from working together for both seasoned and newer mediators. Ideally, everyone will have an opportunity to participate in a co-mediation but we recognize there will be challenges. One challenge is that there may be more referrals from one community and less from another. Secondly, a mediator may be particularly interested in working with another mediator with a particular skill set. Thirdly, time constraints may make it difficult to organize two mediators working together. Finally, a mediator may prefer to gain more experience in dealing with a certain type of issue.

The usual policies and procedures developed for the CPMP as set out in the *Child Protection Mediation Handbook for Child Protection Mediators*, together with expectations in the contract with MAG, and Mediate BC's *Standards of Conduct* apply to co-mediations.

2. Steps to Delivering a Co-Mediation

The scope of the Child Protection Mediation Program is limited to mediation referrals and services that fall under s. 22 of the *Child Family and Community Service Act*. This section of the Guidelines provides information on the BC child protection co-mediation model and includes standards for conducting child protection co-mediation.

A number of steps comprise the co-mediation model to be used, starting with referral. In this section we will be discussing:

1. Referrals
2. Mediator preference/interest
3. Assigning the referrals
4. Planning the co-mediation
5. Commencing the co-mediation
6. Conducting the co-mediation
7. Concluding the co-mediation

2.1 Referrals

Referral sources will find that there are advantages to making a referral to co-mediation compared to a solo mediation. Benefits include:

- Ease of scheduling in having Mediate BC make the arrangements and appoint the mediators;
- Utilizing two fully-trained mediators may expedite the service or allow better management of more complex referrals involving larger numbers; and
- By participating in this project, referral sources will have greater access to more mediators with specific skill sets.

The following are the usual sources of referrals to child protection mediation, which will also be referring cases to the co-mediation project:

- Any social worker with MCFD or a Delegated Aboriginal Agency (DAA);
- Any family member involved in a child protection matter
- MCFD or DAA mediation and collaborative practice coordinators;
- Counsel for any of the parties to a child protection matter on behalf of their client;
- Additionally, CP mediators may submit their own referrals for co-mediation.

Referrals for co-mediation will be made to Mediate BC, attention: Practicum & Scheduling Coordinator, Mediate BC - Child Protection Mediation, T: 604.684.1300 x.26 F: 604.684.1306, Toll free: 1.877.656.1300 x.26, Email: cpp@mediatebc.com.

Referrals will be dealt with in a timely way so as to not keep participants waiting. For this reason, Mediate BC will coordinate the assignment of the mediators and all scheduling arrangements.

2.2. Mediator Preference/Interest

Mediators participating in the project will be asked to complete a brief questionnaire (*Areas of Interest Survey*) to identify their top three preferences in relation to skills, experiences or geography and to put forward their personal learning and development objectives.

Mediators who have preferences that fall outside these categories may call the office of Mediate BC or the CPMP to discuss alternatives. While every attempt will be made to accommodate the individual preferences of the mediators, it may not be possible in every referral,

Mediators will be placed in a priority queue based on their interest, which will be shown by their timely return of the questionnaire. .

2.3. Assigning the Mediators

As the referrals are received, Mediate BC will make offers to mediators based on articulated scheduling priorities or other interests communicated by the CPMP team. If a special request is received from the referral source for a specific mediator or a skill set, this may be a factor in assigning the mediators.

Once a referral is made, Mediate BC will offer dates to mediators using the following criteria:

1. The mediators agree to participate in a co-mediation;
2. The mediators are readily available;
3. Travel considerations (cost, time); and
4. Any stated needs of the referring parties. As mentioned above, in some cases it will not be possible to accommodate all preferences based on referrals, costs and availability of mediators.

The selection of mediators who will work together is key to the success and future of the project. Scheduling priorities will be as follows:

1. Interested mediators who have not participated in a co-mediation;;
2. Needs of the referral source;
3. Individual needs of mediators; and
4. Mediators in remote communities who do not have a ready means of conferring with peers.

Mediate BC will contact the mediators directly to assess their availability and willingness to accept a mediation. The mediators then have 48 hours to confirm their availability and willingness before the mediation is offered to another mediator. Mediate BC then schedules the mediation service and communicates to the mediators the following information:

- Orientation and mediation dates and time
- Parties and contact information (with referral snapshot)
- Mediation location (venue).

Where there are questions about the mediation (e.g. which parties are invited etc.) Mediate BC's Scheduling Coordinator will connect directly with both mediators who will together make a decision and have the Scheduling Coordinator carry out the communication.

In addition to the above information, Mediate BC will provide the designated mediators with **three** documents:

1. A *Co-mediation Menu* to guide them in making a plan for what kind of process is best suited to the referral;
2. A *Pre-mediation Planning Guide* for the mediation process and for their personal learning and development objectives; and

3. A *Post-mediation Debriefing Guide* for each mediator to fill out independently reflecting their experiences and learning through the co-mediation.

Copies of the pre and post mediation plans will be submitted to Mediate BC within one week of the mediation.

Centralized scheduling will reduce the risk of criticism and a drop-off of referrals to the project. Effective planning and preparation should influence the quality of the mediation and provide a process for the seamless delivery of a new way of practice.

2.4. Planning the Co-mediation

Co-mediators will need to meet some time before the mediation orientations to spend some time planning their roles, strategies, and personal learning objectives. This meeting may occur by phone, using information and communication technologies (ICT) or in person, depending on the circumstances and practicality.

The mediators will each fill out the *Pre mediation Planning Guide*.

The expectation is that both mediators will bring their skills and abilities to actively participate in the facilitation of the mediation. However, based on identified learning goals, there may be specific times in the mediation where one mediator takes the lead and the other acts in more of an observer role.

While doing their pre-mediation preparation, the co-mediators are required to consider the following questions:

- How does their chosen process match the learning needs identified?
- How do the clients benefit from the chosen the process?

To develop a comfortable relationship with a co-mediator beforehand, the mediators may drive together, have a cup of coffee and/or just informally touch base beforehand. It is not enough to assume that it can be worked out during the mediation. If the mediators are from different backgrounds and have different styles, there will likely be different interpretations and perceptions on how to approach the situation. While differences are part of working together, there are the rewards that come from two minds working on the same problem.

2.5. Commencing the Co-mediation

The co-mediation begins with orientation sessions conducted separately with the parties before going into the joint session. This will provide the co-mediators an opportunity to make observations and share information about the referral. These meetings clarify the issues that

can be negotiated from the perspective of the parties (i.e. social worker, parents) and an opportunity to explore options and resources. Most importantly it is an opportunity to develop rapport and begin to frame the agenda. The meetings help to prepare the parties for the mediation. Mediators review the *Agreement to Mediate* with each of the parties. The *Agreement to Mediate* must be signed before the mediation commences.

Orientation sessions should occur at least a week before. In circumstances when that is not possible, such as when the mediator(s) will have significant travel time and costs, the orientation may be held the day preceding the mediation.

Following the orientation meetings, co-mediators will have a chance to brainstorm about the best way to proceed in a co-mediation model that works for the unique needs of the family and other key dynamics following the orientation meetings.

Mediators will have previously discussed their respective roles in mediation; e.g., is one mediator the lead or will the mediators alternate leadership throughout the process? [one makes opening remarks / both make opening remarks, etc].

2.6. Conducting the Co-mediation

The following guidelines for conducting a co-mediation have in part been modified from the article, *How to Work with a Co-mediator*, at <http://mata.org.uk/2010/06/case-comediation/>.

Continuing the goal of being seen to be a team, it is important for the mediators to arrive together on the day, and to greet the parties together when they arrive. Neither one should take the lead or appear to be dominant over the other.

If one mediator has taken the lead in the orientations then the other might take the lead in opening the joint session. Equal exposure does not, necessarily, mean equal air time. While each mediator should be sensitive to the other and ensure that each has their say, whatever is comfortable is right at the time. When the co-mediators are working in harmony this will not be an issue, but it might take time to find the right balance. They should also agree on how they will signal each other concern about strategy or the need for a private meeting.

In order to reinforce that the mediators are working as a team, it's a good idea to use the word 'we'. There may be some need for transparency about the co-mediation process for participants (e.g. explaining that they are working together, but that at times one or the other might take the lead to avoid perceptions that discriminate between mediators).

The co-mediators should try to be open and honest with each other at all times. This means that even when the going is tough they will continue to work through it together. Being flexible can help, as can adhering to Stephen Covey's motto, "Seek first to understand and then to be understood."

Below are some common challenges faced in co-mediation.

2.6.1 Disagreements

One of the advantages of co-mediation is that co-mediators can model co-operative problem-solving. While differences between mediator's styles may add balance and synergy to the process, some differences may instead do the opposite. There will be times when one mediator disagrees with the approach taken by the other or a statement made by the other. If the mediators find themselves in a situation where they might disagree on process decisions, they may want to break to touch base. This should be one of the matters discussed before the mediation and a strategy agreed upon so that it will not become an issue within the mediation.

Another potential reaction between mediators is disengagement. This may come about because the one mediator is perceived as assuming control or is not acting impartially. Disengagement can also occur when one mediator finds a participant particularly difficult. This needs sorting immediately and probably requires the mediators to have a private debriefing session.

Finally, the co-mediators should be aware of the possibility that a participant may attempt to drive a wedge between the mediators. It would seem that this would be unlikely because both mediators are there to help the parties reach an agreement. What would be the purpose of separating them? Perhaps tactics? Possibly because one participant does not have the honest intent of seeking a solution? Or could it possibly be because it might give one participant an element of power and control? Whatever the reason, it has happened in the past and the mediators need to be able to deal with this at any time.

Please bear in mind that there are practice consultants available and in some situations mediators may find it helpful to access program supports.

2.6.2. Caucusing

At this stage of the co-mediation process mediators will attend together to caucus with the parties if the need arises. This reinforces the role of the mediator as an impartial/neutral and allows the mediators to hear the information from the individual at the same time.

2.6.3. Document sharing

All documents need to be shared between the mediators. If a client has sent one of the mediators the documents, copies should be made for the other.

2.6.4 Confidentiality

The guidelines around confidentiality of the mediation apply as stated in the *Child Protection Mediation Handbook for Child Protection Mediators* and the *Mediate BC Standards of Conduct*.

Any serious concerns about the mediation should be discussed with the practice consultants or the CPMP.

2.7. Concluding the Co-mediation

The mediators collectively determine when to conclude the mediation. The session might conclude when agreement has been reached, and a written agreement is prepared for the parties (and their counsel, if necessary) to review.

Alternatively, the session may be ended for other reasons such as that it has become an unsafe situation or a stalemate. At this point the mediators may want to touch base with each party separately to get a reading on how they feel progress is or is not being made) before making a decision to end the session.

3. Completing the Co-mediation

Completing the mediation involves a process similar to that used in CP mediation with a single mediator. One of the major positive differences is the opportunity to provide constructive feedback to each other. There are differences, as well, particularly with respect to billing and paperwork.

3.1. Providing Feedback

The co-mediators will complete the *Post-mediation Debriefing Guide* and discuss it together. The post-mediation peer feedback process should be based on the pre-mediation planning the mediators have done together in order for them to follow up on the specific learning goals and the plan that they articulated together prior to the mediation.

Once the discussion has taken place, the *Post-mediation Debriefing Guide* is submitted to Mediate BC within one week of the co-mediation.

3.2. Billing

Mediators will continue to be in a contractual relationship with FJSD (CPMP) and remunerated on the basis of that contract. They should both submit their invoices to FJSD (CPMP) for payment, just as they would for mediation as a single mediator. Mediate BC and CPMP have established a system to reconcile the costs between them, since the costs of a second mediator will be borne by designated funds in Mediate BC for this project.

The total hours for orientation, administration and mediation should be the same on each of their invoices (regardless of who took the lead in which part of the mediation service) and they will be paid according to the rate/hour in each of their contracts.

Costs for expenses, such as travel, are to be included in the billing and may differ between the mediators. Where possible, when driving, car pooling is recommended for economical reasons and to allow both mediators some time together.

Refreshment costs are up to the \$30.00 maximum per mediation. One mediator may bill the \$30.00, so the mediators will need to reach agreement on who will pay for the refreshment costs.

Similarly, costs for venue are per the terms of the contract with MAG. One mediator may claim for the venue.

When splitting the expenses, please make a note on the invoice, so the CPMP office can track billings from both mediators accordingly. **Mediators are asked to indicate on each invoice and Case Management form that the mediation was a co-mediation and the name of the other mediator.**

Billing is in accordance with the fees and expenses per the contract for Child Protection Mediation Services with the MAG and applies to fees for mediation services and applicable expenses. In these co-mediations, an allowance is being provided for the time spent between the two mediators on their learning and development plans and debriefing, which can be billed to a maximum of \$50.00 for each mediator.

3.3. Submitting the Case Management Form

The two mediators will jointly submit the *Case Management Form* to the CPMP along with their billing documents as per the contract (within 30 days of the final mediation service activity). If only one mediator completes the form, simply indicate “Co-mediation Project” and the name of the other mediator on the form.

3.4. Submitting the Mediator Planning and Debriefing Guides

Each mediator is responsible for submitting a completed copy of the *Pre-mediation Planning Guide* and *Post-mediation Debriefing Guide to Mediate BC* within one week of the mediation. It should be sent to: Practicum & Scheduling Coordinator, Mediate BC– Child Protection Mediation, T: 604.684.1300 x.26 F: 604.684.1306, Toll free: 1.877.656.1300 x.26 Email: cpp@mediatebc.com.

3.5. Mediation Services Questionnaire

The two mediators will jointly ensure that the *Mediation Services Questionnaire* is made available to participants. It is helpful to have the names of the two mediators written on the questionnaires.

4. Liaison Between Mediate BC and CPMP

Mediate BC will contact CPMP or have the mediators contact the CPMP directly if there are specific practice issues that come up during the scheduling.

Mediate BC will report to the CPMP on a monthly basis as to the number of co-mediations that took place during the month, which mediators took part and any progress and development for the project.

The CPMP will share the aggregate results with Mediate BC based on summary and non identifying information from the *Case Management Forms*, such as settlement rates, and *Mediation Services Questionnaires* for the co-mediations.

Appendices (*note: provided to mediators in separate document; to be appended to guidelines later*)

- *Areas of Interest Survey*
- *Co-mediation Menu*
- *Pre-mediation Planning Guide*
- *Post-mediation Debriefing Guide*

Appendix B

Models of Co-Mediation “Menu”





CO-MEDIATION PROJECT

Child Protection Mediation

Models of Co-Mediation “Menu”

Mediators participating in the Co-Mediation Pilot Project are asked to review and agree upon an approach for conducting the mediation. This “menu” is meant to provide ideas about how the process might be arranged. The agreed-upon co-mediation plan need not be limited to a single “menu” option; it may be one or any combination of these approaches.

Division of tasks

One of the benefits of co-mediation is that work can be divided between two mediators.

- Mediators with similar levels of mediation training and experience, perhaps with different backgrounds and expertise, may choose to divide the work of the mediation as it relates to their respective area of expertise. For example, a lawyer and therapist might agree that matters with complex legal issues will be handled by the mediator with the legal background and the matters that involve child development or complex, emotional and relationship issues, by the therapist.
- Alternatively, mediators may choose to divide the tasks relating to the mediation between them along any other lines that make sense in the context. One may choose to work closely with the child while the other takes responsibility for the other participants.
- Two mediators may complement each other by each being in charge of a different aspect of the mediation, such as: factual content versus communication patterns, legal issues versus relationship or emotional issues, product (settlement) versus process.
- Another variation is when each mediator works with one of the parties throughout the whole process. Although this approach can help in some situations, it is important to bear in mind the affect on neutrality or the appearance of neutrality of one or both mediators.

This model can be helpful in situations where the mediators have very different background experience. It may also be helpful when a mediation requires a lot of caucusing, involves a large number of participants, or when participants require different approaches. It is important for

mediators who choose this model to have thorough communication with each other and to ensure that they are seen as working in unity.

Front-seat/back seat

The two mediators may choose to conduct parts of a mediation with one mediator in the “front seat” position, taking charge of the mediation, and the other in a “back seat” role. While both participate in actively facilitating the mediation, they may consider this “front seat/back seat” during some parts of the mediation session:

- Mediators, may choose to have one person lead if they have different styles or approaches and different levels of experience. This allows the mediator taking a “back-seat” position to observe and participate using a style that is less familiar, and debrief the approach and its effectiveness with their co-mediator.

This model can be helpful for mediators who want to learn a different approach to any aspect of mediation, or mediators who are seeking feedback on their own approach. It is important for those who choose this style to work with someone from whom they feel they have something to learn, regardless of mediation experience.

Taking Turns

In this model, co-mediators take turns carrying out similar, rather than opposite or complementary tasks in mediation.

- Mediators may agree to take turns leading the mediation process at each stage of the process.
- The “taking turns” approach may be used with greater flexibility by mediators simply taking turns as they find appropriate.

This model may be especially useful for mediators who have similar styles or have agreed on an approach. Optimally, the co-mediators will have agreed how and when signals will be used to coordinate their interjections and their taking the lead.