

Why Mediate Cases Involving Termination of Parental Rights, Adoption or Guardianship?

When it is not possible for children in state care to be reunified with biological parents within timelines established by law, permanency for those children is the ultimate goal. Mediation can shorten a sometimes lengthy and emotional process, while ensuring that biological parents have an opportunity to contribute to the long-term stability and welfare of their children.

In some cases, mediation gives the parents a chance to arrange for limited future contact with their children.

The process helps members of a family by:

- providing biological parents with information that helps them evaluate the potential outcome of a trial;
- helping biological parents separate emotion and bias from facts of the case;
- helping children, biological parents, and other relatives understand the importance of establishing one stable home for a child;
- exploring, when appropriate, the idea of adoption with parental contact and a plan for maintaining contact;
- allowing biological parents to help shape their children's future and conclude the court process with dignity;
- providing a sense of closure to a traumatic process.

Mediation is ordered by a judge, but any parties to a case can ask the judge to make a mediation referral.

Rhode Island Family Court Mediation Program



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**Mediation
of Cases Involving
Termination of
Parental Rights,
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or
Guardianship**

**Rhode Island
Family Court**

NOTE: Before mediation, all child welfare professionals and attorneys involved in the case must consider the full range of potential outcomes, including: guardianship, termination of parental rights, direct consent for adoption, or continued reunification efforts.

Who participates in Mediation, and what is expected of participants?

The Mediator

The mediator is a neutral third party who guides an exchange of information and discussion about permanency for a child in state care. Rhode Island Family Court mediators are attorneys who are well-versed in child welfare law and have extensive experience with Family Court proceedings. As such, the mediator is uniquely qualified to help parties discuss the full range of possible outcomes and provide opportunities for agreement among all interested parties. The mediator fosters an environment that is non-adversarial, so that all parties will feel free to speak openly without fear of judgment or intimidation.

Department of Children, Youth and Families (DCYF) Legal Counsel

The attorney for DCYF provides the social worker with legal advice throughout court appearances and mediation.

The DCYF Social Worker

The DCYF Social Worker has a critical role in the mediation process.

The DCYF social worker represents the department's views regarding the safety of the child, shares information about the outcome of services that have been provided to a family, and offers the department's recommendations.

A social worker must be prepared to participate in the mediation process by:

- Having knowledge of the case history, including the basis for opening the case, tasks, goals, and status of the family's progress toward meeting goals.
- Inform a supervisor of the impending mediation and make them aware of the need to reach her/him on that day to discuss a course of action.
- Provide information from the most recent service provider reports on the status of ongoing or past services.

Social workers must be aware that negotiating with biological and prospective adoptive parents outside of the court process about terms of open adoption agreements can raise expectations. They should caution biological parent(s) and prospective adoptive parent(s) that all agreements are subject to review by attorneys, and won't be presented to a judge until all parties are in agreement.

The CASA (Court Appointed Special Advocate) Attorney

CASA attorneys are employees of the Court who represent the interests of a child. They will seek to keep the proceedings focused on a child's best interests.

The Attorney

Attorneys who represent the biological parent, foster parent(s), or pre-adoptive parent(s) will prepare him or her for mediation and court proceedings by discussing issues - including the strengths and weaknesses of the case, help a client consider possible outcomes and solutions, and protect the legal rights of the client.

The Biological Parent

A biological parent's participation in mediation assures her/him of a voice and a role in the outcome. Parents should come to mediation prepared to openly discuss their present situation, and to join in evaluating options for outcomes.

The Prospective Adoptive Parent or Foster Parents

Foster parents often participate in mediation sessions to provide a perspective about the status of a child's welfare and progress. They should come to mediation prepared to talk about long-term placement options. They may have legal counsel throughout the process.

The Judge

If an agreement is reached through mediation, the judge will review it to determine if it is in the best interests of the child. If all parties fully understand the terms of the agreement, the judge may approve the agreement, request revisions, or reject the agreement. If the agreement is entered as an order of the Court, there will not be a trial.