

8. Mediation in Adoption

Cooperative adoption mediation assists biological parents and adoptive parents to determine how to maintain communication after the finalization of an adoption. The decision to refer a child for cooperative adoption mediation is made on a case-by-case basis and is always premised on the best interests of the child and meeting the child's safety and permanency needs post adoption. The department's decision to refer a case for cooperative adoption mediation is independent from how the parental relationship is ended. It may be appropriate to refer for cooperative adoption mediation even after a parent's rights are terminated through a contested trial. The mediation process is to assist in meeting the long-term best interest of the child and is not meant to be used as a part of the negotiations involved in the legal resolution of a parent's rights. Refer to Appendix 5.31, Mediation Decision Flow Chart.

Referral to mediation

Procedure for the child's caseworker

- Determine whether a referral to mediate is appropriate.
 1. Consult with the supervisor to assess the appropriateness of mediation for cooperative post adoption communication for a child by reviewing any safety concerns that may exist as well as whether a plan for openness will meet the individual needs of the child.
 2. Discuss the appropriateness of mediation for cooperative post adoption communication with the legal assistance specialist and, if seeking termination of parental rights, the legal assistance attorney.
 3. Discuss cooperative mediation with the birth parents to determine their willingness to participate in such a process. Reference Policy I-G.1.6, Openness and Post Adoption Communication for information that will be helpful for this discussion.
- Upon selection of an adoptive family for the child, discuss cooperative mediation with the adoption worker and family to determine whether the family will cooperate with the mediation process.
- Obtain the birth parents' signatures on a DHS 2099, Authorization for Use and Disclosure of Information, to share information with the mediator. Coordinate with the adoption worker to obtain the DHS 2099 from the adoptive parents.
- Contact potential mediators to see if available for providing the service in the time frame needed. A list of qualified mediators is in Appendix 5.32. If there are additional questions

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about mediators, contact the legal assistance specialist.

- Working with the assigned adoption worker, complete the CF 0437, Cooperative Adoption Mediation Referral.
 1. List on the referral form the benefits specific to the individual case and the safety concerns that must be met in the post adoption communication agreement.
 2. This form is completed with the understanding that the mediator will provide the birth parent(s) and adoptive parent(s) with a copy, minus the contact information for mediators.
- Send the completed, signed “Cooperative Adoption Mediation Referral” to Central Office, Adoption Services Unit, along with the signed DHS 2099(s).
- Act as the primary contact for the mediator.

Procedure for the adoption worker

- If not already done, provide the adoptive parents with the case materials itemized on the CF 963, “Required Information for Adoption Workers and Adoptive Parents” so that they have necessary background information.
- Review the statement of benefits for the child of cooperative adoption planning listed on the CF 0437 with the adoptive parents.
- Obtain the adoptive parents’ signatures on a DHS 2099, “Authorization for Use and Disclosure of Health Information” to allow a release of information to the mediator.

Approval of the post adoption communication agreement

Procedure

- Upon receipt of the post adoption communication agreement from the mediator, the child’s caseworker and adoption worker review the post adoption communication agreement and determine that child safety can be managed by the proposed agreement.
- If the post adoption communication agreement meets the child’s safety needs, the child’s caseworker signs the final post adoption communication agreement and returns the agreement to the mediator.

Safety concerns with the post adoption communication agreement

Procedure

- If unmet safety needs are identified in the post adoption communication agreement, notify the legal assistance specialist of the concerns.
- The legal assistance specialist, after discussing the safety concerns with the child's case-worker and/or adoption worker, informs the mediator in writing of the continued safety concerns for the child.
- The mediator sets another mediation session with the mediation participants. An agency representative may be present, if requested by the participants.
- After the department determines the revised draft post adoption communication agreement meets the safety needs of the child, the mediator arranges for an agency representative and the parties to sign the agreement.
- When no agreement can be reached, the mediator sends a letter summarizing the situation to the Adoption Services Unit with the final invoice.

The Supervisor's Role

- Communicate the values inherent in cooperative mediation in adoptions, including the potential benefits to the child, birth parents, and adoptive parents (as detailed in policy I-G.1.6, Openness and Post Adoptive Communication Through Legal Assistance Mediation Services).
- Consult with caseworker to determine whether cooperative mediation referral is appropriate, and ensure that the decision to use mediation is independent of the department's and parent's efforts to end the legal parental relationship.
- Assist the caseworker to identify safety threats or other safety concerns that may exist, and when indicating approval for cooperative adoption mediation, ensure that all safety issues are well documented/explained on the CF 0437, Cooperative Adoption Mediation Referral.
- When the caseworker and adoption worker have questions as to whether the post adoption communication agreement is adequate to manage child safety, assist in decision-making, and ensure the legal assistance specialist is contacted if safety is not adequately managed by the proposed agreement.

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Forms and References

Legal References

Oregon Revised Statute

- ORS 109.305, Interpretation of adoption laws; agreement for continuing contact.
- ORS 419B.517, Mediation to be encouraged
- ORS 36.110(8), Definition of mediation
- ORS 36.220-36.238, Confidentiality of mediation and communications agreement

Child Welfare Policy

- I-G.1.6, Openness and Post Adoptive Communication Through Legal Assistance Mediation Services
http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-g16.pdf

Forms

- CF 0437, Cooperative Adoption Mediation Referral
http://dhsresources.hr.state.or.us/WORD_DOCS/ce0437.doc
- CF 963, Required Information for Adoption Workers and Adoptive Parents
Not in Word
- DHS 2099, Authorization for Use and Disclosure of Health
http://dhsresources.hr.state.or.us/WORD_DOCS/DE2099.doc