



## Planning Guide

### Access & Visitation- Child Support Referrals to Mediation for Access and Visitation Issues

#### Overview

- The "Grants to States for Access and Visitation" Program (42 U.S.C. 669b) was authorized by Congress through passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 under President Clinton.
- **Goal:** *"..to enable States to establish and administer programs to support and facilitate non-custodial parents' access to and visitation of their children..."*
- According to the statute, States are permitted to use grant funds to develop programs and provide services such as:
  - Mediation
  - Development of parenting plans
  - Education
  - Counseling
  - Visitation enforcement (including monitored and supervised visitation, and neutral drop-off and pick-up)
  - Development of guidelines for visitation and alternative custody arrangements.
- Funding is **\$10 Million nationally** every year which is divided among the states per a formula contained in the statute.

- **Designation of State Agencies** Following enactment of the AV Grant Program in 1996, the then-Governors of States were asked to designate a State agency that would be responsible for receiving the grant funds. Roughly half of the State AV Grant Programs are administered by State Offices of the Courts and the other half by State IV-D Agencies.
- **Funding Responsibilities** States are required to ensure that funds expended under the Access and Visitation Grant respond to and support the program goal which is "...to establish programs to support and facilitate noncustodial parents' access to and visitation of their children...". According to statute, States:
  - shall administer State programs funded with the grant directly or through grants to or contracts with courts, local public agencies, or nonprofit entities";
  - shall not be required to operate such programs on a statewide basis; and
  - shall monitor, evaluate, and report on such programs
- **Colorado receives approximately \$124,000 annually.**
- In 1996 Colorado, State Court Administrators Office (SCAO) was designated to be responsible for AV Grant Funds.
- **Colorado uses the bulk of the grant funds for mediation to address access and visitation issues – focus on serving CSE clients.**
- **Why we use mediation:**
  - Less expensive
  - Faster
  - Private and Confidential
  - Control over a personalized solution that works best for family’s situation
  - Good customer service to public
  - Limited resources and authority for CSE to handle parenting time issues
- **Definition of Mediation:** Mediation is a voluntary, problem-solving process assisted by a trained, neutral third party. The basic premise of mediation is that parties involved in a dispute, such as parenting issues, are best able to resolve the dispute than having other levels of intervention, such as the court. In addition, parties are generally more satisfied with, and have greater ownership in solutions which they have a role in creating.

## Why Address Parenting Time?

- Parenting Time and Parenting Education is a component of the divorce process, however often times there is a **disconnect with unwed parents**.
- Nationwide, nearly 37% or 1.5 million births each year are to unwed parents (National Center of Health Statistics)
- Census Bureau (2003) reports that 77.1% of parents with joint-custody or **visitation pay at least some child support**, compared with 55.8% of their counterparts without visitation
- By 2025 over ½ of the children born in United States will be born out of wedlock.
- Research has shown that if unwed fathers are able to establish an involved and on-going relation with their children following birth, they are more likely to **stay involved** as the children grow. Child Support Quarterly Fall 2007, Article, "Federal Child Access and Visitation Grant Program: An Opportunity for IV-D Agencies" By: Deborah Pontisso
- **"If I have to pay support, then I want to see my kids!"**
- **AV Grant is a win-win situation for parents, children and the IV-D Prgm**
- Gap between establishment of paternity and the establishment of a parenting time/visitation order for unwed Non-Custodial Parents (NCP's) can be bridged through the provision of services funded through the AV Grant
- The AV Grant program can provide parents in the IV-D Caseload with access and visitation services that the IV-D agency cannot directly provide, since those services are not an allowable use of child support program funds.
- Provision of AV services to parents in the IV-D caseload particularly to unwed NCP's can result in an increase in payment of and/or compliance with child support orders
- Children can benefit from the emotional and financial support of both parents.

### **Colorado CSE Access and Visitation Demonstration Project**

- In October 2004, OCSE awarded a demonstration grant to Texas and Colorado to explore ways of integrating access and visitation services with regular agency activities and to assess whether services improve parent-child contact patterns and subsequent child support payments.
- A high-level treatment group in both counties was offered informal facilitation by the child access specialist (CAS), a specially trained worker at the child support agency;
- A low-level treatment group in Jefferson County was handed or mailed printed information about parenting time problems and various community resources to help parents with access problems, including free mediation and parent education services; and

- In El Paso County, an established unit within the child support agency (Parent Opportunity Project, or POP) offered noncustodial (NCPs) assistance with employment and parenting time using both facilitation and mediation techniques.
- Child support payments increased significantly following program enrollment for all groups; those with and without parenting plans had identical payment patterns. Six, 12, and 18 months following program enrollment, the child support payment rate was significantly higher for cases in each of the three treatment groups. Those who produced parenting plans exhibited increases in payments that were identical to those who attempted but failed to produce parenting plans.
- Contact with children and parental relationships improve over time, and are significantly better for those who reach agreements and develop parenting plans in facilitation
- Views of the child support agency are significantly better among parents who produce parenting plans than those who fail to reach agreements. While project participation per se did not lead to improvements in the image of the child support agency with parents in the high- and low-treatment groups reporting similar views, parents (both NCPs and CPs) who were successful in producing parenting plans reported more favorable views than those who attempted but failed to reach such agreements.
- It is difficult to deliver services to NCPs who say that they have problems with visitation, the chief barrier being the refusal of many custodial parents to cooperate. In Jefferson County, only 37 percent of noncustodial parents scheduled for high-level treatment were served, while in El Paso, 30 percent of parents were served. After excluding 5 to 15 percent due to safety considerations such as domestic violence, the primary reason why the remaining cases did not receive facilitation services was because the custodial parent refused to respond or cooperate (70%) particularly when parental relationships were characterized as conflicted, and/or the other parent lived further away, did not see the children regularly, and alleged visitation denial. Another 30 percent of cases eligible to receive services did not get facilitation because the NCP failed to respond or follow through.
- Interviewed parents reported high levels of satisfaction with facilitation and mediation. Nearly three-quarters of interviewed parents who participated in facilitation reported being "very" (40%) or "somewhat" (31%) satisfied with the help they received. Those who participated in mediation were also satisfied, with 74 percent of members of the high-level treatment group and 84 percent of low-level treatment group characterizing themselves as very or somewhat satisfied.
- Substantial proportions of parents used mediation services if free and parent education services if required by the court.

# Child Support Enforcement Referral to Mediation for Access and Visitation Issues Planning Template

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- I. Identify the goals/objectives for the program.**
  - a. What are you trying to achieve?
    - i. Examples, Increasing CSE Collections?
    - ii. Assist in helping Obligor's overcome barriers to paying child support?
    - iii. Better Outcomes for Children
    - iv. Better Relationships with Obligor's
  
- II. Define the Target Population?**
  - a. Who are you trying to reach?
    - i. Early Intervention mechanism to prevent the accumulation of arrears?
    - ii. Hard to handle obligors who have many barriers to paying child support such as access and visitation issues?
  
- III. Conduct assessment of the current handling of child support referrals to mediation**
  - a. What are the applicable processes and timeframes?
  - b. What outcomes are currently being achieved in terms of individual obligors?
  
- IV. Identify the benefits you hope to achieve for the system by implementing a referral process?**
  - a. More efficient case processing?
  - b. Comprehensive resources available for obligors
  - c. More meaningful and cost-effective provision/coordination of services?
  - d. Great accountability for services provided?
  
- V. Develop a plan for measuring the achievement of program goals and objectives.**
  - a. Who will be responsible for measuring outcomes?
  - b. How will those persons receive their data?
  - c. How will confidential data remain safeguarded?
  - d. What measures will be used to determine if the goals stated above are met?
  
- VI. Identify the stakeholders that need to be brought to the table to discuss the child support problem solving court opportunity**
  - a. **Court**
    - i. Judge/Magistrate who is a leader and committed to child support and has the appropriate jurisdiction
    - ii. IV-D Administrator

- iii. Holly Panetta, Office of Dispute Resolution, Projects Manager  
([holly.panetta@judicial.state.co.us](mailto:holly.panetta@judicial.state.co.us)) or (303) 837-3605
- iv. Child Support Liaison, Maureen Leif,  
[maureen.amy.leif@judicial.state.co.us](mailto:maureen.amy.leif@judicial.state.co.us) or (303) 837-3673
- v. Office of Dispute Resolution, Program Administrator (if applicable)
- vi. Local designated mediator (if applicable)
- vii. IV-D Attorney

**VII. Identify existing resources available to provide services for obligors.**

- a. Who could perform an assessment of needed resources for an obligor?
- b. How would that assessment be done?

**VIII. Develop program eligibility criteria**

**IX. Develop a current work flow process for referral.**

**EXAMPLE**

**(attach case flow diagram)**

**X. Develop the child support case flow, assessment, resource referral and follow-up process**

**XI. Identify events, timeframes and/or resources for CSE Referrals which will require modification or enhancement of existing procedures or resources**

- a. Meeting with court staff regarding waiver of filing fee
- b. Discuss how MOU will be filed
- c. Discuss elements to be covered in MOU (Pre approve form to be used, can use JDF ...)

**XII. Develop a plan for initial and on-going training of the team.**

- a. What special training will the CSE team need to plan the program?
- b. Understand and address the variety of cultural issues which bear on participation engagement and success?
- c. Understand and address the variety of issues relating to unemployment, substance abuse, access and visitation, and poverty

## RESOURCES

- State Court Administrator's Office, Office of Dispute Resolution
  - <http://www.courts.state.co.us/Administration/Unit.cfm/Unit/odr>
- State Court Administrator's Office, Child Support
  - <http://www.courts.state.co.us/Administration/Section.cfm/Section/jp3children>
- Federal Office of Child Support
  - [http://www.acf.hhs.gov/programs/cse/access\\_visitation/](http://www.acf.hhs.gov/programs/cse/access_visitation/)
- CDHS, Child Support Division
  - <https://childsupport.state.co.us/siteuser/do/vfs/Frag?file=/cm:home.jsp>
- Responsible Fatherhood  
<http://www.fatherhood.gov/>

**AGREEMENT TO MEDIATE**

This agreement sets forth the understanding of the parties listed below concerning the mediation services provided through the Office of Dispute Resolution in the Colorado Judicial Branch. The agreement shall pertain only to the matters arising during the mediation.

1. **Legal and Professional Advice:** We understand that mediators are not legal advisers, and cannot provide legal advice to any party involved in mediation. We agree to obtain legal or appropriate professional advice on any issue of interest to us, and not to rely upon mediators for such advice. We understand that mediators are not responsible for any issues not raised by us during the course of mediation.
  
2. **Confidentiality:** We understand that people who participate in mediation should feel free to communicate about sensitive issues without fear that the mediators could later be called as witnesses against them. Therefore, we agree that the discussion held during the mediation should be confidential, and that the mediators who attempt to assist us in resolving our dispute shall not be called as witnesses in court to testify to facts concerning or relating to the subject matter being mediated. We agree that we will not subpoena documents or information about our mediation which may have been retained in any file belonging to the mediators or to the Office of Dispute Resolution. It is understood, however, that the mediators are not required to maintain confidentiality if they have reason to believe that a child is in need of protection, or if either party is in danger of bodily harm. We are aware that Section 13-22-311(1), CRS does not require parties to mediate if one of the parties claims it has been a victim of abuse and is unwilling to mediate.
  
3. **Resolution:** In consideration of receiving services from the Office of Dispute Resolution, we agreed to enter into this mediation **in good faith**. We will sincerely attempt to resolve the issues of this dispute. We understand that we are not required to enter into any agreement and that any resolutions resulting from this mediation are entered into voluntarily.

Signature of Party	Signature of Party
Date	Date

Name (please print)	Name (please print)

Case Number \_\_\_\_\_ Site \_\_\_\_\_

Date of Mediation \_\_\_\_\_ Mediator \_\_\_\_\_



# **OFFICE OF DISPUTE RESOLUTION**

## **COLORADO JUDICIAL BRANCH**

### **INFORMATION FOR PARENTS ABOUT MEDIATION**

#### **What is Mediation?**

Mediation is an informal process in which a neutral third party – the mediator - helps people in conflict develop an agreement which meets the needs of all parties. In child support cases, mediation can be used to help parents resolve a wide variety of parenting issues, such as parenting time, decision-making on major issues, holiday schedules, transportation and communication between the parents. Mediation is private and confidential, and it gives parties input and some control over the outcome of a dispute. Most conflicts can be mediated if parties are open to the idea of settling the dispute.

**The mediator does not decide the outcome - the agreements are up to those participating in the mediation.** The mediator helps you:

- Clarify issues
- Identify your needs and interests and those of your children
- Create options that best meet the identified needs and interests

Even if the entire case is not settled, mediation can be helpful to reach agreements on some issues and prepare for other issues prior to going back to court.

#### **Who are the Mediators and How are they Trained?**

The mediator for your case is on contract with the Office of Dispute Resolution (ODR) which is part of the Colorado Judicial Branch. ODR mediators come from a variety of backgrounds and professions. All have received specialized training in mediation and conflict resolution. They also have extensive mediation experience, and subscribe to codes of professional and ethical conduct. ODR contract mediators are hired through a competitive process, must have mediated at least 20 to 100 cases before applying, and must have familiarity with the court system. ODR oversees the work of contract mediators on an ongoing basis.

### **What Happens in Mediation?**

What happens during the mediation may vary depending on the mediator. Generally, the mediator begins by describing the process, and the parties are given an opportunity to tell their side of the story. The mediator then helps identify the issues, suggests a negotiation process, promotes communication, and helps the parties look at possible options for agreement. During the mediation, the mediator may meet with each party separately. These separate meetings provide an opportunity for parties to discuss with the mediator specific concerns or goals that they might not want to tell the other party.

### **Is the Mediation Confidential?**

Colorado law provides that all mediation is confidential. In addition, anything a party tells the mediator in confidence will not be disclosed to others unless the party has specifically given the mediator permission. At the start of the mediation, all participants are asked to sign an agreement not to call the mediator as a witness in any legal or administrative proceeding concerning the dispute.

### **What Happens when we reach an Agreement?**

When a final agreement is reached, the mediator can help the parties put it in writing. The parties should then take the draft agreement to their lawyers for review, comment, and processing through the court. If the lawyers attend the mediation, the lawyers may draft the agreement.

### **What will the Mediation Cost?**

At this time the Office of Dispute Resolution will pay the cost of child support mediation through special grant funds. The parties will not be charged a fee for mediation services. The availability of funds will be evaluated periodically, as they are not permanent funds.

For more information about the Office of Dispute Resolution: [www.ColoradoODR.org](http://www.ColoradoODR.org)

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**Mediation Referral Form**  
**Office of Dispute Resolution**  
**Child Support Enforcement**

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**Fax:**

**Call:**

**Mail to:**

**Email:**

**Required Information**

Child Support Case Number: \_\_\_\_\_ Case name: \_\_\_\_\_

Referred by: \_\_\_\_\_

Temporary order filed by technician?     Yes         No

**Mother**

Name \_\_\_\_\_

Address \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell: \_\_\_\_\_ Work: \_\_\_\_\_

E-mail address, if applicable \_\_\_\_\_

**Father**

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone number \_\_\_\_\_

E-mail address, if applicable \_\_\_\_\_

**Other**

Name \_\_\_\_\_ Role (circle one): Party Lawyer Other

Address \_\_\_\_\_

Phone number \_\_\_\_\_ Fax number \_\_\_\_\_

E-mail address, if applicable \_\_\_\_\_

**Scheduled Mediation**

Date mediation must be completed by (if applicable): \_\_\_\_\_

Date of Mediation: \_\_\_\_\_

Time of Mediation: \_\_\_\_\_

Issues to be Mediated: \_\_\_\_\_

Does this date work for the other party? (Circle one) Yes No Don't Know

