

# Child Inclusive Mediation Information

*The drafters acknowledge and appreciate the input and assistance of Dr. Jennifer McIntosh in developing Child Inclusive Mediation in Minnesota. Her work is referenced throughout.*

## **Definition of Child Inclusive Practice**

Child Inclusive Practice is a targeted intervention focused on helping separated or divorcing parents understand how their child or children are experiencing the separation or divorce, and educating them on factors that may protect a child's development from parental conflict. This is a practice based on research which shows that hearing from a child improves outcomes for the child. A trained Child Consultant:

- elicits the child's thoughts and feelings regarding parental separation and conflict,
- facilitates understanding of the child's needs in the context of their experiences, attachment, and developmental framework, and
- validates the child's experiences and provides basic information that may assist present and future coping.

Child Inclusion is designed to enhance psychological adjustment and family reorganization following a conflict, separation or divorce. The focus is not on decision-making. Child Inclusive practice is used as part of the parents' dispute resolution process.

## **CIM and the Agreement to Mediate**

In addition to the mediator's standard Agreement to Mediate, the Agreement for CIM should include:

- an agreement to use Child Inclusive Mediation Process, including the work of a mediator and child consultant,
- the names of the mediator and child consultant,
- definitions of the roles of mediator and child consultant, and
- a statement of confidentiality and exceptions for both the mediator and child consultant.

## **Hallmarks of CIM in Minnesota**

- **Promoting the child's voice through participation in mediation**
- Focusing on the child's thoughts, feelings and expressed needs
- Helping the parents really hear from the child through the child specialist
- Shifting perspective & facilitating agreement
- The mediator is a Rule 114 qualified neutral
- Focus on interests, relationships and substance concerns
- Focus on bigger picture rather than the legal decisions, e.g. what parents deem important, family relationships, non-legal concerns

The same ethical and pragmatic guidelines apply as in any family mediation process - Rule 114 Code of Ethics (e.g., admissibility of evidence, confidentiality, impartiality, etc.) Minnesota General Rules of Practice for District Courts, Rule 114.02 (7) states that mediation is a “forum in which a neutral third party facilitates communication between parties to promote settlement. A mediator may not impose his or her own judgment on the issues for that of the parties.” Parents make the decisions, not the mediator, child consultant or child.

CIM is **NOT**:

- Evaluation for parenting time or custody
- Intended to prove or disprove what the parents say
- “Advocating” for the child

### **Training for CIM Mediators**

A CIM Mediator should have specialized training in CIM, or, at a minimum, work in tandem with a Child Consultant who is trained in CIM. Rule 114 Certified Family Mediation Skills Training is also required.

### **Benefits of CIM**

Consultation with the child has the potential to restore child-parent relationships. CIM helps parents make more insightful choices, aids the re-establishment of parental alliance, and has the potential to help the child with post separation adjustment.

### **When to Consider CIM**

Consider CIM when the parents’ conflict intrudes on the child’s ability to interact with one or both parents without conflict, or when one or both parents’ capacity to understand their child’s needs and experiences is compromised by the conflict.

### **CIM Model**

CIM involves two professional roles: Child Consultant and Mediator. First, the parents are assessed for the appropriateness of CIM. Generally, consideration should be given to the following:

- child related matters are in dispute,
- age and maturity of the child
- parents wish to better manage their dispute
- parents’ capacity to focus on their child’s needs as separate from their own,
- benefit to the child from participating,
- history of family violence, and
- mental health and/or chemical use issues.

## **CIM Process**

Referral – Parents may enter the mediation process knowing that they want CIM, or they may decide as part of an ongoing mediation (or other ADR process) to pursue CIM.

Screening – Regardless of how parents enter into CIM, they must be screened by a professional trained in CIM for appropriateness of the process. A mediator trained in CIM may screen the parties and refer them to a Child Consultant who will also screen independently. A mediator who is not trained in CIM should refer parents to a Child Consultant for screening.

Child Consultant and Parent Meetings – The parents typically meet separately with the Child Consultant, who sets the boundaries and purpose of the consultation and ensures that parents have a shared goal in relation to the consultation. A developmental history of each child in the family is taken – this includes the child’s experience of the parents’ conflict and the reactions of the child. The parents are asked to consider what they might find hard to hear from each child and how they might deal with this information.

Meetings With the Child – Siblings are most often viewed with a focus on their relationships with each parent, view of parents’ situation and conflict, future plans, and thoughts and needs. The child must not be put into a position of having to say or decide what they want. The Child Consultant explains the process, uses a variety of age-appropriate tools to establish rapport and to help the child express his or her thoughts, feelings and wishes, offers hope but no promises, screens for support and therapy needs, and discusses with each child the information to be shared with the parents.

Consultation - The Child Consultant and the Mediator’s joint role is to assist the parents in developing a clear view of their child’s needs in light of the conflict and/or separation. The Mediator and Child Consultant meet prior to the mediation session to discuss information gathered from the child, strategy for the parental feedback, and plan for the feedback meeting.

Feedback Meeting: Child Consultant, Mediator and Parents – The Child Consultant leads the feedback session. Feedback takes the form of a conversation with the parents, either together or separately. The Mediator takes an active role in ensuring that the process feels impartial and that the parents are hearing and understanding the feedback.

Continue with Mediation – The Mediator continues to facilitate the parents’ discussion at the next mediation session, incorporating the child’s experience, core issues and developmental needs.