

Child Protection Mediation
(by Paul Brown)

On November 30, 2006, Bill 210 of the Child and Family Services Act was proclaimed. One of the elements of Bill 210 requires all Children's Aid Societies (The Society) in Ontario to consider whether a prescribed method of Alternative Dispute Resolution (ADR) could assist in resolving ANY issue related to the child or plan for the child's care. Current approved forms of ADR are mediation from a roster member (specialized training in Child Protection Mediation), family group conferencing or various native methods.

Anyone involved in an open child protection case may request Child Protection Mediation, however the referral is generally completed by the assigned worker. A formal referral is generally completed and sent either to a designated individual within The Society, a Child Protection Mediator, or to the local Transfer Payment Agency who maintains a list of roster mediators in the area. Following that, a referral must also be sent to the Office of the Children's Lawyer (OCL). The purpose of this referral is to allow the OCL to assign a lawyer to represent the wishes of the child(ren) if the OCL feels a lawyer for the child would be helpful in the process. If a Children's Lawyer is assigned, it is then the responsibility of the lawyer to connect with their client, and to determine if their presence or the child's presence is necessary during the mediation process.

Child Protection Mediation may be used at anytime during the life of an open child protection case. If the matter is already in court, the parties may ask the judge for time to attend mediation in an attempt to resolve certain issues. Examples of some topics covered in Child Protection Mediation include but are not limited to:

- Parent-Child (teen) Conflict
- Reintegration Processes of Children in Care
- Adoption Plans Related to Openness Agreements
- Plans of Service/ Expectations of The Society and the Family
- Custody and Access

The Child Protection Mediation process is very similar to that of Family Mediation. The mediator meets with each party privately as part of the intake/ screening process. This includes a meeting with the assigned worker to help the mediator understand The Society's concerns. If the case is suitable for mediation, the mediator would then hold joint mediation sessions. Generally, all of the parties are kept together however upon occasion, it may be necessary to separate the parties to have a private discussion.

Child Protection Mediation is closed mediation. Closed mediation means that all discussions had during the mediation are without prejudice, and may not be called as evidence during the court process. If the mediation is not successful, the mediator may provide a letter simply stating that the mediation process was not successful. This letter will NOT state why the process was not successful. It is also important to note that the assigned workers may only document that they attended mediation, and the issues resolved. They may not record issues that were not resolved or the reasons those issues were not resolved.

Paul Brown, Hon BSc, AccFM, CP Med., *paul@marvelmediation.com*

*Paul is a roster child protection mediator candidate, and is currently accepting cases in Toronto, Durham Region, Northumberland County, Prince Edward County, Lennox & Addington, and Frontenac. For more information, please visit www.marvelmediation.com.