

Evaluation of the Child Support Eligibility Mediation Pilot Project

A JOINT PROJECT OF:



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Family Maintenance
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Thank you everyone!

Executive Summary

1. Project Description

The Child Support Eligibility Mediation Project (the "CSEMP" or the "Project") was a collaboration between the Mediate BC Society and the British Columbia Ministry of Justice, facilitated through the Maintenance Enforcement and Locate Services ("MELS") division of the Justice Services Branch. MELS is, among other things, responsible for the delivery of the Family Maintenance Enforcement Program ("FMEP"), which monitors and enforces all maintenance orders and agreements that are filed with it.

The Project provided approximately six hours of free mediation services to parents and adult children enrolled with FMEP¹ to help them work through the legal and practical issues around how the parents would continue to support the child past the age of 19 – primarily as they pursued post-secondary studies. The key aspects of the mediation model were:

- Premediation sessions were conducted between the mediator and each parent and child, followed by joint or shuttle² mediation sessions, and post-mediation negotiations and/or drafting agreements;
- The child's participation was central to the process³;
- Mediations could occur "in-person," or over distance (i.e., with one or more of the participants in a different physical location from the mediator and/or each other) using the telephone or other technology;
- Mediations were conducted by 6 highly-experienced family law lawyer/mediators who had been practicing law for an average of 24 years and mediation for an average of 17 years;
- Mediators were free to use both "interest-based" / "facilitative" techniques (e.g., facilitating communication, pointing out common interests, etc.) and "evaluative" techniques (e.g., summarizing the legal issues, providing a range of likely outcomes were the matter go to court, etc.);
- Because of their expertise, all decisions regarding which techniques to use under what circumstances were left entirely up to the mediators' discretion; and;
- If the parents requested, the mediator could draft a mediation agreement which the parents could then take to their lawyers for independent legal advice and, if necessary, file in court or use to change an existing order.

¹ Families not enrolled with FMEP were also eligible to participate. Three cases that mediated were not referred from FMEP.

² In shuttle mediation, the mediator meets individually with each party, shares information between them and assists them to reach an agreement by acting as an intermediary or go between. The parties do not communicate with one another individually.

³ The child, parents, and the mediator came to consensual decisions about if and how the adult child would participate in the mediation process.

2. Characteristics of the families that mediated

Thirty-eight of the parents lived in urban centres (i.e., populations over 5,000), 21 in smaller towns or rural areas, and 2 outside of Canada. Parents' incomes ranged from \$0 to \$247,000 per year, with an average of \$55,116. The majority (56%) earned between \$30,000 and \$60,000. However, a surprisingly high percentage of parents (i.e., 14%) earned more than \$100,000.

The parents had lived separate and apart from 4 to 22 years, with an average of 11 years. 52% of parents reported there to be a great deal of conflict between them. Other parents were best characterized as estranged from one another (i.e., having had little or no contact for the past several years), or, to a lesser extent, having little or no conflict between them. According to the mediators, the parties generally needed a good deal of information about the relevant law and legal standards.

3. Evaluation Approach and Objectives

A case-study approach utilizing both quantitative and qualitative data was used to pursue the following four main evaluation objectives:

Objective 1	Investigate the effectiveness of the interest-based/evaluative model in this context.
Objective 2	Obtain rich descriptions of the mediation structures and techniques as they were carried out in practice.
Objective 3	Explore the use of distance mediation in this context.
Objective 4	Investigate the nature and impact of the adult child's ⁴ participation on the mediation process.

4. Main Findings

a. Objective 1 – The effectiveness of the interest-based/evaluative model in this context

Three indicators were used to assess the effectiveness of the interest-based/evaluative model: (1) settlement rates and ratings of progress made during mediation; (2) perceived improvements in parents' understanding of the legal and relational aspects of the dispute; and; (3) parents' satisfaction with the outcomes and process of their mediations.

Understanding of the dispute: Parents reported that mediation helped them to clarify what really mattered to them, understand the relevant law, and understand the legal issues. Qualitative data indicated that parents started at different points in terms of their legal knowledge and the extent to which they understood the other parent's and child's perspectives. Part of the mediator's job was to assess what each family needed in terms of legal information and inter-family communication, and to choose mediation techniques that would meet these needs.

⁴ The term "adult child" is used because the "children" in the families that mediated were 19 or approaching 19.

Agreements and other progress made at mediation: Nineteen (66%) of the 29 cases that mediated resulted in an agreement between the parties regarding support for the adult child. After an average follow-up time of 5.8 months, 91% of the agreements made at mediation were being complied with⁵. Arrears, support of other children, and issues around contact between the parents and adult child also arose in many cases, and were settled in 72%, 75%, and 25% of the cases in which they were mediated, respectively. In cases that did not settle, the average mediator rating of the progress made during the mediation was 3.8 out of 6.

Parents' satisfaction with CSEMP mediations: On a scale ranging from 1 (very dissatisfied) to 7 (very satisfied), parents' average satisfaction was 5.4 with the mediation process, and 4.6 with the outcome of mediation. The vast majority of parents responded with a '6' or a '7' when asked if the mediator listened to them, if the mediator understood them, if they would use the CSEMP again, and if they would recommend the CSEMP to a friend if s/he were experiencing similar problems. The most frequent theme related to parents' satisfaction with the process of their mediations was around the timing of the process, which is discussed further below. Many parents expressed thanks for the help they received in mediation.

b. Objective 2 - Obtain rich descriptions of the mediation structures and techniques

Structure of Mediations: 13 mediations involved joint sessions, 10 involved shuttle sessions only, and 6 involved both joint and shuttle sessions. Cases involving only joint sessions were significantly lower in conflict (as rated by mediators) than other cases. Qualitative data suggests that it was often the mediator's strategic choice to use shuttle mediation in higher conflict cases.

Timing of Mediations: 35% of cases went through the entire CSEMP in 3 months or less. However, there was a good deal of variation in the time cases took to get through the program. Several participants felt rushed through specific parts of the process, particularly in reviewing and signing documents. Also, many participants felt that the other parent or (less often) the mediator was dragging their feet at points in the process. When the other parent was perceived to be the cause of delay, this would often lead to anger and resentment. Mediators found that CSEMP cases would lose momentum if not strongly case-managed.

"For many years we have had too many problems. Now everything is OK. We have more communication and we talk now ... my daughter calls me. It's perfect. I really appreciated what you are doing for me" ~Father

"I think the service has real value in allowing parties that have baggage to communicate on a sensible level with the child's best interests and legal requirements considered by experienced counselors" ~Father

"I was absolutely impressed with the whole process and how transparent everything was." ~ Mother

I just cannot thank you enough for having this program" ~Mother

⁵ The evaluator followed-up with parents who had completed their mediations at least 2 months before to the end of the Project. In 11 of these cases an agreement had been made at mediation, and in 10 of these both parents were complying with that agreement.

Through the course of the Project, most mediators became firmer about structuring the mediation process, and found the 6-hour time limit for mediations to be a good tool for doing this.

Techniques used in Mediations: Overall, most of the parents felt that the mediator used interest-based and evaluative techniques about equally, and found them to be equally helpful. Interest-based techniques were used most

often before and during the joint or shuttle sessions, while evaluative techniques were used more often afterward. Mediators employed evaluative techniques in particular ways. First, they used them if the parties requested legal information, which they often did. Second, evaluation techniques were used "gently" and were often framed as *providing information*, not opinion.

c. Objective 3 - Explore the use of distance mediation in this context

90% of the mediations (n=26) were conducted over distance, that is, with one or more of the participants in a different physical location from the mediator and/or each other. Teleconferencing was used as the primary tool in most distance mediations, supplemented by web conferencing platforms, email and fax for work on documents, and texting for communication. There were advantages and disadvantages to mediating over distance. For example, many parents appreciated being able to mediate in the comfort of their own home, not having to be in the same room as the other parent, and not having to travel to the mediation. Further, both parents and mediators benefited from easier scheduling, and there being a more subdued emotional tone to the mediations because non-verbal "triggers" manifested less often than they would in-person. However, both the parents and the mediators found it difficult to do "emotional work" over distance (e.g., building rapport, managing emotions, and picking up on sensitive issues). Further, as the distances grew (e.g., across time zones or borders), they could lead to delay.

d. Objective 4 - Investigate the nature and impact of the adult child's participation

In most cases the adult child and the mediator would discuss and decide on how the child would participate in the mediation, taking into account the child's current and historic relationships with the parents, the child's availability, the level of discord between the parents, and the clarity of the child's plans. Both the mediators and parents noted that settlement was more likely when adult children had clear plans and demonstrated responsibility, and that their voice created shared interests and reduced conflict.



"If you become too evaluative, you can become the bad guy. It's all about how it's couched and phrased. For example, 'I think your position is unrealistic' is evaluative and makes you the decider. 'I can tell you that in similar circumstances a judge would probably do X' is you just giving important legal information."

~ Mediator



The education plans were critical in these mediations. In most cases both the mediators and the parties found these plans to be very concrete/specific, very practical and realistic, and to be a source of high agreement/low conflict between the parents. They provided an area of common interest shared by the parents and the adult child.



Mediators felt that the CSEMP education plan process could challenge the cognitive capacities of children in late adolescence. The children varied in their abilities to develop clear plans and detailed budgets for achieving their goals. In some cases, they got help doing this from the mediators.

e. Another finding of interest - uptake

Despite a great deal of effort on the part of FMEP staff, and a large number of inquiries from the public about the Project⁶, uptake was quite low. Of the 432 FMEP cases to whom invitations were sent, 61 were ultimately referred to Mediate BC. Of these 61, 35 dropped out before the mediation - usually before the intake process was completed. FMEP and Mediate BC administrative staff, through speaking with many potential participants, felt the primary reasons for this to be:

- When first contacted, parents believed the “other side” was initiating the process and were suspicious and/or lost interest right away. Parents also declined at the outset because they did not know what to expect, because of time constraints, because of not having had contact with each other for a long time, and/or because they did not want to exchange financial information.
- After consenting to mediate, several parents failed to respond to the administrator or mediator’s communication attempts; some decided to take a legal route to deal with the issue(s); and some were unwilling to exchange financial information with the other parent.

5. Main Conclusions

The experience and the results of the CSEMP will be of interest and use to families in transition and all of those who support them in their journey through the justice system – mediators, lawyers, judges, family justice counsellors, and those who are responsible for the design and implementation of family justice services. The Project has demonstrated mediation's flexibility and ability to meet the needs of families even where there is conflict, estrangement, and many years that have passed since the original separation.

The CSEMP demonstrated specific tools and methods that can be used to successfully involve young adult children in mediation, including the Education Plan and involving young adults in actual mediation sessions. It has also given some guidance around how mediators can employ interest-based and evaluative techniques in the same case depending on the needs of the situations and parties; specifically, by framing evaluation as information rather than opinion, and usual evaluative techniques gently. Further, we now understand that many families in these contexts are actually looking for and need evaluative information. The Project has also shown that distance mediation can be effective in these types of cases. In fact, not only can it “work,” but in some ways they have advantages over traditional “in-person” mediation, including reducing emotional “triggers” that could derail a mediation.

⁶ During the course of the Project, FMEP received 309 telephone calls from FMEP clients, members of the public and the legal community asking for more specific information about the Project – demonstrating that there was significant interest.

We learned that low uptake can be a particular issue in the FMEP context. Although we obtained some insights into the reasons why parents might have been reticent to participate in mediation, more research would be needed to determine the reasons for that reticence. Further, the high standards set for parents' financial disclosure, and the fact that these standards may have discouraged potential participants from mediating, raises a policy issue for the Project (should it or a similar program continue) and for the broader BC legal community as to what financial disclosure standards are appropriate for parents who have been apart for many years.

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1.0. Background

1.1. Overview

The Child Support Eligibility Mediation Project (the "CSEMP" or the "Project") was a collaboration between the Mediate BC Society⁷ ("Mediate BC") and the British Columbia Ministry of Justice, facilitated through the Maintenance Enforcement and Locate Services ("MELS") division of the Justice Services Branch. MELS is, among other things, responsible for the delivery of the Family Maintenance Enforcement Program⁸ ("FMEP"), which monitors and enforces all maintenance orders and agreements that are filed with it. The CSEMP was generously funded by the Law Foundation of British Columbia.⁹

Most of the mediation participants had orders or agreements that were enrolled with FMEP for the purposes of recording support payments due and paid and /or for the purpose of enforcing those support payments. The Project gave parents and adult children involved in the BC maintenance enforcement system the opportunity to mediate issues around how the parents would continue to support the child past the age of 19 – primarily as they pursued post-secondary studies. The project aimed to provide up to 6 hours of free mediation services to 50 families with children either age 19 or over, or approaching age 19, to help the families determine how much child support should be provided for the adult child to carry out his or her plans for their post-secondary education. Participation was voluntary.

1.2. Child support law in British Columbia

In BC, the payment of child support is governed by the *Federal Child Support Guidelines*¹⁰ (the "Guidelines"). Every Canadian province or territory uses guidelines, either incorporating the federal guidelines or prescribing similar guidelines under their legislation. For most cases, the Guidelines provide the levels of support that should be paid for children up to and including age 18. In addition to the levels of support set by the Guidelines, parents are also responsible for paying "special expenses" or "extraordinary expenses" such as childcare, medical and dental premiums attributable to the child, braces, glasses, post-secondary fees, extracurricular activities, etc. However, child support for children aged 19 or older is contingent upon the child remaining a "child of the marriage" within the meaning of section 2 of the *Divorce Act*¹¹ or section 146 of the *BC Family Law Act*¹², both of which define "child" to include a person over 19 who is unable to withdraw from the charge of his or her parents or guardians.

⁷ Mediate BC is a non-profit organization whose mission is to lead, promote, and facilitate mediation and other collaborative dispute resolution processes throughout British Columbia. For more information on Mediate BC, see www.mediatebc.com.

⁸ For more information on FMEP, see www.fmep.gov.bc.ca.

⁹ For more information on the Law Foundation of British Columbia, see <http://www.lawfoundationbc.org/>

¹⁰ Federal Child Support Guidelines, SOR/97-175. Available online at: <https://laws-lois.justice.gc.ca/eng/regulations/SOR-97-175/index.html>

¹¹ Divorce Act, RSC 1985, c 3 (2nd Supp). Available online at: <http://laws-lois.justice.gc.ca/eng/acts/D-3.4/>

¹² Family Law Act, SBC 2011, c 25. Available online at http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_11025_01

Most commonly, a child is unable to withdraw from her or his parents' charge as a result of pursuing post-secondary education.

1.3. Why use mediation in maintenance enforcement when children are over age 19?

For support orders concerning adult children who are enrolled with FMEP, enforcement officers determine whether an order or agreement filed in the FMEP is enforceable, based on information from the parties. Parents who wish to dispute the enforcement officer's decision are faced with a complex process that can involve varying levels of judicial review and court. For support orders or agreements not enrolled with FMEP, a requesting parent may go to court to enforce the order or filed agreement or to obtain a new order.

The court system is often not the most appropriate venue to resolve family disputes. In recognition of this, a shift is occurring in the BC family justice arena from a litigation orientation to a collaborative orientation amongst parents as well as children. This has been articulated in section 4 of the BC *Family Law Act*¹³, which encourages families to resolve their disputes out of court. The *Family Law Act* also recognizes the importance of including the children's views generally in disputes involving them¹⁴. Because these "children" are, in fact, *adults* on the precipice of deciding about their futures, it is particularly important to include their voices in any negotiations about their support past the age of 19.

Part of the reason that this group of separated or divorced parents with an adult child was chosen for the CSEMP is that older children make up a surprisingly substantial group (23%) of all the families enrolled in the FMEP¹⁵. Clearly there is a large group of parents and adult children who could potentially benefit from the opportunity to mediate their child support eligibility issues. To the best of our knowledge, the CSEMP is the first time that mediation has been used in Canada to deal with maintenance enforcement issues. One of the purposes of the CSEMP was to support this ongoing shift to collaboration in BC family law by using mediation in this new and unique context.

2.0. Program Description

2.1. The mediation structure and model

Mediation structure: Generally speaking, mediations were conducted using a 6-hour, multistage process, incorporating a mediation model that reflected cultural assumptions related to

¹³ *Ibid.*

¹⁴ See for instance s. 37 of the *Family Law Act*.

¹⁵ British Columbia Family Maintenance Enforcement Program, *Annual Report 2011 – 2012*. Available at www.fmep.gov.bc.ca/shared/pdfs/BCFMEP-Annual_Report.pdf. Further, the FMEP 2009 – 2010 annual report references the "general societal trend for children to remain at home dependent upon a parent for support, for longer periods of time." As of January 11, 2011, there were 17,679 children over the age of 19 eligible for support in FMEP cases. Of the more than 44,000 cases enrolled with FMEP, 12,207 involve one or more children over the age of 19.

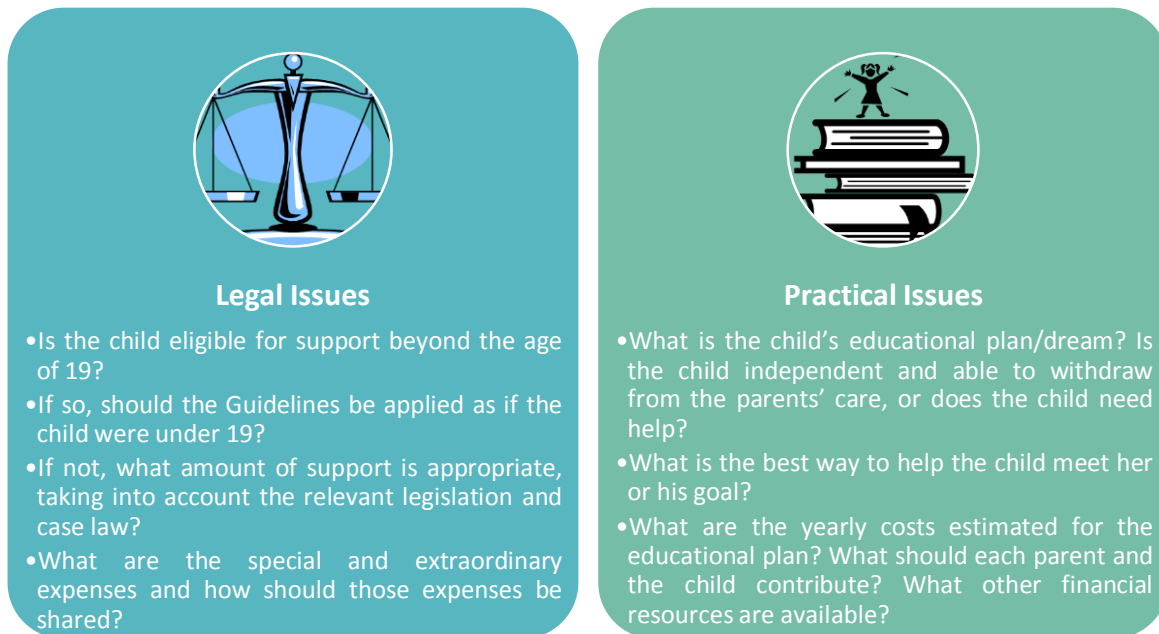
western individualism, e.g. that the parties are independent agents who could express themselves directly and make decisions for themselves in their own interest. However, this structure (including the 6-hour time limit) could be modified if the mediator and parties found it to be appropriate. In general, the mediations consisted of:

- Approximately 1-2 hours of premediation telephone calls or in-person meetings between the mediator and the parents and child;
- Approximately 2 hours of joint and/or shuttle¹⁶ sessions which involved agenda setting, discussion of issues and interests, developing an agreement, and drafting and finalizing a mediation agreement or an agreed statement of facts;
- Approximately 1 hour of pre and post-mediation preparation on the part of the mediator.

Lawyers for either or both parents were permitted to attend joint sessions. The adult child, parents, and the mediator came to consensual decisions about if and how the adult child would participate in the mediation process. Mediation activities could occur “in-person,” or, as was more often the case, over distance using the telephone, email, and/or other technology. Occasionally one party would be present in person with the mediator with the other party on the telephone.

Issues open to mediation: Both legal and practical matters were discussed at mediation. While some other issues were also open to mediation if they arose, including arrears, parenting time and contact, and support of other children of the relationship, the core issues were those in Figure 1, below.

Figure 1. The legal and practical issues around child support for adult children



¹⁶ In shuttle mediation, the mediator meets individually with each party, shares information between them and assists them to reach an agreement by acting as an intermediary or go between. The parties do not communicate with one another individually.

Mediation techniques & mediators: When it comes to support of adult children, much like the support of younger children, communication and information exchange is key to engendering understanding and agreement among family members. At the same time, it is also important that parents and the adult child understand the legal principles and precedents which would affect their outcomes in the court system, so they can negotiate their agreements with an understanding of the legal context. For these reasons, CSEMP mediators (although not *required* to use these techniques) could use a variety of techniques that, broadly speaking, could be termed “facilitative”/“interest-based” and “evaluative” approaches.

Facilitative or interest-based techniques included:

- Encouraging the parties to articulate the issues they would like to resolve;
- Facilitating communication between the parties;
- Encouraging parties to express their needs and concerns;
- Pointing out common interests;
- Steering away from rights-based views of the dispute;
- Asking questions to help parties evaluate their options; and;
- Assisting parties to arrive at a consensual settlement of their dispute.

Evaluative techniques included:

- Collecting and recording the facts of the dispute;
- Informing the parties about the legal issues arising in their case, and their options with respect to legal process;
- Providing an understanding of the range of likely outcomes if the parties were to obtain a judicial decision; and;
- Based on the foregoing, provide opinions regarding acceptable settlement ranges.

Six highly-experienced family law lawyer/mediators conducted the CSEMP mediations. The number of years since being called to the Bar among these mediators ranged from 16 – 34 years, with an average of 24 years. They had been mediating from 9 – 33 years, with an average of 17 years. Because of the expertise of these mediators, all decisions regarding which techniques to use under what circumstances were left entirely up to their discretion. Part of the purpose of the evaluation was to obtain rich descriptions of when and how mediators employed interest-based and evaluative techniques.

Post mediation information/work: If the parties reached an agreement on all of the issues discussed during the mediation, the mediator could, at the request of the parents, draft a mediation agreement which the parents could then take to their lawyers for independent legal advice and signature. If no full agreement was reached, the mediator facilitated an exchange of documentation and information between the parents. They could have also documented partial agreements, and may have provided findings of fact or an agreed statement of facts to the parents. Determining whether agreements needed to be filed in court and actually filing them was left to the parents and/or their lawyers. The parents were given an information sheet about post-mediation steps that provided resources they could use to help determine if they needed to get their agreement filed and how to go about doing so.

2.2. Participant eligibility, recruitment, and information requirements

Eligibility requirements: For an FMEP case to be eligible for the Project, the child must have been 19 or approaching 19, there could not be any current court action by the parties or FMEP in relation to the case, the case's enforcement officer must have approved the case for mediation, and both parents must have agreed to mediate. Cases that met these criteria were referred to Mediate BC. Once received by Mediate BC, the parents completed information forms, went through a screening process, and exchanged financial information.

Recruitment: FMEP recruited participants for the 10-month period between July 2012 and April 2013. Recruiting was done primarily by an FMEP Enforcement Officer ("EO") who was assigned to the Project. The EO identified potentially eligible cases from FMEP's case load and sent an invitation letter to the parents in each case that described the Project and contained a consent form for them to return if they wished to participate. If both consent forms were received, she transferred the information to Mediate BC. If a consent was received from one parent only, she contacted the other parent to determine if they were interested in participating.

The Project was also open to families not already part of FMEP's case load, and Information about the Project was also distributed through various means, including legal blogs, websites, and family law and mediation networks. A summary of all the efforts that were made to recruit participants for the Project is provided in Appendix A. The initial plan was to conduct 50 mediations from amongst eligible cases. As explained later in this report (in section 4.4.) 29 cases completed mediation.

Information requirements: Before assigning the case to a mediator, the CSEMP administrator conducted an initial screening interview with the parents to determine whether the case was appropriate for mediation. If the case was deemed appropriate at that point, the parties were required to provide or receive various pieces of information that would help the mediation process¹⁷. These included:

- The adult child completing an education plan ("EP"; sometimes with help from the mediator) that outlined the child's goals, resources, and request for assistance. The EP was shared with the parents and mediator. A copy of the EP template is in Appendix B.
- Parents provided the same financial information that they would be required to provide if they were operating under the Rules of Court. This included: their personal tax assessments for the past 3 years; a recent paystub if they were employed; social assistance statements if applicable; financial statements if self-employed, in a partnership, or having controlling interest in a corporation; and their most recent assessment notice for any real property they owned. A copy of the financial disclosure information sheet given to the parents is in Appendix C.
- The parties (including, in most cases, the adult children) reviewed and signed an Agreement to Mediate that outlined: the voluntary nature of their participation; the role of the mediator as a

¹⁷ Some of these requirements were relaxed if the mediator and relevant parties consented to it.

neutral facilitator and not legal counsel for any party; policies around disclosure of information; the without prejudice nature of mediation; encouragement to obtain independent legal advice; etc. It also contained provisions for retaining the mediator for a fee past the 6-hour time limit if desired by both parties. A copy of the Agreement to Mediate is in Appendix D. Please note that this document was drafted before the BC *Family Law Act*¹⁸ came into force on March 18, 2013 and, as such, consequential amendments may be needed before it is used in the future.

3.0. Methods

3.1. Evaluation objectives and questions

The primary evaluation objectives were to:

- Investigate the effectiveness of the interest-based/evaluative model in this context;
- Obtain rich descriptions of the mediation structures and techniques as they were carried out in practice by the mediators so we could get a sense of what interventions were best suited to which participants under which circumstances; and
- Explore the use of distance mediation in this context.

The secondary objectives were:

- To investigate the nature and impact of the adult child's participation on the mediation process; and;
- Investigate how conducting these mediations challenged and/or developed mediators' skills and practice.

3.2. General Approach

The nature of the Project called for a case study evaluation approach. Specifically, the Project was using mediation in a new context. Further, the exploratory and descriptive nature of the evaluation objectives required that we obtain in-depth process measures from which we could describe how the mediation model was implemented and how it affected participants. We used a mixed-method approach to gather both qualitative and quantitative data. Appendix E summarizes how the evaluation objectives were operationalized, the data sources, and data collection tools.

Obtaining control or comparison cases was impossible for several reasons including the project budget, administrative barriers, and institutional privacy policies. However, a comparison group could be added after the fact if desired, and their data could be compared to that of CSEMP participants' on key outcomes (e.g., settlement rates). This would allow for stronger causal inferences to be made about the effect of mediation on key outcomes.

¹⁸ *Supra* note 6.

3.3. Instruments, data collection, and analysis

Instruments and data collection: All parents consented to provide information for the evaluation. Demographic information was collected from intake forms and financial documents parents provided. Parents completed an online structured questionnaire after their mediation that asked about, *inter alia*, the amount of progress they made, techniques the mediator used and how effective they found them to be, and their satisfaction with various aspects of the mediation process and outcome. A copy is in Appendix F.

At the end of each mediation, the mediator completed a questionnaire and a log that gathered descriptive information and their opinions about the mediation. The questionnaire was highly structured, and asked about, *inter alia*, whether the mediation was in-person or over distance, the technologies that were used, the techniques the mediator employed, the outcome of the mediation, and barriers and facilitators. The log contained seven questions designed to obtain more detailed and descriptive free-responses. Questions included which techniques were primarily used and why, how distance mediation affected the process and outcome, whether there were any power imbalances during the mediation, and the nature of the adult child’s participation in the mediation. Copies are provided in Appendices G and H.

At the end of the project, parents who had mediated at least 2 months prior to the project end date (n=28; 14 cases) were interviewed to assess: the durability of their agreements; the degree of progress made in cases that did not settle at mediation; etc. Follow-up times ranged from 2 – 10 months, with an average follow-up time of 5.3 months. A copy of the parent follow-up interview protocol is in Appendix I.

Two one-hour semi-structured focus groups were conducted with mediators at the end of the Project, and their invoices were used to gather information on the length and structure of mediation sessions. Finally, the key administrative personnel from FMEP and Mediate BC kept records of participant recruitment and the progress of cases. They were also interviewed at the end of the Project.

Response rates: Response rates to the questionnaires and mediator logs were very high (see Table 1, below), so the data obtained can be considered representative of all parties and mediations¹⁹.

Table 1. Response rates to questionnaires, interviews, and mediator logs.

Instrument	Response rate		
	Mothers	Fathers	Total
Mediator post-mediation questionnaires	100% (n=29/29)		
Mediator logs	100% (n=29/29)		
Parent post-mediation questionnaires	93% (27/29)	76% (22/29)	84% (49/58)
Parent follow-up interviews	71% (10/14)	93% (13/14)	82% (23/28)

¹⁹ There is one potential caveat: 6 of the 9 fathers who did not respond to the survey reported in the CSEMP intake form that they had very little or no communication with their adult child. Thus, the results may not be representative of these “estranged” fathers.

Data analysis: Frequency distributions, plots, charts, and cross-tabulations were used to analyze quantitative data. Occasionally, where appropriate, tests of statistical significance were performed. Thematic analysis was used to analyze qualitative data.

4.0. Results

4.1. Characteristics of families that mediated

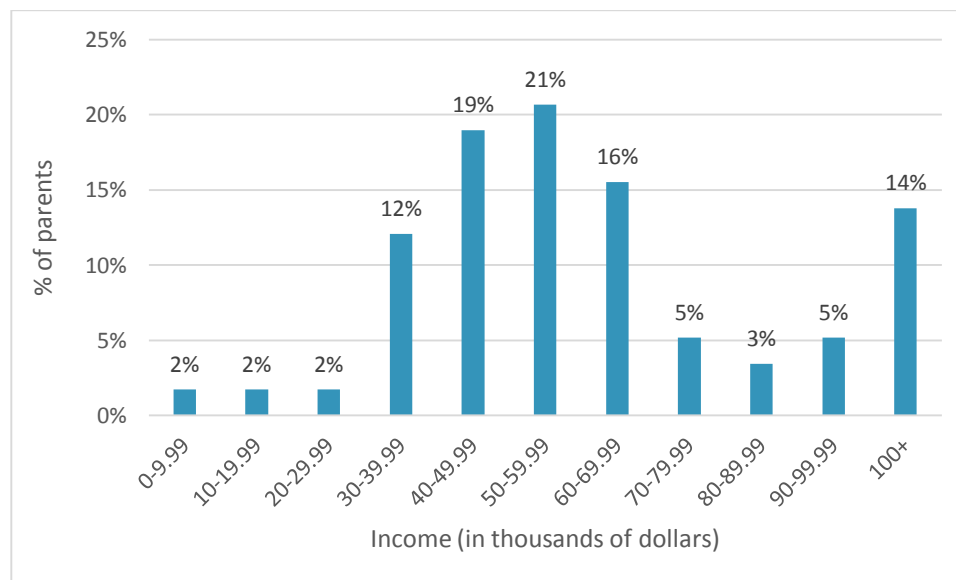
Because this was (to the best of our knowledge) a new context for using family mediation, we wanted to understand the pre-mediation situations of the families involved, including their demographic characteristics, the nature of the inter-family relationships, the adult children's plans for their education, and their reasons for wanting to mediate. The characteristics of these families are important contextual factors in interpreting the results of the evaluation.

4.1.1. Demographic Characteristics

Thirty-eight of the parties lived in urban centres (i.e., populations greater than 5,000) and 21 lived in smaller towns or rural areas. Two participants lived outside of Canada. Seventeen parents lived in different towns from one another, and 13 in the same town.

Figure 2, below, displays participants' gross incomes for the last available tax year.

Figure 2. Participants' incomes (gross) for the last available tax year.



Participants' incomes ranged from \$0 to \$247,000 per year, with an average of \$55,116. The majority (52%) earned between \$30,000 and \$60,000. However, a surprisingly high numbers of participants (14%) earned more than \$100,000. The average disparity in income between mothers and fathers in each case

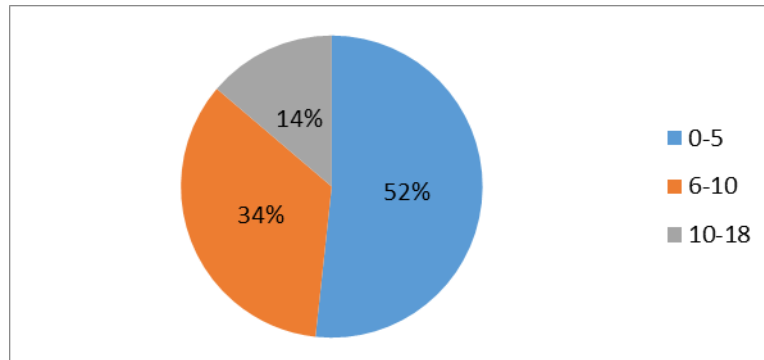
was \$35,914 (range \$1,030 - \$161,469). In 19 cases the father earned more, and in 10 cases the mother did.

4.1.2. *Inter-family relationships and conflict*

Inter-family relationships: Parents had lived separate and apart from 4 to 22 years, with an average of 11 years. In 10 cases there were no other children of the relationship, in 15 cases there were one or more younger children, and in 4 cases there were one or more older children. Before their mediation, parents answered three questions designed to measure the degree of conflict between them and the other parent²⁰. Responses were summed together²¹ to give an indicator of the level of conflict between parents in each case. Scores could range from 0 to 24 (with lower scores indicating more conflict). Scores actually ranged from 0 – 18, with an average of 5.6. These scores are presented in Figure 3, below.

Parents had lived separate and apart from 4 to 22 years, with an average of 11 years.

Figure 3. Premediation conflict as reported by parents (lower scores indicate more conflict).



- 52% of parents scored between 0 and 5, and 34% scored between 6 and 10. Only 14% scored 10 or higher.

During the focus groups, the mediators discussed cases in which they found that the parents, “...*actively hated each other.*” They also discussed cases in which parents “...*had been estranged from each other for such a long period of time and had a high level of coldness/distance. The parties hadn’t had conversations “as a family” in the recent past.*” Further, they also spoke of cases in which there was little or no conflict or ill-feelings between the parties (e.g., “*The main reason it settled was there was still a good deal of connection between the parties*”). Based on these comments and the quantitative ratings of conflict displayed in Figure 3, we conceptualized that there were essentially three types of relationships between

²⁰ These three questions were: “the other parent and I can talk about things without getting angry;” “the other parent and I are pretty reasonable with one another;” and “the other parent and I cooperate well when it comes to co-parenting.” Parents rated them on a 5-point Likert-type scale ranging from 0 (not at all) to 4 (very much so).

²¹ The average inter-item correlations and alpha coefficient were sufficiently high to justify summing ratings on these items together.

the parties: (1) cases in which the parents were actively angry with one another; (2) cases in which they were estranged (characterized by coldness and distance); and; (3) cases where there was little or no conflict.

Before their mediations, both parents also rated the degree to which “the adult child and I can talk about the things that matter to him/her” on a 5-point Likert-type scale ranging from 0 (not at all) to 4 (very much so). In 10 cases one of the parents rated this item a “0,” and in all but one of them this was the father. We conceptualized these nine cases (31% of the overall sample) as having “estrangement” between the father and adult child.

4.1.3. Children’s plans for their education before mediation

Before mediation one or both parents reported in 26 of the 29 cases (90%) that the adult child had a plan for their education past the age of 19. Six parents, all of whom were fathers estranged from the adult child, reported not knowing if the adult child had such plans. Parents were also asked how much conflict there was among the “family” around the issue of whether the adult child would continue to receive child support beyond the age of 19 (with higher ratings indicating more conflict). Mothers and fathers perceived the amount of conflict somewhat differently ($r = 0.4$). The average ratings were 2.7 and 3.1 for mothers and fathers respectively, *indicating that, generally speaking, there was conflict around the children’s plans for their education as well.*

4.1.4. Reasons for wanting to mediate

Participants were asked why they decided to mediate. Far and away the most common response was the desire to avoid going to court and the cost, stress, and emotional pain that participants anticipated court would involve.

I spent 2 years and \$70K to prepare and defend a separation agreement that addressed important issues to me. I used a great lawyer and went to court several times. It was VERY stressful. It took a piece of me ...

I could not bear full-on legal, court & costs again. Mediation was my only hope on so many levels. ~ Parent

I was totally floundering and experiencing severe anxiety because I didn't know where to go for help. When I received the invitation to participate in the FMEP Pilot Mediation Program, I was so relieved. Finally, I found the help that I needed. ~ Parent

Many participants also saw mediation as the dispute resolution method that would be in the best interests of their children. As one father explained, *“I am open to anything that could make my kids lives easier so they don't have to deal with any of their mothers or my issues with each other.”* In a few cases the parents believed they could solve the issues themselves, but felt they needed a little help. As one father stated, *“I knew that both myself and the child's mother were not too far apart on issues but that we needed help to be able to communicate...”*

4.2. Case Profiles

Our FMEP stakeholders were particularly interested in hearing some of the stories of the families that mediated through the Project. Each family had unique histories and experiences during their mediations, and the only way to provide a “representative” group of their stories would be to include one for each of the 29 families that mediated. Unfortunately, due to space limitations this was not possible. Instead, three case profiles were compiled for three randomly chosen families. Some small and inconsequential changes have been made to some of the information in these case profiles to reduce the likelihood that the parties can be identified.

4.2.1. A high conflict case in which an agreement was reached

The parents in this case had lived separate and apart for nine years and had two younger children together in addition to the adult child. The child who was technically the subject of the mediation was not in need of support, but one of their other children was planning to attend a very expensive post-secondary program, so they mediated support for him. The parents had a long history of high conflict, including, “*a very divisive, long, and extremely difficult divorce proceeding over a period of 5 years with lawyers.*” They spoke with each other only when they had to. They also had very different views on how much the other should contribute to their child’s education. They viewed mediation as a “last chance” option before legal steps would have to be taken that would have been hurtful for the adult child.

The mediation took place over 5 months, and involved premediation sessions, a joint session, and some shuttle sessions. In addition to support for the adult child, they also discussed (but did not resolve) arrears. Because of the long history of conflict between the parents, the mediator used premediation mainly to build rapport with the parties, and employed a highly structured interest-based process when working with both parties that gave them responsibility for making proposals and counter proposals. She provided legal information, but in a more interest-based way. The mediator primarily acted as a buffer between the parties so they could work on issues without inflaming old conflicts.

The mother reported that the mediation very much improved her understanding of the legal issues and relevant law, but did not help her understanding of the other parent’s perspectives or identifying common interests with him - neither of which were goals in this mediation. She perceived that the mediation helped the other parent become more reasonable and appreciate the impact that not coming to an agreement would have on their child:

the mediation helped my ex see how wrong his position was and helped to preserve their relationship [i.e., the relationship between the other parent and the adult child] and allowed my ex and I to resolve the issue without becoming confrontational with each other which has helped in other areas of discussion regarding child issues. The mediation accomplished everything I hoped it would. Thank you for having this program. Without it there would have been some very difficult relationship problems that may never have been sorted out.

Despite there being some communication problems between the joint sessions and the agreement signing that caused delays on some time sensitive issues, she was highly satisfied with both the mediation process and the outcome.

4.2.2. A high conflict case in which the parties could not overcome the issue of contact with the adult child

These parents had lived apart for seven years and had no other children together. They were both lower income earners and had a child with special needs who was not able to participate in the mediation. They had a history of conflict over the issue of access. They participated in a distance mediation that took 5.5 hours over 2 months, and involved a 2-hour joint session. Despite the mediator employing mainly interest-based techniques supplemented by evaluative techniques when the parties suggested they would go to court rather than compromise, the parties could not overcome the roadblock that the access issue presented. They had different fears and values about what was best for the child, and had a hard time seeing each other's perspectives.

Both parents were very dissatisfied with the outcome of mediation because they did not fully understand what the outcome was or where the issues stood at the end of the mediation. The father stated, "*in order for mediation to work people have to agree on something. If this does not happen we are wasting time and tax dollars because mediators can't and won't make outcome decisions ...clearly a judge has to make a decision.*" Both the mediator and mother believed the mediation would have worked better in person because the mediator could have developed a better connection with the parties and have had a "*better appreciation of the sensitivities around some of the issues.*"

Four months after the mediation no progress had been made on the issue, and the child was just graduating from high school. The parents were not communicating with one another.

4.2.3. Bridges built between an estranged father and daughter

These parents had been apart for many, many years, and had two older children together. They both immigrated to Canada many years previously. There was much conflict in their history, but for the last ten years they essentially did not communicate with one another – including the father and the adult daughter. The mediation took 8 hours over 3 months, and involved one 3.5 hour joint session which the father and daughter attended in person and the mother attended via telephone. The adult daughter was 22 years old, and had a very concrete, practical, and realistic education plan that she communicated to both her parents during the joint session. Little conflict arose during the session, and the parents came to an agreement on support for the daughter and settled the issue of arrears. The mediator used mainly interest-based techniques to reconnect the father and daughter. According to the mediator:

The mediation allowed a conversation between the daughter and father who had not spoken for some time. It gave the daughter an opportunity to show Dad she was back at school, she was on the honor roll; she explained her plans. He was really proud of that. They talked about other things, hopefully it will allow them to reconnect. He willingly agreed to help her, she saw his finances and they came to an

agreement. Mom was very much just supporting her daughter, allowing her to make the decision around how much dad should contribute.

According to the mother:

The information about my child's education is great, because in our case the father didn't know anything about my daughter's education. It is a good way to inform the parent that is more absent in the child's life.

And according to the father:

I was really happy - for many years we have had too many problems. Now everything is OK. We [he and his adult daughter] have more communication and we talk now ... she calls me. It's perfect. I really appreciate what you are doing for me.

4.3. Effectiveness of the interest-based/evaluative model in this context

4.3.1. Improvements in understanding the legal and relational aspects of the dispute

In their post-mediation questionnaires, parents were asked to rate the extent to which they believed the mediation helped them understand six legal and relational aspects of the dispute. Each of these aspects were rated on 5-point Likert-type scale ranging from 0 (not at all) to 4 (very much so). The results are presented in Figure 4, below. The average responses to each item are in parentheses.

Figure 4. Ways mediation helped parents understand the legal and relational aspects of the dispute.

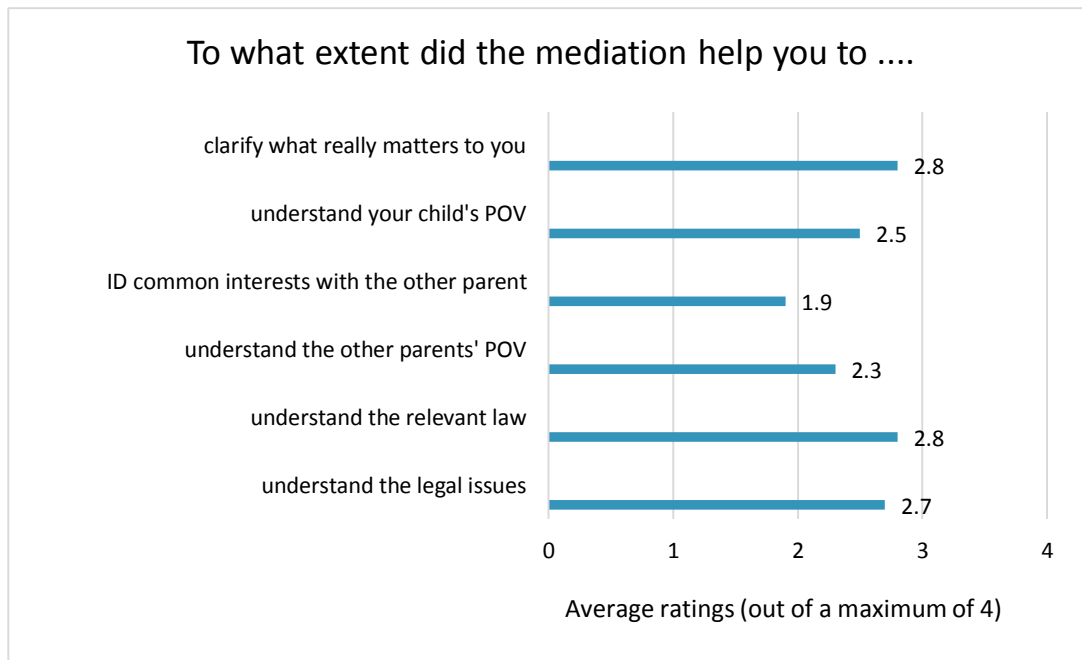


Figure 4 illustrates that:

(1) *Generally*, parents found the mediation process helped them *most* in clarifying what really mattered to them, understanding the relevant law, and understanding the legal issues;

(2) *Generally*, parents found the mediations *least* helpful in helping them identify common interests with the other parent and understanding the other parent's point of view. This is not surprising given the conflict and/or estrangement between many of the parents.

However, Figure 3 only gives *average* ratings. What is not evident from Figure 3 is that there was a good deal of variation in responses *within* each category²². Qualitative comments suggested that this variation may have been due to that fact that *different parents needed different things going into the mediation*. For example, some parents indicated they already knew a lot about the relevant law because they had legal advice on the issue already. Some parents already understood their child's point of view because they had spoken with them extensively about their future educational plans before mediation. Part of the mediator's job was to assess what the parent's different needs were and choose their techniques accordingly. For example, in one case:

The key factor [in the case settling] was that the mediator understood both of us. I had initially wanted the other parent to pay half the fees She understood what sort of people we are – she pointed out that he didn't legally "have" to pay as much as he had offered to pay. ~ Mother

4.3.2. Agreements and other progress made at mediation

Settlement: Nineteen (66%) of the 29 cases that were mediated resulted in an agreement between the parties regarding support for the adult child. Arrears, support of other children, and contact with the adult child were also issues open to mediation, and arose in 18 (62%), 12 (41%), and 8 (28%) of the cases, respectively. Arrears was settled in 72% of the cases in which it was an issue, and support of other children was settled in 75%. Issues around contact with the adult child were more difficult to resolve; they were resolved in 25% of the cases in which they were mediated.

- Eleven of the 14 cases that we followed-up with after mediation had made an agreement at mediation. An impressive 91% of these agreements (10 of 11) were being complied with at the follow-up interview.

One of the benefits a mediated agreement can have over a court-imposed one is flexibility, creativity, and tailoring to the parties' needs and contexts. This was evident in many of the agreements made during the course of the Project. For example, in many instances the parties negotiated the forgiveness of arrears, agreed on lump-sum payments for specific items like tuition, and agreed to pay amounts directly to the child on a monthly or annual basis. As stated by one participant: *"I've had a lot of negative experiences with FMEP and felt like they were telling me what to do. I felt more involved in structuring this agreement."*

²² Specifically, the standard deviations ranged from 1.0 to 1.4. A standard deviation is a measure of the variation in responses that can be roughly conceptualized as the average amount that any particular response varies from the average response. The higher the standard deviation, the more variation in responses.

Progress made: In cases that did not settle, the mediator, mother, and father rated the degree of progress they believed was made during the mediation on a 7-point Likert-type scale ranging from 0 (no progress at all) to 6 (reached agreement on all issues). The average ratings were 3.8, 3.0, and 4.1 for mediators, mothers, and fathers, respectively. Interestingly, mediator, mother, and father ratings of progress correlated only moderately²³, indicating that even around this seemingly “objective” issue there can be disagreement. “Progress” can be seen from multiple vantage points and through multiple lenses.

Qualitative themes around settlement: Mediators and parents discussed several facilitators (i.e., factors that help bring about settlement) and impediments (factors that make settling more difficult). The main facilitators and impediments are presented in Figure 5, below, along with some comments from mediators and parents that illustrate them.

Figure 5. Main facilitators and impediments to settlement



“Most of the parties had previous bad experiences in court and don't want to end up back there again. Even though they despised the other person they realized they need them to work this out” ~Mediator

“Going through the numbers with the parents clearly. This takes away one point of resistance to getting an agreement” ~ Mediator

“The agreement we came to is worth the situation going away. \$x/month is a not going to make or break me and if it means the situation going away and not having to deal with her then it's worth it.” ~ Parent

Dad was more of the perspective that his son had to work; mom was more about whatever the child needs.” ~Mediator

“Neither party believed the other actually wanted to settle” ~ Mediator

4.3.3. Parents’ satisfaction with CSEMP mediations

Satisfaction ratings: On their post-mediation questionnaires, parents were asked seven different questions about how satisfied they were with the process and outcomes of their mediations. The parents

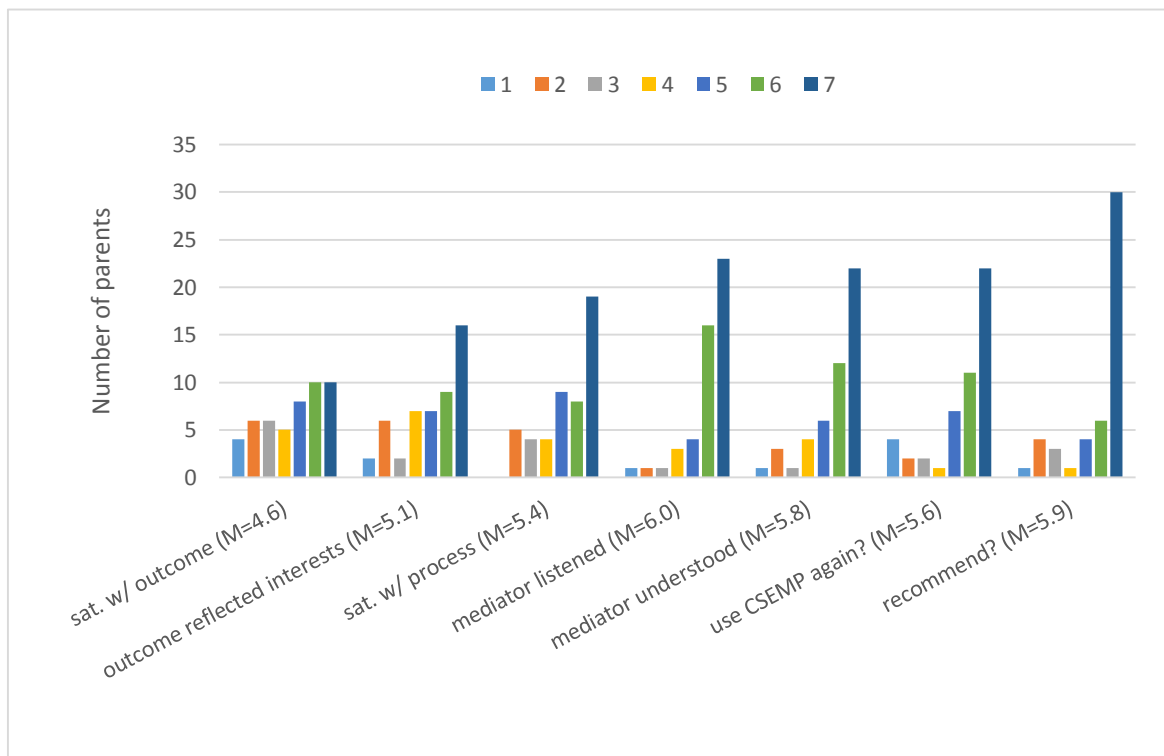
²³ Mediator ratings of progress correlated at .50 with mothers’ ratings ($p = .01$) and .36 with fathers’ ratings ($p = .11$). Mothers’ and fathers’ ratings of progress only correlated at .30 ($p = .20$) (all Pearson’s product-moment correlation statistics).

rated their responses to each of these satisfaction questions using a 7-point Likert-type scale ranging from 1 to 7, with higher scores indicating higher satisfaction.²⁴

- In 73% of cases the parents said they would recommend the CSEMP to a friend who was experiencing similar problems.
- In 41% and 55% of cases the parents rated their satisfaction with the outcome and process of mediation as a '6' or a '7'.

Figure 6, below, displays the detailed ratings for all aspects of satisfaction. The title of each satisfaction question is on the horizontal axis, and the average rating of all the parents for that question is in parentheses after each question's title. The vertical bars are the number of parents who responded to each question with a "1," "2," "3," etc. The purpose of this figure is to display the degree of *variation* in parents' responses to each satisfaction question – particularly to those that relate to satisfaction with *outcomes*.

Figure 6. Parents' satisfaction ratings (average ratings for each satisfaction question are in parentheses).



²⁴ Recipients tended to be slightly more satisfied than payors, but none of these differences were statistically significant (meaning that there either was not a large enough sample size to detect actual differences or that differences were merely due to random error). Because the distributions of responses on each satisfaction variable were not normally distributed, Mann-Whitney U-tests were performed to test the statistical significance of these differences. *Ps* ranged from 0.1 to 0.8 (all were non-significant at the alpha < .05 criterion).

As Figure 6 shows, most parents were generally quite satisfied with the process aspects of mediation; the average responses to process-related questions ranged from 5.4 to 6.0. Further, the vast majority of parents responded with a '6' or a '7' when asked if the mediator listened to them, if the mediator understood them, if they would use the CSEMP again, and if they would recommend the CSEMP to a friend if s/he were experiencing similar problems. However, as a group, parents were less satisfied with the outcomes of their mediation than they were with the mediation process (as evidenced by an average rating of "satisfaction with outcome" of 4.6 and far fewer responses of a '6' or '7' to this question). This was most likely due, at least in part, to the actual outcomes of the mediations. Specifically, parents who did not settle were significantly less satisfied with the outcome of their mediations than were parents who did settle²⁵. However, ratings for satisfaction with the process were not related to actual case outcomes²⁶. In other words, parents who did not settle were (generally speaking) more dissatisfied with mediation outcomes, but still satisfied with the process of mediation.

Satisfaction ratings were essentially stable across time. Of the 23 parents interviewed at follow-up, satisfaction with the outcome and process of mediation had changed only .05 and .10 of a point, and the extent to which they would recommend the CSEMP to a friend facing similar issues changed only .10 of a point.

Qualitative themes around satisfaction: Several themes were related to parents' satisfaction ratings. The most frequent of these were related to the timing of the process (issues around timing are discussed more fully in section 4.5 of this report). Some felt too rushed – particularly when it came to reviewing and signing the agreement, and others felt that there were inordinate delays in the process.

Parents' comments data suggested that delays were related both the mediator's and the other parent's (in)action. Some parents also:

I felt very positive about the whole process, including the lawyers and have accolades. I was absolutely impressed with the whole process and how transparent everything was.

The whole system is working well. It seemed to work fine. I knew it was a new program and there would be a few glitches but it was well handled.

This process worked very well and eliminated what would have almost certainly become a large conflict. I would strongly support making this process easily available to ex-couples who want to use it.

I just cannot thank you enough for offering this program.

I got what I wanted ... a fair way of helping her through her post-secondary education. AND it was free – I've had to pay thousands of dollars in the past. It was so nice and easy.

I really valued that she took the time to chat with my son before the mediation – she made him feel special

²⁵ $t(40) = -4.0, p \leq 0.001$.

²⁶ $t(40) = .87, p = 0.4$.

- Were confused about some aspects of the CSEMP process (particularly in the first few mediations that were completed);
- Felt that the mediator and/or his or her staff were sloppy when it came to written communications (e.g., documents contained spelling errors of names, incorrect dates, or other errors; mediator was not very available; confusion over next steps; again, these comments were most apparent in the earlier cases that were mediated);
- Believed that the mediator should have gotten information from collateral sources such as court records, FMEP, or family justice counsellors. Usually this is because they were seeking more of a fact-finding process/arbitration process.

4.4. Rich descriptions of the mediation processes – mediation structure and timing

4.4.1. Conflict during the sessions

This is a contextual variable for interpreting the mediation structures and techniques used by mediators. Mediators rated the amount of conflict, defined as “disagreement coupled with anger,” that was apparent during the mediation on a 5-point Likert-type scale ranging from 0 to 4, with higher scores indicating higher conflict. The average rating was 2.9. In 45% of cases, conflict was rated a “4.” It was rated a “2” or “3” in 13 cases, and as a “0” in 3 cases. Parents’ ratings of premediation conflict and mediators’ ratings of conflict during the mediation correlated only moderately ($r = .35, p < .05$), which could mean that the mediations themselves were less conflictual than typical relations between the parties (e.g., because they were focused on a limited number of issues, because the mediator used strategies to reduce the conflict, etc.), that mediator viewed conflict differently from the parents, or both.

4.4.2. Premediations

Premediation sessions with each party (including the adult child) took place in all cases and ran 1.8 hours on average (for both parents). In five sessions the premediation and shuttle mediation sessions blended into one another. With the exception of one case, the premediations were universally found to be critically important in each mediation.

Premediations were cited by mediators as being useful in:

- assessing the degree of hostility/conflict within the “family”;
- deciding what type of mediation to use (e.g., shuttle versus joint sessions; how to include the adult child's perspective in the process, etc.);
- assessing difficulties that might arise during the joint session;
- deciding how to frame/phrase questions and issues;

- building trust and rapport;
- isolating/narrowing the critical issues;
- generating strategy;
- preparing parties who are feeling fearful of / less powerful for the mediation process;
- assessing the child's plans (e.g., are they realistic, etc.) and character; and;
- culling the relevant facts.

4.4.3. Structure and length of sessions

90% of the mediation (n=26) were conducted with one or both parties over distance, that is, with the mediator in a different physical location from one or more of the parties. Mediations took an average time of 8.6 hours (range 5.5 hours to 13.9 hours) over an average of 1.9 months (range 1 week to 5.9 months). 13 cases involved joint sessions, 10 involved shuttle sessions only, and 6 involved both joint and shuttle sessions.

Conflict levels differed by type of session. Specifically cases involving only joint sessions were lower in conflict (average = 2.0; *sd* = 1.4) than those involving only shuttle sessions (average = 3.6; *sd* = 0.7) or both joint and shuttle sessions (average = 3.3; *sd* = 1.3)²⁷.

This probably reflects a strategic choice on the part of mediators to use shuttle mediation in higher conflict cases (per one mediator, *"I never brought them together after the premediation ... too much hostility and dad not functional in conversation."* For instance, in discussing his higher conflict cases, one mediator opined that: *Lots of structure is needed in these kinds of cases in terms of process ... you control the decisions, I control the process. The structure I ended up using most often was an exchange of proposals – works well for high conflict cases. I found that as soon as I strayed from it, people would lose focus and stray back into the past and old issues.*

Two mediators had comparatively "lower" conflict cases. They found that joint sessions were often necessary in their cases, but that parents would steer away from them if they had the chance:

[Mediator 1] *If I was to do it over again I wouldn't offer to have people do shuttle mediations, because they seem to want to go that route ... because of the long time since the parents have spoken they don't want to get into a room together.... If you give them that option for shuttling they will take it, and it makes it too easy for them. Toward the end I changed my approach to basically expecting that there would be a joint session in some form or another...*

²⁷*p* < .01

4.4.4. Timing of the mediation process

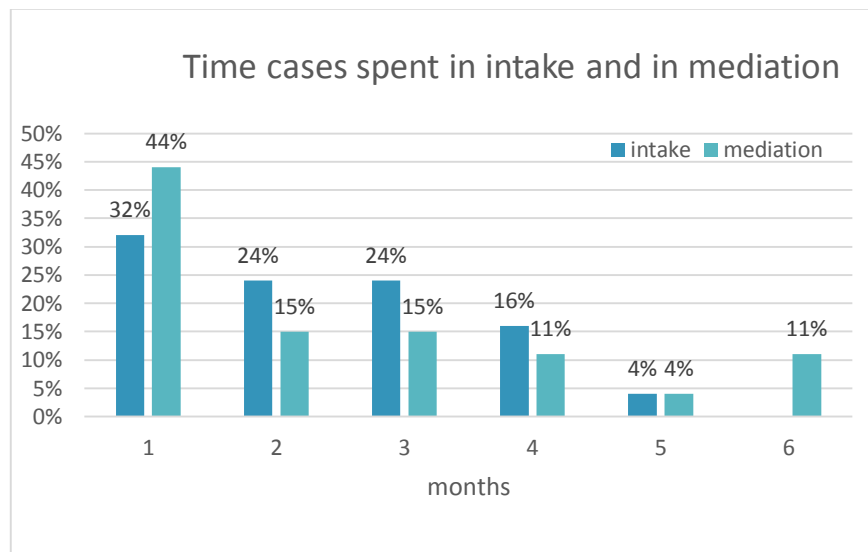
Once a case was referred to Mediate BC, it generally went through two phases:

- (1) an “intake” (i.e., from the time it was referred from FMEP to first contact with the mediator) during which time the Mediate BC administrator would manage the case including performing the initial screening, gathering documents, and assigning the case to a mediator; and;
- (2) the mediation itself, during which time the mediator would “manage” the case, including scheduling and conducting sessions, sending out documents for review, etc.

Many cases went through the intake and mediation phases fairly quickly. For instance, 32% and 44% of the cases went through the intake and the mediation in one month each, and 35% of cases went through the entire CSEMP in 3 months or less.

The average intake took 2.1 months, and the average mediation took 1.9 months. 56% of cases spent less than 2 months in intake, and 59% spent less than two months in mediation. The time that cases took in intake and in mediation is presented in Figure 7, below. It demonstrates that while most cases went through the CSEMP quite quickly, there were some exceptions.

Figure 7. Time CSEMP cases spent in intake and mediation.



Factors that influenced how quickly cases progressed through the CSEMP included the parents’ and mediators’ schedules, and how promptly the parties returned required documentation and communications from the Mediate BC administrator and the mediators.

From the parents’ perspectives: there were three major themes regarding timing of CSEMP mediations:

- (1) Several parents felt *rushed* through specific parts of the process, particularly in reviewing and signing documents. This was particularly evident at the start of the CSEMP, so it is possible that this became less of an issue as the Project moved along.

- (2) Many parents felt that the other parent or (less often) the mediator was *dragging their feet* at points in the process. When the other parent was perceived to be the cause of delay, this would often lead to anger and resentment. For instance:

*I had to book vacation time off work to make one of the appointments so I could fit it in to take the call and he [the other parent] forgot. I was very angry about that and **this set a bit of negative tone for me going in** [to the mediation; emphasis added]. ~ Parent*

- (3) In some cases the 6 hour time limit just wasn't enough and the "clock ran out."

From the mediators' perspectives: The mediators were providing services to the CSEMP at less than their usual fees, but were still incurring all of the overhead and administrative costs in CSEMP cases that they would incur in their regular practice. They saw the CSEMP as a much-needed public service. However, many of the cases involved high conflict or long-estranged parents who (consciously or not) were prone to delay. They required a good deal of case management and posed an administrative burden in terms of scheduling sessions and not returning communications in a timely manner.

These cases were a big administrative burden (scheduling, participants ignoring emails and not returning phone calls, etc.) ... Lots of apprehension in couples that hadn't had contact in a long time ... because of the long time since the parents have spoken they don't want to get into a room together

The mediators noticed that these cases would lose momentum if not strongly managed. The solution for most mediators was to be firmer about how the process would work. Several found that the 6-hour time limit for mediations was useful as a case management tool. As time went on, the mediators began developing systems within their practice that could accommodate and reduce these administrative burdens (e.g., using templates, providing options for meeting times rather than waiting for the parties to provide them, etc.).

- In retrospect, several of the mediators *and* the parties realized the importance of setting expectations regarding the timing of the process:

It took a while to get things going (in individual cases) ... needed something to focus on. She would be more directive next time ... recommend setting mediation dates and then working backwards from there to set premediations, etc. ~ Mediator

The time-restraint was stressful. Also, because timing was tight with all 3 involved, I cancelled shifts while my ex worked through the days the mediator had available. We needed to all plan & set aside time ... ~Parent

Unfortunately, negotiating expectations around timing between highly conflicted parties could prove difficult. This suggests that, like many other aspects of these CSEMP mediations, the amount of structure the mediator needs to impose around timing is a contextual issue to be determined on a case-by-case basis.

4.5. Rich descriptions of the mediation processes – mediators’ techniques

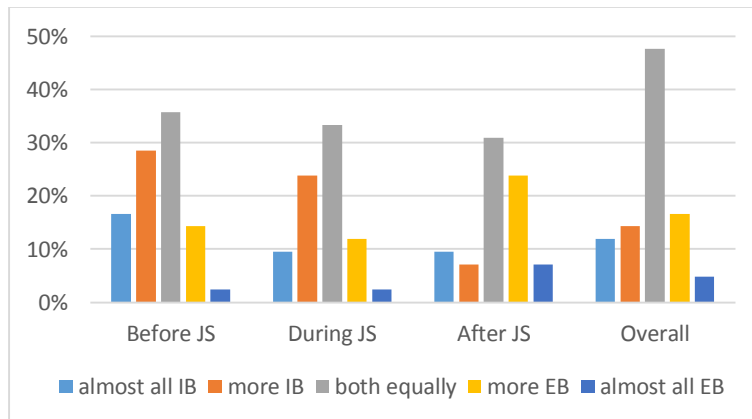
4.5.1. Techniques used most and least often

After each mediation, mediators completed a series of rating scales to determine the extent to which they used different interest-based and evaluative techniques during that particular mediation (see question 7 in the Mediator Post-Mediation Questionnaire in Appendix G for the specific techniques). The techniques used the *least often* were “encouraging the parties to see the dispute from the other’s perspective,” and, “suggesting that one or both of the parties had unrealistic expectations.” The most frequently used techniques were pointing out underlying interests, summarizing, providing legal information, and pointing out common concerns and underlying interests.

4.5.2. Interest-based and evaluative techniques

On their post-mediation questionnaires, parents reported the degree to which they found interest-based and evaluative techniques were used during the different phases of the mediation (i.e., before the joint session, during the joint session, and after the joint session), and rated how helpful they found them to be [on a scale of “0” (not helpful at all) to “4” (very helpful)]²⁸. Their responses are in Figure 8, below.

Figure 8. Parents reports of when interest-based and evaluative techniques were used.



Overall, most of the parents felt that the mediator had used both techniques about equally, and they found evaluative and interest-based techniques to be equally helpful (the average ratings were 2.8 for each). Interest-based techniques appeared to be used most often before the joint sessions (i.e., during the premediations) and during the joint sessions. Evaluative techniques were used more often after the joint session (or, if there was no joint session, later on in the shuttle sessions). Parents were also asked for any comments they had on the mediator’s use of these techniques, and their comments evidenced an appreciation of both techniques:

²⁸ Participants were given the option of choosing “N/A” if there was no joint session was held.

I believe that they [the mediator's interest-based techniques] were very, very helpful in having my ex-wife understand the issues from my daughter's perspective and somewhat from mine.

Nice that she knew all the legal stuff and could answer my questions. Didn't need to get any more legal opinions on it.

Explaining the process with options and the possible decision of a Judge or court.

Interest-based really made the difference. It keeps the mediation positive and non-confrontation which it very well could have happened.

Significantly more techniques (i.e., both interest-based and evaluative) were used in cases that mediators rated to be higher in conflict. In other words, more interventions were needed in these cases. However, evaluative techniques were most strongly correlated with conflict, suggesting that they were either used more when conflict was high or used less often when conflict was low (or both)²⁹.

In their Post-Mediation Logs, the mediators were asked to reflect on their use of interest-based and evaluative techniques during the mediation. There seemed to be four situations in which interest-based techniques were used most. They are described (along with illustrative quotes) in Figure 9, below.

Figure 9. Circumstances when interest-based techniques were often used.



All of the mediators reported that moving back and forth between these interest-based and evaluative techniques felt quite natural to them. There were also several interrelated themes around when and how evaluative techniques were used:

²⁹ The correlations were .42 ($p = .03$) and .56 ($p = .001$) between conflict in session and the use of interest-based and evaluative techniques.

- (1) First, the parents in these cases *needed* information about the issues and their legal positions. According to several mediators in the focus group, *“These parties seemed to lack legal information/understanding about the issues and their positions. They needed lots information about the law and legal standards.”*
- (2) Second, they were tools for reality-checking.
- (3) Third, they could be used when the mediation was at risk of breaking down, for example, it was used during one mediation, *“when each parent said they would rather go to court or do nothing than agree to what the other was proposing. Being evaluative was helpful in showing each party their expectations of the court process were unrealistic.”*
- (4) Fourth, they could be used to move the parties forward, either in later phases of the mediation and/or whenever there was a logjam.
- (5) Fifth, as presented in Table 2, below, they were employed in **particular ways**.

Table 2. Particular ways that evaluative techniques were employed.

Particular ways that evaluative techniques were employed	Illustrative examples
They were used if the parties wanted it	<p><i>“I did offer solutions based on what I understood the parties to want and need”</i></p> <p><i>“Used more evaluative skill when dealing with father as he wanted to know and understand more about what was expected of him”</i></p> <p><i>“[shifted to evaluative] when trying to identify with the father an amount which he could commit to paying monthly during school term.</i></p> <p><i>“Further, they each asked me what I thought might happen in court.”</i></p>
They were used “gently”	<p><i>“it seemed to flow and I felt free to try approaches that I felt may help the parties, rather than being restricted by a philosophy. I could adapt to what I thought the parties needed. I had to think more carefully, however, about how I was making suggestions as ultimately it is their agreement and their process, so I was gently suggesting and encouraging them to get more information and seek legal advice”</i></p>
They were framed as information rather than opinion or advice	<p><i>“It is a non-evaluative approach but the mediator tries to point out standards (legal) and give information about how certain issues are normally dealt with to help the parties stay focused on realistic outcomes. The parties are still very much responsible for making their own proposals and making any decisions without evaluation by the mediator.”</i></p> <p><i>“I didn't so much assess the case at hand as outline the range of outcomes that the court could find”</i></p> <p><i>“If you become too evaluative, you can become the bad guy. It's all about how it's couched and phrased. For example, “I think your position is unrealistic” is evaluative and makes you the decider. “I can tell you that in similar circumstances a judge would probably _____” is you just giving important legal information.”</i></p> <p><i>... I conduct the evaluative piece as me providing information to help them with their decisions, versus advice.</i></p>

4.6. Distance mediation in this context

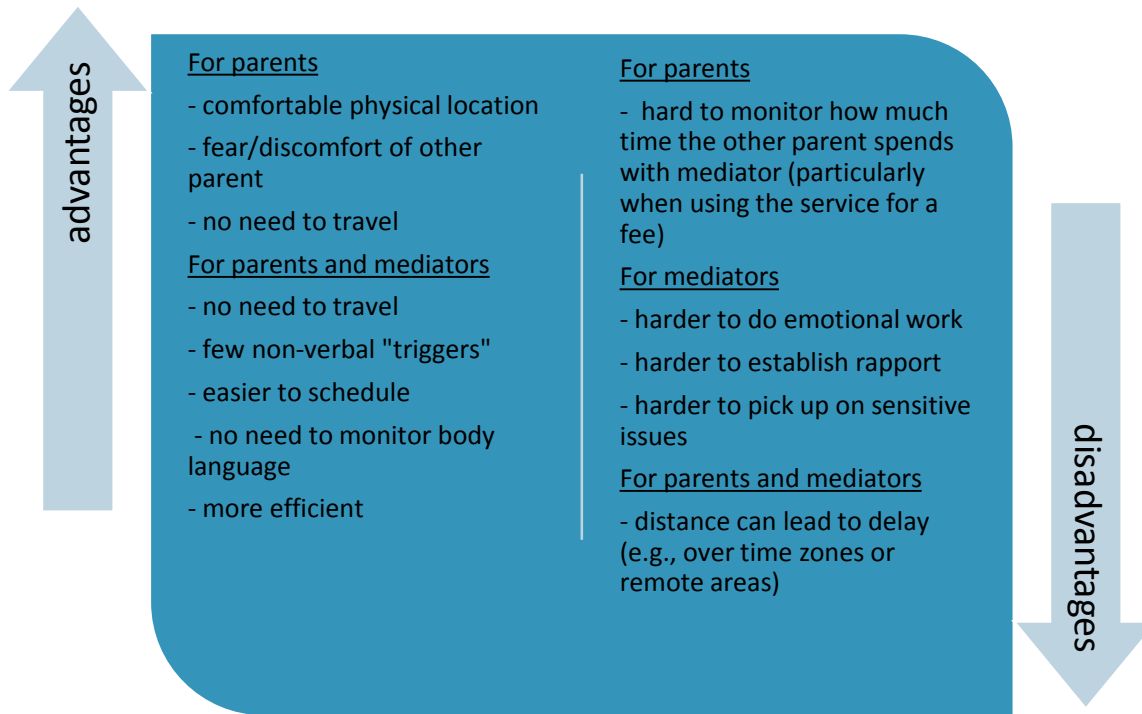
90% of the mediations (n=26) were conducted with one or both parties over distance, that is, with the mediator in a different physical location from one or more of the parties. Again, like many other aspects of this Project, the focus was on flexibility and accommodation. For example, in several cases one or more parties) (e.g., a parent and adult child) attended the mediator's office while the other part(ies) attended via telephone. In a few cases one or both of the parties expressed a preference for not mediating in person and these wishes were accommodated. Teleconferencing was used as the primary tool in most distance mediations, supplemented by web conferencing platforms, email and fax for work on documents, and texting for communication. One shuttle mediation was done primarily using web conferencing.

Both mediators and parents commented on mediating over distance. Two different sets of issues arose: (1) those implicated by the mediator being separate from the parties; and; (2) those implicated by the parties being separate from each other. The advantages and disadvantages of mediating over distance from the parents' and mediators' perspectives are summarized in Figure 10, below.

Figure 10. The advantages and disadvantages of mediating CSEMP cases over distance.

"I think it went better! She was able to express her frustration, and perhaps bitterness and anger by rolling her eyes for example, without triggering him. I think the mediation was less emotional as a result and we were able to focus on the issues and concerns at hand.

"Telephone worked well as one parent suffered from disability and thus conducting mediation from comfort of that parent's home was of great value to the parent and allowed that parent to use their energy to focus on the problems to be resolved."



"in person I would have been able to develop a better connection with each party .. Further, I think I would have understood better the sensitivities around some of the issues by being able to observe body language."

"In person it would have been much better. I would have a better sense of mom...The distance was hard to manage"

Finally, some mediators reported making accommodations for the distance nature of the mediation. One mediator wrote that she *"ensured that Mom spoke to me before and could text me during the mediation or call me on my cell if she needed to as I did not have the benefit of having her in the same room. I also made sure to check in with her and take breaks to speak to her privately."* Another said that she *"did a lot of emailing and talking on the phone individually to follow up on the drafting of the agreement."*

4.7. The Nature and Impact of the Adult Childs' Participation

4.7.1. Nature of their participation

The adult child was interviewed in 23 cases, and these interviews lasted 0.6 hours on average. In terms of *how* they participated in the mediations, the overriding principle was again *flexibility*. In most instances, the child and the mediator would discuss and decide upon this in the premediation phase, taking into account the child's current and historic relationships with the parents, the child's availability, the level of discord between the parents, and the clarity of the child's plans. In 13 of these cases the mediator brought the child's voice to the table, either in the form of a formal written report, or informally in discussions with the parents. In 5 cases the child attended the joint session, in 4 cases they participated via their education plan ("EP") only, and in 4 cases they did not participate at all (e.g., support was not in issue or the child was developmentally delayed). In 2 cases the adult child participated via a different mode (i.e., the mediator facilitated a father-child premediation teleconference; a shuttle mediation with the child on the line with one party but not the other).

By the end of mediations, EPs were completed in all but one of the 25 of the cases in which the adult child planned to attend post-secondary education. After each mediation, the mediator and the parents were

The education plans ("EPs") were critical in these mediations. In most cases both the mediators and the parties found these plans to be very concrete/specific, very practical and realistic, and to be a source of high agreement/low conflict between the parents. The EPs seemed to provide an area of shared interests between all members of the family. As one mediator wrote: "The education plan was very important in the discussions between the parents - it served as common ground for discussion that they could focus on."

asked to rate how concrete and realistic the adult child's EP was on a 5 point Likert-type scale ranging from 0 (not at all) to 4 (very much so). On average, the mediators and parents found the EPs to be very concrete (the average ratings were 3.3 for mediators and parents) and realistic (the average ratings were 3.5 for mediators and 3.3 for parents).

4.7.2. Impact of their participation

There were two main ways that the adult children's participation influenced the process. First, both mediators and parents felt that the adult child

having clear plans and demonstrating responsibility facilitated resolution of these cases. Second, the adult child's voice created shared interests/goals and thereby reduced conflict.

4.7.3. Other aspects of adult children's participation

Mediators felt that the CSEMP asked a lot of the adult child in terms of coming up with clear plans for their future and developing a budget, and that they varied in their abilities to do this. Some got help with budgeting and planning from the mediators.

Also, mediators had to be sensitive to whether the plan reflected the child's rather than the parents' plans

Even if you get a fully complete educational plan, you need to ask "who completed this plan." Asking it flat out real quick so you get a straight answer. It's a case-by-case thing – working with the nature of the adult child/parent relationship. The control is a dynamic as well. It's a matter of case-by-case judging to what extent is it the child's input (and if it is the parent's, if the child is OK with it).

"I interviewed [the] child ... she impressed me so was able to advocate to parents as appropriate education plan with high likelihood of success. Both parents were proud of her. Want to maintain relationship with her. Can see her standing on her own two feet shortly so more willing to support."

~ Mediator

"The adult child participated firstly in a premediation session with me by phone; then secondly, I facilitated a tele-meeting between child and father which took place a day or two prior to the mediation. ... It was very helpful to the process in that father and child did not spend lots of time together due mostly to their respective work schedules and child's social scheduling. Helped father to feel that he was involved in child's education plan. By the time we reached mediation mother and father were not in conflict over child's goal, but rather spent their energy trying to problem-solve." ~Mediator

4.8. Other results of interest

4.8.1. How conducting these mediations challenged and/or developed mediators' skills and practice.

After each mediation, the mediators completed a question in the mediator log that asked about if and how this mediation "stretched" their skills and whether they learned anything new. Often, and not surprisingly given the breadth of their mediation experience, the answer was "no." In a few cases, the mediators learned some new law around issues they had not faced before (e.g., inheritances). Other mediators recognized (as discussed in section 4.4.4 around timing of mediations) there were times when they needed to be firmer in setting issues of process. Also, because of the long lengths of time since the parents' relationships had ended, several mediators were challenged in helping the parties overcome years of anger and resentment. For example, one mediator noted that, *"I was challenged in trying to help the parties let go of their resentments and look forward to a future with this dispute behind them and where their child did not have two parents that had an ongoing dispute with each other. I think I developed an effective connection with each and I think they understood the issues and the consequences of not resolving the issue."*

4.8.2. Referrals and Uptake

Uptake at the FMEP level: The CSEMP was open for referrals for 12 months. During the course of the Project, the FMEP enforcement officer received 309 telephone calls from FMEP clients, members of the public and the legal community asking for more specific information about the Project – demonstrating that there was significant interest in the Project. She sent invitations to 432 cases (i.e., 864 payors and recipients) and 61 (14%) of them were ultimately referred to Mediate BC. In 242 (56%) cases neither party responded to the initial invitation, and in 61 (14%) both parties initially returned the consent form (some unknown number of them withdrew before being referred to Mediate BC). In 129 (30%) cases only one party returned the signed consent form. In these cases (when one party returned the FMEP consent form) the enforcement officer sent out a memorandum to the other parties to inform them that the other party wanted to mediate. She often followed up by telephone as well. A small (unknown) number of these parents agreed to mediate.

Uptake at the Mediate BC level: 61 referrals were received from FMEP, 1 from the private bar, and 2 from Family Justice Counsellors. Thirty-five 35 of these 64 referrals (55%) dropped out before the mediation - most very early in the process (26 before both parties did the first intake form, 30 before being referred to a mediator, 2 after premediation). Overall only 7% (29/432) of cases determined by FMEP to be eligible actually mediated.

Possible reasons for low uptake: During her telephone conversations with potential participants from FMEP, the enforcement officer got a sense of some of the reasons that people were not interested in mediating. Her impressions were that:

- The most common reason was that at first contact they believed that the “other side” was initiating the process and were suspicious and/or lost interest right away.
- People declined because they did not know what to expect, time constraints, not having had contact with each other for a long time, and/or not wanting to exchange financial information.
- Some had a history of bad previous experiences at mediation and/or court.
- Some didn't want the other party to have any information on the child (because of general protectiveness of the child, even in cases without a history violence).
- Once some parties discovered that mediation wasn't mandatory for them to remain in the FMEP program they lost interest.

These are the reasons parents gave for dropping out after being referred to Mediate BC:

- 7 parents failed to respond to the administrator or mediator’s communication attempts;
- 5 parties decided to take a legal route to deal with the issue(s);
- 5 parties were unwilling to exchange financial information with the other parent;
- In 4 cases the adult child decided not to go to school;
- 3 parties felt too much fear, anger, or lack of trust to continue;
- 3 recipients decided not to pursue support;
- In 3 cases the parties worked out support on their own;

- In 2 cases FMEP made a decision on the issue that one or more party did not contest;
- In 2 cases the mediator decided the case was not suitable for mediation after the premediation sessions; and;
- In 1 case a parent was taking an intransigent position that the other parent believed would not change during mediation.

5.0. Conclusions

5.1. What we accomplished

The CSEMP applied highly flexible and expert mediation interventions in a group of families characterized by high conflict and/or estrangement. Further, it applied mediation to legal and practical issues that, to the best of our knowledge, have not been the subject of mediation before. Sixty-six percent of these CSEMP mediations settled and, after approximately 5.8 months, the agreements made during the mediations have been remarkably durable. In addition to the main issue of ongoing support for adult children, these mediations also resolved other related issues for many of these families, including arrears, support of other children of the relationship, and (to a lesser extent) issues around contact with the adult child.

Given the unique nature of the program, it is difficult to meaningfully compare the CSEMP's settlement rates to other family mediation programs. Family mediation programs differ widely on how they are structured and the characteristics of the families they serve. Such domains of difference include: the cost of the program's services to users; the lengths of the mediations; whether mediations occur in-person, over distance, or both; the training and experience of the mediators; the mediation techniques used; the issues open to mediation; whether it is mandatory or voluntary; whether it is court-connected or private; etc. Further, "settlement" is often operationalized differently from program to program (e.g., as full agreements or partial agreements). Given the heterogeneity among these programs, it is not surprising that the settlement rates they report vary widely. For example, in a broad review of family mediation programs in North America, Kelly reported settlement rates from 39% to 80%³⁰. Given the nature of CSEMP's caseload (e.g., estranged and/or conflicted families), the 66% rate of *full* settlements observed is, arguably, very high. Further, mediators and parents in cases that did not settle still reported making progress during the mediations.

41% and 55% of participants indicated they were very satisfied with the outcome and process of their mediations, respectively, and in 73% of cases the parents said they would recommend the CSEMP to a friend who was experiencing similar problems. Many parents avoided going to court (which was a high priority for most families), and in some cases bridges were built between estranged parents and their adult children. Further, most cases progressed through the CSEMP in a timely manner.

³⁰ Joan B. Kelly, *Family Mediation Research: Is There Empirical Support for the Field?* 22 Con. Res. Qrt. 1 (2004).

The Project demonstrated tools and methods that can be used to successfully involve young adults in mediation, including the Education Plans, which were found to be highly concrete and practical, and a way for the parents to find common ground and reduce conflict. Further, we found that older children can be successfully involved in actual mediation sessions. These interventions further one of the objectives of the new BC *Family Law Act*, which is to have the voice of the child heard in family disputes.

By providing free services to lower and middle-income earners, the Project saved a good deal of money for families that may otherwise have pursued other, more expensive dispute resolution options. It has also given some guidance around how mediators can employ interest-based and evaluative techniques in the same case depending on the needs of the situations and parties; specifically, by framing evaluation as information rather than opinion, and using evaluative techniques gently. Further, we now understand that many families in these contexts are actually looking for and need evaluative information.

Finally, the Project has shown that distance mediation can be effective in these types of cases. In fact, not only can they “work,” but in some ways they have advantages over traditional “in-person” mediation, including being easier to schedule, and reducing emotional “triggers” that could derail a mediation.

5.2. What we learned

We learned that families that are most likely to participate in this type of mediation have a history of conflict and/or estrangement that must be taken into consideration in designing the mediation process that is best suited to their needs. Further, these families need a good deal of legal information regarding the issue of child support.

We learned that, particularly when conducted over distance, the mediation *process* needs to be controlled. The precise degree of control to be exercised will, of course, depend on the level of conflict between the parties. Although some CSEMP cases could not be effectively resolved within the 6-hour time limit, most could, and mediators found the time limit to be an essential tool in keeping the parties moving forward. That being said, we also learned that, while limits to the mediation timeframe can be helpful to encourage settlement and structure the process, some cases simply cannot settle in this time.

Despite the relative advantages and disadvantages of mediating over distance, in most CSEMP cases that were mediated over distance there was no other option – the parties and/or the mediators lived in separate locations and mediation could only occur over distance. However where there are options, mediators could make specific design choices regarding the medium over which to mediate that will best fit the case based on the advantages and disadvantages we identified. For instance, where the parties have a history of high conflict, mediators may prefer to use a modified form of shuttle mediation in which the parties exchange proposals through the mediator. Readers who are interested in exploring more about distance mediation techniques are invited to consult Mediate BC’s evidence-based practice

guidelines, which provide considerable information on using technology in conducting distance mediations³¹.

Finally, although voluntary use of family mediation is fairly low in general (see section 5.3 below for more information on this), we learned that it can be a particular issue in the FMEP context. We obtained some insights into the reasons why parents might have been reticent to participate in mediation, but more research would be needed to determine the reasons for that reticence.

5.3. Further issues to be considered

Uptake of voluntary family mediation programs is usually low, even when the services are free³². However the 7% uptake rate for the CSEMP is lower than other voluntary mediation programs in BC. For instance, Phases II and III of Mediate BC's Distance Mediation Project, which provided (essentially) free distance mediation services to families in BC, had uptake levels of 22% and 30%, respectively.³³ Mediate BC's Family Mediation Practicum Program, which provided free in-person family mediations in BC, had 213 inquiries and 33 mediations in one calendar year (15% uptake level) of operation³⁴.

It is possible that the nature of FMEP's caseload (i.e., cases in which support payments are recorded as due and/or are enforced) may contribute to lower interest in mediation. Both Stokoe and Wissler point out that mediation is still a relative unknown way to resolve disputes for the general public, and it is rarely "marketed"³⁵. Stokoe also notes that when it is presented to the public, mediation is usually marketed as "impartial," which people who have been embroiled in conflict do not find particularly attractive³⁶. With out-of-court resolutions now being preferred under the BC *Family Law Act*, there will hopefully be greater awareness and understanding of mediation as a viable alternative to going to court. Wissler also noted that litigants are unlikely to propose using alternative dispute resolution methods, but will often use them when it is suggested to them³⁷. Thus, one thing that could be explored is whether a recommendation for

³¹ Mediate BC, *Mediating from a Distance: Suggested Practice Guidelines for Family Mediators*, Second Edition. Vancouver: Mediate BC Society, October, 2012, available at: [http://www.mediatebc.com/PDFs/1-14-Family-Mediation---FAQs/Guidelines_Mediating-from-a-Distance-\(Second-editi.aspx](http://www.mediatebc.com/PDFs/1-14-Family-Mediation---FAQs/Guidelines_Mediating-from-a-Distance-(Second-editi.aspx).

³² See for example Elizabeth Stokoe, *Overcoming Barriers to Mediation in Intake Calls to Services: Research-Based Strategies for Mediators*, 29 Neg. J.289 (2013); and; Roselle L. Wissler, *When Does Familiarity Breed Content? A Study of the Role of Different Forms of ADR Education and Experience in Attorneys' ADR Recommendations*, 2 Pepp. Disp. Res. L.J. 199, 202 (2002).

³³ Colleen Getz. *Evaluation of the Distance Mediation Project: Report on Phase II of the Technology-Assisted Family Mediation Project*. Victoria: British Columbia Mediator Roster Society, May 2010, available at: <http://mediatebc.com/PDFs/1-2-Mediation-Services/Distance-Mediation-Project---Evaluation-Report.aspx>; Cathy Tait. *Evaluation of the Distance Family Mediation Project: Report on Phase III of the Technology-Assisted Family Mediation Project*. Vancouver: Mediate BC Society, March, 2013, available at: <http://www.mediatebc.com/PDFs/1-2-Mediation-Services/Distance-Family-Mediation-Evaluation-Report-FINAL.aspx>.

³⁴ A description and evaluation of this program can be obtained at <http://www.ag.gov.bc.ca/dro/publications/reports/EvaluationFMPP.pdf>

³⁵ *Supra* note 32.

³⁶ *Ibid* at 297.

³⁷ *Ibid* at 202.

mediation from a neutral administrator might encourage greater use of mediation in the family maintenance enforcement context.

In designing the financial disclosure requirements for the participants in the Project, we used the Supreme Court Family Rules. These set a high standard which was considered to be necessary for a non-profit pilot program available to the general public. However, we now realize that these high standards for financial disclosure may have discouraged potential participants from mediating, as several parents who were referred to the Project cited this as their main reason for dropping out of the Project before mediating. Thus, a policy issue for the Project (should it or a similar program continue) and for the broader BC legal community is what financial disclosure standards should be in place between parents who have been apart for many years.

Also, as a pilot project and a collaboration between two institutions (FMEP and Mediate BC), the CSEMP had a rather thick layer of administrative requirements and high needs for administrative support. Should such a program be offered in the future and be dependent on the willingness of mediators to work at reduced rates (and thus not be able to use their own administrative resources), more efficient ways to exchange documents and manage cases should be explored. Templates and precedents created by the Project and the individual mediators within it could possibly be used in the future to make the process more streamlined. Also, mediators suggested in the focus group that an electronic portal should be used into which the parents and children could enter their financial information and projected budgets.

It is hoped that the experience and the results of the Child Support Eligibility Mediation Project will be of interest and use to families in transition and all of those who support them in their journey through the family justice system – mediators, lawyers, judges, family justice counsellors, and those who are responsible for the design and implementation of family justice services. While there are many avenues of further research, as mediation continues to evolve as a method of family dispute resolution, projects such as this demonstrate its flexibility and ability to meet the needs of families even where there is conflict, estrangement, and many years that have passed since the original separation. It is thrilling to know that mediation can help young adults launch into life with financial support and stability for their own success and by extension, that of their families and of society generally.

Appendix A – Summary of Marketing Efforts

- Mentioned in “Mediating Family Law Cases”, Bartalk Magazine (August 2011)
- Mediate BC Email Notice (December 5, 2012)
- Mediate BC tweet (December 5, 2012)
- Mediate BC Blog (December 5, 2012)

<http://www.mediatebcblog.com/category/child-support/>

- JP Boyd’s Family Law Blog (December 6, 2012)

<http://bcfamilylawresource.blogspot.ca/2012/12/mediate-bc-launches-program-addressing.html>

- BC Law Watch Blog (Dye and Durham)

<http://www.bclawwatch.ca/2012/12/mediatebc-debuts-child-support-eligibility-mediation-services-project/>

- CoRE Clinic at the University of British Columbia – repost of Mediate BC Blog

<https://www.facebook.com/CoReClinic/posts/566643193351482>

- “BC Project Helps Divorced Families with Adult Children”, Lawyers Weekly Magazine (February 15, 2013)

<http://www.lawyersweekly-digital.com/lawyersweekly/3238?pg=15#pg15>

- Project manager’s LinkedIn network
- Various professional networks of the Project’s advisory group, mediators, and project managers
- Visits and updates to all the FMEP offices to inform all FMEP enforcement officers about the Project and eligibility requirements, and encouraging them to consider referring their eligible cases to the Project
- Posting Project information on FMEP’s internal wiki for all staff to access
- Posting a notice on the front page of FMEP’s public website with a link to a description of the Project and an invitation to contact FMEP for more information

Appendix B – Education Plan Template

Date: [Date]

1. My overall career and educational goals are:
2. In order to achieve these goals, I intend to complete the following education in the coming year (2012-2013) (programs, courses, etc):
3. I need to do the following to complete my education: (maintain current grades, improve grades, seek admission into program, etc)
4. I anticipate my budget for the school year will be as follows:

Expenses

Tuition and Fees
 Books
 Supplies (stationery, photocopies, etc)
 Computer supplies
 Rent
 Food
 Utilities (heat, electricity, cable, internet)
 Phone
 Transportation (gas, carpool (transit covered by UPass)
 Medical, dental, eye care
 Personal (haircuts, clothes)
 Entertainment

Income

Savings at start of school year
 Income from part-time work
 RESP
 Assistance from parents
 Assistance from other family members
 Scholarships
 Bursaries
 Government Student Loan
 Student Line of Credit

5. During the summer(s), I plan to:
6. I would like to ask my parents for the following assistance:
7. Other comments:
8. The following documentation related to the Education Plan is attached:

Appendix C – Financial Disclosure Information Sheet

In order to participate in the CSEMP, parents must be willing to provide Mediate BC with their financial information, which Mediate BC will then share with the other parent and the mediator. Information about the financial circumstances of each parent is part of the disclosure needed to have a full and complete discussion about how the parents will together support their adult child. By agreeing to participate in mediation and provide and receive financial information, parents must also agree that they will keep each other's financial information absolutely confidential and will not use it for any purpose outside of the mediation. If, however, the matter proceeds to a court hearing, financial information may be requested under the Rules of Court by a party. Also, please note that the Project will not share your financial information with the Family Maintenance Enforcement Program without your consent.

Full disclosure of income includes:

- 1) every personal income tax return, including all attachments, that have been filed for each of the 3 most recent taxation years and income tax notice of assessment or reassessment.
- 2) If employed, a most recent statement of earnings indicating the total earnings paid in the year to date including overtime, or, if such a statement is not provided by the employer, a letter from the employer setting out that information, including rate of annual salary or remuneration.
- 3) if receiving Employment Insurance benefits, the 3 most recent EI benefit statements
- 4) if receiving Workers' Compensation benefits, the 3 most recent WCB benefit statements
- 5) if receiving social assistance a statement confirming the amount of social assistance received
- 6) if self-employed for the 3 most recent taxation years:
 - i) the financial statements of the business or professional practice, other than a partnership, and
 - (ii) a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom are not dealt with at arm's length;
- 7) if in a partnership confirmation of income and draw from, and capital in, the partnership for its 3 most recent taxation years;
- 8) if controlling a corporation, for the corporation's 3 most recent taxation years
 - (i) the financial statements of the corporation and its subsidiaries, and
 - (ii) a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the corporation and every related corporation does not deal at arm's length;
- 9) if a beneficiary under a trust, the trust settlement agreement and the trust's 3 most recent financial statements;
- 10) if owning or having an interest in real property, the most recent assessment notice issued from an assessment authority for the property.

Appendix D – Agreement to Mediate³⁸

BETWEEN:

«Parent_1»

AND:

«Parent_2»

AND:

«Child»
(together, the “Participants”)

AND:

«Mediator» (the “Mediator”)

- A. The Participants wish to discuss and resolve the outstanding matters regarding support and future educational plans for «Child», born «Child_DOB».
- B. This mediation is being conducted under the Child Support Eligibility Mediation Project (the “Project”).

The Participants Agree:

Process

1. «Mediator», Barrister and Solicitor, will be the Mediator.
2. «Child» will participate in the mediation.
3. The Mediator will act as an impartial facilitator to help the participants negotiate to resolve the issues between them. All participants will work with the Mediator to isolate points of agreement and disagreement, to identify their interests, explore solutions, and come up with a parenting/educational plan with respect to «Child».
4. The Mediator may also:
 - i. inform the participants of the legal issues involved;
 - ii. advise the participants of a court's probable disposition of any legal issue;
 - iii. at the request of the participants, prepare either:
 - i. a “without prejudice” Summary of Joint Session a copy of which, upon approval of the participants, will be given to each participant and forwarded to the Family Maintenance Enforcement Program (“FMEP”) if the participants have a case enrolled; or

³⁸ Note that this Agreement to Mediate was drafted before the coming into force of the British Columbia *Family Law Act* (*supra* note 6) on March 18, 2013. Consequential amendments may need to be made to this Agreement to Mediate should it be used on a going forward basis.

- ii. a Mediation Agreement recording the results of any agreement between the participants;
 - iv. at the request of the participants, forward a signed copy of a mediation agreement to FMEP if the participants have a case enrolled; and
 - v. provide a computerized summary of child support and special expenses for the use of the participants during mediation, as long as the participants' income has been agreed to in advance of the mediation.
5. The participants understand that the Mediator may have separate meetings with each of them and/or with their lawyers at any time during the mediation.

Disclosure of Information

- 6. The participants acknowledge that full disclosure of all relevant information is essential to the mediation process, and they agree that they have and will continue to fully, completely and honestly disclose all relevant information to each other and to the Mediator.
- 7. The participants understand that any agreement arising out of mediation may be set aside if full, complete and honest disclosure has not been made.

Confidentiality of Information

- 8. It is agreed that the Mediator may disclose to any participant (and/or to their counsel) any information provided by any other participant which the Mediator believes to be relevant to the issues being mediated.
- 9. The Mediator and the participants will treat as confidential all information supplied to, obtained by, or which comes to the knowledge of the Mediator and the participants as a result of his or her participation in mediation, except:
 - a) as required by law, including reporting a child in need of protection as defined by the *Child, Family and Community Service Act*;
 - b) when the information discloses an actual or potential threat to human life or safety;
 - c) where all participants agree in writing that certain information is not confidential and may be disclosed;
 - d) for research, statistical, accreditation or educational purposes, provided the information does not directly or indirectly disclose the identity of any participant;
 - e) for any certificate or report that the Mediator is required to prepare; or
 - f) to defend any complaint arising out of this mediation made against the Mediator.

Without Prejudice Communications and Inadmissibility

10. The mediation sessions will be treated as confidential settlement discussions and all communications between the participants and between each participant and the Mediator will be “without prejudice”. No participant will attempt to:
 - a) introduce evidence of the communications in any legal proceedings;
 - b) introduce any record of progress which may be produced in any legal proceedings; or
 - c) call the mediator or counsel present as a witness in any proceeding.
11. Without limiting the generality of paragraph 10, “all communications” includes:
 - a) any views expressed or suggestions made by another participant in respect of the possible settlement of the dispute;
 - b) any admissions made by a participant in the course of the mediation;
 - c) the fact that another participant had indicated a willingness to accept a proposal made by any participant to the mediation; or
 - d) any notes, e-mails or any other communications made by a participant or the Mediator during the mediation process.
12. The participants agree that the communications described in paragraph 10 and 11 are not covered by solicitor-client privilege.
13. The participants agree that the fact of their participation in mediation is not confidential and may be disclosed.
14. The participants agree that a “without prejudice” Summary of Joint Session that has been approved by the participants is not confidential and may be disclosed.
15. The participants agree that a Mediation Agreement that has been signed by the participants is not confidential and may be disclosed.
16. Notwithstanding this Agreement, the participants acknowledge that the Mediator could be compelled to testify in a legal proceeding, if the participants expressly consent to the Mediator doing so, or if one participant calls the Mediator and the other participants are deemed to have waived privilege. The participants further acknowledge and agree that in such a case, the calling of the Mediator as a witness would be a breach of their contractual obligations under this Agreement to Mediate and the further terms set out in *Appendix A* will apply.

The Use of Information and Communication Technologies

17. Where the participants and/or the Mediator are at a distance from each other and intend to mediate from different locations,
 - a) The Mediator and the participants will rely primarily upon information and communication technologies to communicate with the participants and their counsel, and to conduct or participate in the mediation; and

- b) The Mediator, Mediate BC Society, the Director of Maintenance and Enforcement, and the Child Support Eligibility Mediation Project do not endorse any of the information and communication technology products or services used to conduct the mediation. The participants and the Mediator recognize there may be process issues and disruptions due to the use of information and communication technology products and the Mediator and the participants agree to make efforts to minimize the impact of any such disruptions on the mediation process.
- c) Each participant agrees not to have another person present in the room during a mediation session or within hearing distance when using any information and communication technology to participate in the mediation.
- d) In particular, each participant agrees none of their children will be present or within hearing distance, unless that child will be participating in some way in the mediation and this has been expressly agreed upon by all the participants beforehand.
- e) If either participant wishes to have another person in the room or within hearing distance, they will obtain permission of the Mediator and the other participant prior to the mediation session beginning.
- f) Where all the participants agree that the other person will be privy to the mediation process, that person must sign the Agreement to Mediate and is bound by the terms of agreement.
- g) Each participant recognizes that, where information and communication technology is used, it is not possible to ensure that all communications will be confidential.
- h) Each participant commits to minimizing the chance of inappropriate disclosures, including protecting access to any e-mails, notes or other information relating to the mediation which may be stored in their computers or elsewhere, and to minimizing the consequences of any such disclosures should they occur.
- i) Each participant understands that, where information and communication technology is used, it is not possible to completely control where or how some personal information may be collected, stored or accessed.
- j) Each participant hereby gives the Mediator permission to communicate with that participant by email.
- k) By signing this Agreement, each participant specifically agrees to the Mediator using information and communication technologies, including email, in the context of the mediation, and releases the Mediator, Mediate BC Society, and the Director of Maintenance Enforcement from any liability in the event of any inadvertent disclosure.

Reaching a Resolution

18. Where a resolution of some or all of the issues is reached, the Mediator, the participants or their counsel will reduce the terms of consensus to writing as soon as possible in the form of a Mediation Agreement.

19. At the request of the participants, a copy of the Mediation Agreement signed by the participants may be forwarded to the Enforcement Officer assigned by FMEP to the participants' case.
20. At the request of the participants, the Mediator may draft a "without prejudice" Summary of Joint Mediation Session which, once it has been approved by the participants, may be forwarded to the Enforcement Officer assigned by FMEP to the participants' case.

Independent Legal Advice

21. The Mediator does not act as legal counsel for any participant during the mediation. Each participant is encouraged to obtain independent legal advice before, during, and after the mediation session to ensure that legal rights, legal obligations and the consequences of any potential resolution are fully understood.
22. Each participant will be responsible for the costs of obtaining his or her own independent legal advice.
23. Without limiting the generality of the foregoing, the participants specifically acknowledge that the mediator has no responsibility to verify the factual statements upon which the participants may rely on reaching agreements.

Ending the Mediation

24. Participation in mediation is voluntary. A participant or the Mediator may end mediation at any time.
25. The Mediator will communicate promptly to the participants that the mediation has ended.

Mediation Fees

26. The fees of the Mediator will be shared by the participants, and will be paid directly to the Mediator as follows:
 - a) for the first six (6) hours of mediation services (including pre-mediation meetings, mediation session, drafting documents), no fee is payable by the participants.
 - b) If the mediation has not resolved within the first six (6) hours of mediation services, and the participants choose to continue mediating with the Mediator, the fee will be \$350.00 per hour plus HST and disbursements, shared equally between the participants and paid directly to the Mediator by the participants unless the participants and the Mediator agree otherwise.
27. If any participant is unable to attend a pre-mediation meeting or a mediation session, that participant will notify the Mediator and the other participant(s) at least 24 hours before the scheduled mediation session. If a participant fails to give proper notice of

cancellation,

- a) a cancellation fee of \$100.00 will be charged to the participant who did not give proper notice of cancellation; and
- b) after payment of the cancellation fee, no further mediation sessions will be held except at the discretion of the Project Manager.

Participation in Evaluation

- 28. The participants agree that they will participate in the Project’s evaluation by completing and submitting the Project’s evaluation survey(s).
- 29. The Project will supply the participants’ names and contact information to the Project Evaluator so that the participants may be contacted to participate in evaluation activities.
- 30. The participants understand that the information being collected for the Project is solely for research purposes, and that none of the information in the evaluation report will directly or indirectly disclose the identity of any participant.

Counterparts

- 31. This Agreement may be entered into by each participant signing a separate copy and delivering it to the other participant(s) and the Mediator by fax, scanned e-mail attachment, or other means approved by the Mediator.

Dated, signed and witnessed by:

_____ **«Parent_1»**
 _____ (Address of Participant)
 _____ (Name of Counsel *[if applicable]* or Witness)
 _____ (Signature of Counsel *[if applicable]* or Witness)
 _____, 2012 (Date) at _____ (Location)

_____ **«Parent_2»**
 _____ (Address of Participant)
 _____ (Name of Counsel *[if applicable]* or Witness)
 _____ (Signature of Counsel *[if applicable]* or Witness)

_____, 2012 (Date) at _____ (Location)

_____ «Child»

_____ (Address of Participant)

_____ (Name of Counsel [if applicable] or Witness)

_____ (Signature of Counsel [if applicable] or Witness)

_____, 2012 (Date) at _____ (Location)

_____ «Mediator»

_____ (Address)

_____, 2012 (Date) at _____ (Location)

APPENDIX A to the Agreement to Mediate

1. The participants agree that if the Mediator is called by any of them as a witness in any legal proceeding, in breach of this Agreement, the participant who calls the Mediator as a witness will:
 - a) forthwith pay the Mediator the sum of \$7,000 as liquidated damages for breach of contract; and
 - b) pay the Mediator the sum of \$495.00 per hour for all time incurred by the Mediator as a result of being called as a witness, whether or not the Mediator actually testifies in a legal proceeding.

2. The participants further agree that if the mediator is called by any of them as a witness in any legal proceeding, in breach of this Agreement, and the other participant(s) consents to the mediator testifying in such legal proceeding, in further breach of this agreement, the participants will jointly and severally:
 - a) forthwith pay the Mediator the sum of \$15,000 as liquidated damages for breach of contract; and
 - b) pay the Mediator the sum of \$575.00 per hour for all time incurred by the Mediator as a result of being called as a witness, whether or not the Mediator actually testifies in a legal proceeding.

Appendix E - Summary of CSEMP Evaluation Objectives, Data Sources, and Data Collection Tools

EVALUATION OBJECTIVE	TYPE OF DATA	DATA SOURCE (s)	TIMING OF COLLECTION	TOOL(S)
1. INVESTIGATE THE EFFECTIVENESS OF THE MEDIATION MODEL				
Improved attitudes and feelings about the dispute	quantitative	parents	before and after each mediation	questionnaire
Improved legal knowledge about the dispute	quantitative	parents	after each mediation	questionnaire
Parties reach agreement	quantitative	mediators	after each mediation	questionnaire
What were the facilitators and impediments?	quantitative & qualitative	parents, mediators	after each mediation	mediator log, focus group & follow-up calls
Degree of progress made toward agreement	quantitative	parents, mediators	after each mediation	questionnaires
Party satisfaction with mediation process & outcome	quantitative	parents	after each mediation	questionnaire
Party perceptions of the helpfulness of / mediator's assessment of utility of interest-based and evaluative approaches	quantitative & qualitative	parents, mediators	after each mediation	questionnaire / mediator log
Compliance with agreement	quantitative	parents	end of project	follow-up calls
Durability of party satisfaction with mediation process & outcome	quantitative	parents	end of project	follow-up call
Effectiveness of premediation sessions	quantitative & qualitative	mediators	after each mediation	mediator log
2. DESCRIBE HOW THE MEDIATION MODEL WAS CARRIED OUT IN PRACTICE				
How were the mediations structured in practice (e.g., length, joint or shuttle sessions, etc.)?	quantitative & qualitative	parents, mediators	after each mediation	mediator invoices; mediator logs; questionnaires
When and to what extent were interest-based and evaluative techniques used?	quantitative	parents, mediators	after each mediation	questionnaires
Other aspects (e.g., how, when and why did mediators made shifts from interest-based to evaluative approaches?)	qualitative	mediators	after each mediation	mediator log
	qualitative	mediators	when all mediations completed	focus group
3. INVESTIGATE THE USE OF DISTANCE MEDIATION IN THIS CONTEXT				
Was it used during the session? If yes, what type?	quantitative	mediators	after each mediation	questionnaire
Other aspects (i.e., advantages/disadvantages of use)	qualitative	parents, mediators	after each mediation	mediator log; follow-up calls
4. MEDIATOR SKILL DEVELOPMENT AND OTHER LESSONS LEARNED				
	qualitative	mediators	after each mediation	mediator log
5. NATURE AND IMPACT OF ADULT CHILDREN'S' PARTICIPATION				
Did the adult child participate in the mediation?	quantitative	mediators	after each mediation	questionnaire
Why or why not?	qualitative	mediators	after each mediation	questionnaire and log
What was the nature and impact of their participation?	qualitative	parents, mediators	after each mediation	mediator log

Appendix F – Parent Post-Mediation Questionnaire

1. How much progress do you believe was made during the mediation? Your answer can range from 0 (no progress at all) to 6 (we reached an agreement on everything)

0 (no progress at all)
 1
 2
 3
 4
 5
 6

2. For each of these questions, please choose one answer only. Your answer can range from 0 (not at all) to 4 (definitely).

	0 (not at all)	1	2	3	4 (definitely)
I'd like it if the other parent, our adult child and I could resolve this issue collaboratively	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
If I were able, I'd prefer to resolve this issue by going to court	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I can imagine the other parent, our adult child, and I being able to resolve this issue together	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

3. For each of these questions, please choose one number that best represents your opinion. Your answer can range from 0 (not at all) to 4 (a lot). To what extent did the mediation help you to:

	0 (not at all)	1	2	3	4 (a lot)
understand the legal issues	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
understand the other parent's point of view	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
identify things that you and the other parent have in common	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
understand the relevant law	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
understand your child's point of view	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
clarify what really matters to you	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4. Prior to this mediation, did you have any help with the issue of child support for the adult child from any professionals (e.g., lawyers, counsellors, mediators, family justice coordinators, etc.)?

yes no

If yes, who?

5. Many people were invited to take part in this mediation project. Some decided to mediate and some declined. Why did you decide to try mediation?

8. Please indicate how helpful you found EVALUATIVE techniques to be during the different phases of your mediation by choosing one number ranging from 0 (not helpful) to 4 (very helpful) for each question below. Please refer to the definition of "evaluative techniques" above, if needed. If your mediation did not involve a particular phase, or the mediator did not use evaluative techniques during a particular phase, please select "N/A".

	0	1	2	3	4	N/A
Before the joint session	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
During the joint session	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
After the joint session	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Overall	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>

9. Do you have any comments about the mediator's use of interest-based and evaluative techniques during your mediation?

10. What were the most helpful things that the mediator did (if any)? What were the least helpful (if any)?

11. Please answer the following questions by selecting ONE number that indicates how satisfied you are. Responses can range from from 1 (very unsatisfied) to 7 (very satisfied).

	1	2	3	4	5	6	7	
How satisfied are you with the outcome of the mediation?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
How satisfied are you with the way the mediation was conducted?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>

12. How fair was the mediation process?

1 - very unfair 2 3 4 5 6 7 - very fair

13. Please answer the following questions by selecting the one number that best represents your opinion. The number you choose can range from 1 (definitely not) to 7 (definitely)

	1	2	3	4	5	6	7	
Did the outcome of the mediation reflect what was important to you?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Would you use this mediation program again?	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Did you feel listened to by the mediator?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Did you feel understood by the mediator?	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>
I would recommend mediation to a friend if s/he were facing similar issues.	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>

14. Was there an education plan (i.e., a plan about what school the child would attend, what program s/he would take, etc.) by the end of the mediation?

15. Please answer the following questions about the education plan by choosing a number from 0 (not at all) to 4 (very much) for each question below.

	0	1	2	3	4
To what extent was it discussed during the mediation?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
To what extent did all the parties agree on it?	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>
Was there conflict around the educational plan?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
How concrete/specific was it?	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>
How practical/realistic was it?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
To what extent did you understand it?	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>
To what extent do you agree with it?	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>
Did it help you identify things you have in common with the child and/or other parent?	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>	<input type="radio"/> <input type="radio"/> <input type="radio"/>

16. Is there anything else you would like us to know as we evaluate this mediation project? Any information you give us will be really valuable, so please be as candid as possible!

Appendix G – Mediator Post-Mediation Questionnaire

1.	How long was this mediation session? _____ HOURS				
2.	Was the session terminated early?	NO	YES	IF YES, BY WHOM AND WHY?	
3.	Was this an in-person or distance mediation?	IN PERSON	DISTANCE		
4.	If this was a distance mediation, please list what technology(s) were used and why:				
5.	Did the parties share all the documents they were supposed to before the session?	YES	NO		
6.	Was this case appropriate for mediation (e.g., no safety concerns, etc.)?	YES	NO		

7. To what extent did you use the following techniques during the mediation session?	NOT AT ALL	1	2	3	A LOT
Provided legal information	0	1	2	3	4
Gave your understanding of what might happen in court	0	1	2	3	4
Discussed the strengths or weaknesses of a party's case	0	1	2	3	4
Emphasized that the parties are in control of their own solutions	0	1	2	3	4
Made suggestions or proposals for solutions	0	1	2	3	4
Pointed out concerns common to both parties	0	1	2	3	4
Encouraged the parties to see the dispute from the other's perspective	0	1	2	3	4
Facilitated communication between the parties	0	1	2	3	4
Pointed out underlying interests	0	1	2	3	4
Gave your opinion about something that was said or proposals that were made	0	1	2	3	4
Encouraged brainstorming of possible solutions	0	1	2	3	4
Suggested that one or both of the parties had unrealistic expectations	0	1	2	3	4
Built bridges between the parents &/or the parents and the adult child	0	1	2	3	4
Managed emotions	0	1	2	3	4
Reframed	0	1	2	3	4
Summarized	0	1	2	3	4
Built bridges	0	1	2	3	4
Other (<i>describe</i>):	0	1	2	3	4

8.	Using the following scale, rate how much <i>conflict</i> (i.e., disagreement coupled with anger) was apparent during the mediation session	0 NONE	1	2	3	4 A LOT
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9	At the <u>start</u> of the mediation session, was there an educational plan?	YES	NO			
10	At the <u>end</u> of the mediation session, was there an educational plan?	YES	NO			
11.	If there was a completed educational plan at the end of the mediation session, please rate the following aspects of the plan					
		NOT AT ALL	VERY MUCH			
	How concrete / specific was the educational plan?	0	1	2	3	4
	How practical / realistic was the educational plan?	0	1	2	3	4
	Does the father understand the educational plan?	0	1	2	3	4
	Does the mother understand the educational plan?	0	1	2	3	4
	Does the father agree with the educational plan?	0	1	2	3	4
	Does the mother agree with the educational plan?	0	1	2	3	4
	Did the educational plan help the parties and the adult child identify common interests?	0	1	2	3	4

12. Prior to this mediation, was there a court order or an agreement already in place regarding support and special expenses for the adult child (check one)?

NO YES, AN AGREEMENT YES, A PROVINCIAL COURT ORDER YES, A SUPREME COURT ORDER

13. Please check the option below that best describes the outcome of this mediation in terms of support & special expenses for the adult child. If none of them fit, record the outcome in the "other" line:

There was no agreement on support or special expenses, and no SJS was prepared

There was no agreement, but a SJS was prepared that contained (*check all that apply*):

Regarding facts:	No agreement	Part agreement	Full agreement
Regarding support:	No agreement	Part agreement	Full agreement
Regarding special expenses:	No agreement	Part agreement	Full agreement
Regarding additional issue(s)	No agreement	Part agreement	Full agreement

A mediated agreement was reached that provides for support and special expenses for the adult child

Other {*please describe*} _____

14. Overall, how much progress do you believe the parties made on support/special expenses?

0	1	2	3	4	5	6
NO PROGRESS AT			PART AGREEMENT			AGREED ON ALL

ALL	ISSUES
If possible, please provide the reasons for your rating:	
15. {If there was an agreement on support / special expenses}: If the mediated agreement will be amending an agreement or order, does the mediated agreement contain a provision varying the global child support for other children if the support for the adult child is no longer under the child support guidelines? YES NO	

16.	Issues other than support and support may have arisen during this mediation. Please check the appropriate boxes below if these additional issues: (1) were discussed during the mediation; (2) were resolved during mediation; and; (3) if they were an impediment to settlement (i.e., a stumbling block, but the mediation resulted in an agreement) or a barrier to settlement (i.e., a reason that the mediation did not result in an agreement).		
	THIS ISSUE WAS DISCUSSED DURING MEDIATION	THIS ISSUE WAS RESOLVED DURING MEDIATION	THIS ISSUE WAS AN IMPEDIMENT OR BARRIER
Arrears			
Ongoing support			
Access			
Support of other children			
Enforcement of FMEP		<i>[not applicable³⁹]</i>	

17.	Did the adult child(ren) participate in this mediation?	YES	NO
18.	If they did, what were their reasons for agreeing to participate?		
19.	If the adult child refused to participate in the mediation, why?		
20.	If adult child attended, did they agree to contribute sums to their education?	YES	NO
21.	Did the parties work within the Child Support Guidelines?	YES	NO
<i>If no, why not?:</i>			

22. Did either party have a lawyer attend the mediation with them?			
NO – NEITHER	YES - MOTHER	YES - FATHER	YES - BOTH

³⁹ Enforcement of FMEP is under FMEP's sole jurisdiction, and therefore cannot be subject to mediation.

Appendix H – Mediator Post-Mediation Log

The purpose of this log is to capture your thoughts about and reflections on the mediation that just occurred before your memory fades. To this end, please respond to the questions below. To save you time, you can verbally record your responses using a digital voice file. Alternatively you can type your responses here if you prefer. We appreciate the value of your time, so please do not spend more than 15 minutes on this task. For privacy and confidentiality purposes, please do not include any names or other identifying information in this log.

1. Please take a few moments to reflect on your use of interest-based and evaluative techniques during this mediation ...

- Which approach did you use most, interest-based or evaluative? Why?
- When did you shift from being interest-based to evaluative? Were there circumstances in which one approach was more useful/effective than the other?
- Was it difficult to use interest-based and evaluative approaches together in the same mediation session? Why or why not?

2. Please describe the main reasons that this case either settled (facilitators of settlement) or did not settle (barriers to settlement) in mediation.

3. Please describe any cultural, power im/balance or any other factors that in your view influenced the process or the outcome.

4. In the context of this mediation, how useful was the premediation session?

(a) please rate the premediation session's usefulness on the following scale:

0	1	2	3	4
NOT USEFUL AT ALL				CRITICAL

(b) Please provide the reasons for your rating:

5. As a mediator ...

- Did this mediation "stretch" your skills? If yes, in what ways? Did you learn anything new?

6. If this was a distance mediation ...

- How did this session differ from how you think an in-person session would have gone? In other words, how did it affect the process?

7. If the adult child(ren) participated in this mediation..

- What was the nature of their participation? (e.g., you brought their voice to the table for them; they participated for only a portion of the mediation; they participated fully, etc.)
- How do you think their participation influenced the process?

Appendix I – Parent Follow-Up Interview Protocol

1. Have you ever used mediation before for any reason? If yes, please describe the circumstances.
2. Since the mediation, have you had any help with the issue of child support for the adult child from any professionals (e.g., lawyers, counsellors/therapists, mediators, family justice counsellors, etc.)? *If yes, who:*
3. Thinking back to the mediation you participated in, at this time:

How satisfied are you with the outcome of the mediation?

1	2	3	4	5	6	7
VERY UNSATISFIED						VERY SATISFIED

How fair was the mediation process?

1	2	3	4	5	6	7
VERY UNFAIR						VERY FAIR

Would you recommend this mediation program to a friend if he or she were facing similar issues?

1	2	3	4	5	6	7
NO, DEFINITELY NOT						YES, DEFINITELY

Comments regarding satisfaction ratings (what were the best parts, the worst parts? What could be improved?):

4. *If there was an educational plan completed at the end of mediation* - Has the EP changed? If yes, how, in what ways? (is it done, changed substantially, been tinkered with, etc.) if yes, why has it changed? (e.g., child has changed plans, etc.) How useful was the education plan? Was it difficult to complete?
5. *If an educational plan was not completed at the end of mediation* Is there one now? How was it generated - what processes were used? (i.e., did you meet with the child and/or other parent? did someone assist you, etc.) Did the mediation help you to get to an educational plan?
6. If there was an agreement at the end of the mediation:

(a) Have both you and the other parent voluntarily followed all the terms of the agreement you made at the mediation session?	YES	NO
<i>(If no):</i> is this due to a mutual agreement between you and the other parent to change the terms of the agreement?	YES	NO
<i>Describe/comments:</i>		
(b) Did you get ILA regarding the agreement (if no, why not - did they have trouble obtaining ILA)?	YES	NO
<i>Comments:</i>		
(c) (If they did obtain ILA): was the agreement changed or terminated as a result of this legal advice?	no	changed terminated

(d) Was the agreement filed in court or incorporated into an existing court order?	Yes		No	
(e) Was there a need to vary an order (supreme or provincial) or an original agreement? Was that a barrier to following the agreement?	no	yes, but was not a barrier	yes, and was a barrier	
(f) If relevant, describe your experience in trying to get the mediated agreement filed in court (Has this been a problem for the parties? If yes, how? What was the process; how did you go about doing it? If you haven't pursued one, why not?)				
- How long did it take to get a desk order that varied the agreement?		_____ months		
- Has FMEP been involved in enforcing any of the terms of this new agreement (describe)? Has FMEP (to your knowledge) changed their records to reflect your new agreement)				
7. <i>If there was no agreement at the end of mediation</i>				
Has there been any progress on this issue since then?	0 (NONE)	1 (A LITTLE)	2 (SOME)	3 (A LOT)
<i>(if there has been progress)</i>				
How (if at all) did the mediation session help you in working on this issue?				
Have there been any hold-ups/barriers/bumps in the road? <i>describe</i>				
Were there specific steps that you, the other parent, or the adult child were going to do?		YES	No	
If yes, did they do it?		YES	No	

8. Was the mediation in person or distance? If by distance, how did it go? Advantages, disadvantages? Would you have preferred to be in person? Why or why not?
9. What were the main facilitators of agreement (if there was an agreement)? If no agreement, what were the main reasons there was no agreement