Oregon Department of Human Services (ODHS) Adoption and Guardianship Mediation Program

Special Considerations in Mediation

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Section 1: Mediating with Individuals with Disabilities

Learning Objectives

When you complete this section, you will be able to do the following:

- Identify ways to discover disability accessibility needs as a mediation is launched
- Identify how the Americans with Disabilities Act (ADA) affects disability accessibility in the Oregon Department of Human Services (ODHS) mediation program
- Identify disability-related issues in adoption and guardianship mediations
- Identify resources on capacity to mediate
- Identify resources for technical assistance for accommodating individuals with disabilities

Any person participating in a mediation — birth parent, prospective adoptive or guardian parent, birth relative, attorney, **Court Appointed Special Advocate (CASA)**, Oregon Department of Human Services (ODHS) caseworker or other participant — might be an individual with a disability. Do not assume that having a disability affects a person's ability to participate in mediation and recognize that not all disabilities are immediately apparent. However, if a disability is recognized, be prepared to make reasonable modifications/accommodations and provide disability accessibility so they can participate fully.

Words that are **black and bold** are glossary terms, and their definitions can be found in the Glossary.

Disability Accessibility and the Americans with Disabilities Act (ADA)

The Oregon Department of Human Services (ODHS) mediation program is subject to various antidiscrimination laws, including the Americans with Disabilities Act (ADA). The ADA applies to ODHS as a State Government entity (Title II) and to the contracted mediators as providers of services to the public (Title III). Mediation should proceed without discrimination on the basis of disability.

The ADA broadly defines disability as follows:

(A) a physical or mental impairment that substantially limits one or more major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment

"Major life activities" are also broadly defined to "include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating and working." [42 USC 126, Sec. 12102] Some of the major life activities that are also relevant to mediation participation are managing emotions, stamina, and decision-making.

The ADA does not protect all impairments. Among its exclusions are temporary disabilities, current illegal use of drugs, pedophilia, and compulsive gambling.

Making mediation accessible to persons with disabilities involves removing three types of barriers to full and effective participation:

- Physical accessibility barriers
- Communication barriers
- Attitudinal barriers

Physical accessibility barriers

- If meeting with participants in person for **caucuses** or joint sessions, the location needs to be one they can physically enter and use, including restrooms (e.g., a person who uses a wheelchair for mobility will need a usable path of travel into and within the building).
- ODHS branch offices, courthouses, and most attorneys' offices are required by law to be accessible, which makes them useful meeting locations if needed.
- Video conferencing might be the most accessible alternative.

Communication barriers

- Communication with participants should be in a manner and format they can utilize and understand, both in expressive (speaking, writing) and receptive (hearing, reading) language.
- If standard spoken and written English is not available to a participant, explore the use of communication aids, such as large print, sign language interpreters, relay phone service, simplified language, repetition, etc. Examples include:
  - The Agreement to Mediate form and the introductory materials may need to be provided in large print or electronically.
  - A support person (e.g., case manager or advocate) may be an option for ensuring effective communication with a birth parent who has an intellectual disability.

NOTE: Electronic delivery to allow for access via screen reading software may be preferred for those with visual or cognitive impairments.

Attitudinal barriers

- In our culture, stereotyped and negative views of individuals with disabilities as incapable, inferior, pitiful, contagious, unintelligent, or dangerous are common.
- Negative attitudes about accessibility — that providing modifications or accommodating individuals with disabilities will be difficult, expensive, or burdensome — are also common.
- These attitudes adversely affect individuals with disabilities and may lead to discrimination.

Refer to the third article concerning microaggressions listed in the Expand Your Knowledge box on the next page for mor information.

Mediators should treat all participants as individuals. This includes being respectful, avoiding breaches in disability etiquette, and not committing microaggressions.

The modifications and adjustments made by mediators to provide disability accessibility are termed “reasonable modifications/ accommodations” for participants with disabilities. Technically, under the ADA, the burden is on the individual with a disability to disclose their disability and request accommodations, but initial discussions with participants about the mediation process may reveal how the process may be adapted even without a request. For example, when discussing the scheduling of appointments, a mediator may learn reasons for planning to hold several short sessions instead of a single long session in order to schedule around the timing of medication side effects, emailing instead of phoning, providing more breaks, etc.

It should be noted that the ADA states that reasonable accommodations are *not* mandated in the following instances:

- The accommodation would be an “undue hardship” (given the mediation provider’s size and resources and the difficulty of accommodating).
- The accommodation would cause a “fundamental alteration” of the nature of the mediation service (e.g., the individual with a disability wants to bring a support person who refuses to agree to keeping the mediation discussions confidential, since confidentiality is a fundamental aspect of mediation).
- The individual with a disability presents a “direct threat” to the mediator or other participants in the mediation. However, the mediator must provide reasonable modification/accommodation if it would eliminate a “significant risk to health or safety.” For example, safety could be assured by holding caucuses or joint sessions by video instead of in person.

Expand Your Knowledge

1. For an excellent overview of how to make the mediation process accessible to participants with disabilities, read *Questions and Answers for Mediation Providers: Mediation and the Americans with Disabilities Act (ADA)*, by the U.S. EEOC, National Council on Disability, and U.S. Dept. of Justice at https://www.ada.gov/ada_mediators.html. Although written in the context of mediating employment disputes, it is applicable to most mediations, whatever the subject matter. Appendix A, Commonly Requested Accommodations Relating to Mediation, includes disability-related accommodation requests and solutions related to the mediation process.
2. For a discussion of the benefits of universal design, "(r)ather than using a narrow medical focus on disability, which can be intrusive and irrelevant," read Martha E. Simmons' article titled, "One Mediation, Accessible to All" at https://www.americanbar.org/content/dam/aba/publications/dispute_resolution_magazine/ombuds/7_international_dispatch_one_mediation.authcheckdam.pdf.
3. To understand how to avoid committing microaggressions when approaching disability accessibility, read Dan Berstein's article titled, "How to Help Parties with Disabilities without Discriminating" at https://www.mediate.com/pfriendly.cfm?id=15667.

Learning about Disability Accessibility Needs as the Mediation is Launched

There are many opportunities at the launch of a mediation to discover whether participants may need disability-related modifications/ accommodations to the mediation process. These opportunities may include:

- Mediation Authorization Form
- Mediation Referral Form
- Authorization for Disclosure Form, commonly known as Release of Information (ROI) form
- Initial conversations with the participants

Refer to the Appendix for copies of the Mediation Authorization Form, Mediation Referral Form, and Authorization for Disclosure Form.

Next, we will examine each of these.

Mediation Authorization Form

The mediation authorization form informs the mediator if translation or interpreter services are needed. Presumably, at this point ODHS will note whether and for whom services such as written materials in Braille or access to a sign language interpreter are needed.

Whenever translation or interpreter services are required, the mediator will need to coordinate with the caseworker for ODHS to arrange necessary services through a contracted provider.

Mediation Referral Form

The mediation referral form documents whether the mediation participants include a guardian or **guardian ad litem (GAL)** for a party (usually a birth parent). Courts appoint guardians or GALs for "incapacitated persons" (Oregon Rules of Civil Procedure 27B) with severe cognitive or communication conditions. Therefore, court appointment of a guardian or GAL might indicate that modifications/ accommodations related to a disability may be needed.

Mediators contact the guardian or GAL before contacting the person to whom they were appointed. During this conversation the mediator can explore and learn about the disability. Mediators and the guardian or GAL may discuss ways to help the participant in the mediation process even though the guardian or GAL will be making decisions on the person's behalf.

The mediation referral form includes a section titled, "Documented Safety Concerns," which might indicate whether there are any safety concerns related to a birth parent's disability, such as poor judgment related to an intellectual disability or violence due to a psychiatric disability. It should be noted that the vast majority of violent acts are not due to mental illness, and most people with mental illness are not violent.

Expland Your Knowledge

Most people with mental illness are not dangerous, and the assumption that they are can be stigmatizing. However, some individuals who have certain psychiatric disorders (e.g., schizophrenia with persecutory delusions or antisocial personality disorder) may act in aggressive or violent ways. For more information, see the article "Mental Illness and Violence: Debunking myths, addressing realities" (https://www.apa.org/monitor/2021/04/ce-mental-illness).

If a birth parent's parenting difficulties are related to their disability, the disability may be relevant to how the mediation process is conducted and how the participants develop the plan for openness.

The plan for openness must address any safety concerns before ODHS will sign the **post adoption communication agreement (PACA)** or **post guardianship communication agreement (PGCA)** and submit it for court approval.

Authorization for Disclosure Form

The authorization for disclosure form (also called release of information [ROI] form) indicates whether a participant allows ODHS to disclose information to the mediator about their health, mental health, substance use disorder, treatment information, and other potentially relevant information.

In the initial contact with the caseworker, a signed authorization for disclosure form would allow the mediator to discuss with the caseworker whether the participant might have disability-related needs relevant to how the mediation process is designed and conducted.

If a psychological assessment of the birth parent was done as part of a juvenile court case, ODHS might not be authorized to rerelease it to the mediator. If the assessment might be helpful in adjusting the mediation process to the birth parent's needs, the mediator may ask the birth parent or their attorney to discuss authorizing its release, explaining why it might be helpful. Review of the psychological assessment by the mediator is not common, but it can be helpful in some situations.

Initial Conversations

Beyond these documents, the separate initial conversations held by the mediator with each participant provide the best opportunity to explore and discover what it may take for the mediation process to be accessible.

As each person is welcomed to the mediation process, the mediator should make it clear that the goal is to help each person participate effectively. Moreover, the mediator will:

- Explain the mediation process and the role of the mediator.
- Explicitly state that they are eager and open to hearing what is needed for full participation, including any needs that are disability related.
- Make the mediation process flexible enough to meet the needs of all participants, whatever the reason for the need.

The laws that require mediators to provide disability accessibility do place the burden on the individual with the disability to disclose their disability and request reasonable modifications/accommodations. As a result, it is important to make participants comfortable asking for necessary modifications/accommodations. Doing so may make it unnecessary for them to disclose a disability. This is especially helpful to participants who have a hidden disability such as attention deficit/hyperactivity disorder (ADHD), depression, epilepsy, or chronic fatigue syndrome.

There is an enormous range of disabilities, and not everyone with a particular disability is the same. Some important things to remember:

- Individuals often know best what they need to participate. Talk with the individual directly when possible.
- Do not make assumptions about their disability or what they need.
- Ask, listen, and make reasonable modifications/accommodations.

Expand Your Knowledge

Some mediators find it awkward to inquire about disability-related needs. Here are examples of some intake questions mediators could ask to assess whether a disability modification/accommodation might be needed:

- Mediation is a very flexible process. I try to set it up in a way that helps each party participate fully so it would be helpful to know: Is there anything I should know about you so I can make the mediation process more comfortable or effective for you?
- If you have any disability-related needs, I would like to try and meet them. Can you communicate well in spoken and heard English? Or is an interpreter needed? If you use sign language, which one (e.g., signed English or American Sign Language ASL)? Will we need to make calls through the relay service?
- Do we need to meet in a wheelchair-accessible place? Or are there other physical needs you have that I can accommodate?
- Do you need written materials in an alternate format (e.g., large print, electronic, or audiotape)?
- Does your disability (or any medical conditions you have or medication you take) affect your concentration, communication, stamina, or how you handle your emotions? Do you have suggestions about what I can do to make the mediation sessions more effective for you?
- Do you have a strong preference for what time of day/evening we meet?
- Would it help you to bring anyone with you for support?

Confidentiality Note

Do not disclose a participant's disability to other participants without permission. If the participant gives permission, ask how best to describe the disability to other participants.

For example: "If your disability comes up in the mediation discussions, how do you prefer to describe it?"

Disability-Related Issues in Adoption and Guardianship Mediations

Birth Parent Lacks Capacity to Mediate

By Oregon law, all adults (age 18 and over) are presumed to have legal capacity. If the birth parent is considered "incapacitated," then the probate court can appoint a guardian to make decisions on the birth parent's behalf. That guardian will guide the birth parent in an ODHS case. If they do not have a guardian already appointed, the juvenile court can appoint a GAL to assist them just in the juvenile court case.

If the birth parent has been appointed a guardian or GAL based on their disability, then that guardian or GAL will guide the birth parent's participation in the mediation process and will be the ultimate decision-maker for the birth parent in the mediation. Actions of the guardian or GAL include the following:

Refer to Section 3: Working with Adolescents in Mediation in this manual if the birth parent is a minor.

- Provide direction to the birth parent's attorney.
- Sign the Agreement to Mediate form.
- Agree to final terms of the plan for openness.
- Sign the post adoption or guardianship communication agreement (PACA or PGCA)*;* the birth parent may also sign, but their signature alone is not legally binding.

Refer to the Appendix for a copy of the Agreement to Mediate Form

Even when there is a guardian or GAL, the mediator will attempt to include the birth parent in the mediation process so they can voice their interests, needs, and goals concerning openness. If the birth parent can take part in the joint sessions, the participants have the opportunity to get to know each other better and agree on what arrangement for openness could be workable. It can also provide the prospective adoptive or guardian parent with the opportunity to learn more about the birth parent's disability as well as their parenting challenges. That fuller understanding and context may help in answering the child's questions about their birth parent.

When Safety Concerns may be Disability Related

The birth parent's disability may present concerns for the safety of the child and/or the child's prospective adoptive or guardian parent. For example, in some cases poor judgment or erratic behavior due to

Refer back to the previous Expand Your Knowledge in this Section.

intellectual impairment, mental illness, or traumatic brain injury may have contributed to past child abuse or neglect.

Safety concerns are relevant to the mediation process. The mediator must construct a process that keeps everyone safe. Decisions to be made include the following considerations:

- Should it be a joint session?
- Where should participants meet?
- What ground rules should be set for discussions?
- How can a proactive approach be used with caucusing or calling breaks if a participant is having difficulty managing strong emotions?

Safety concerns are obviously relevant to the decisions participants make together about openness. Any plan for openness that the participants make will have to address documented safety concerns before the caseworker would sign the PACA or PGCA. The mediator will help the participants explore such future security measures as:

- Routing mail to a secure mailbox rather than a residential address
- Communicating by buffered contact (e.g., mail, email, private social media page such as Facebook) rather than in real time (e.g., phone, video, or visits)
- Supervised visits
- Therapeutic visits

When a Birth Parent's Disability is Hereditary

Some conditions have a genetic link. The child may already have or be at higher risk of developing the same disability as their birth parent. These conditions may include:

- Certain learning disabilities (e.g., ADHD)
- Intellectual disabilities
- Psychiatric disabilities (e.g., schizophrenia, bipolar disorder)
- Physical disabilities (e.g., cystic fibrosis, diabetes)

In the course of the mediation, the mediator can help the participants consider whether learning more about the disability is helpful and how that might be achieved. The birth parent may want to provide information and/or suggest information resources.

The participants may want the mediator's help in facilitating the conversations or information exchange concerning the nature of the disability, its impact on the birth parent's life, and whether updates about the birth parent's health in the future would be helpful to the adoptive or guardian parents in meeting the child's health needs over time. It is common for openness plans to include language such as:

"Family medical history: The participants share a concern that child's medical needs be met. Therefore, birth parent will update adoptive parents about aspects of her own health (and other birth relatives' health, if known) that could reasonably affect child's health. Birth parent is also willing to be contacted by professionals serving child (such as physicians, teachers, or therapists) for information that might help them meet child's needs."

Perception of Mediator Bias for Providing Accessibility

A prospective adoptive or guardian parent may question the efforts the mediator is making for the mediation process to be accessible to a birth parent with disabilities and may perceive that the mediator is siding with the birth parent's views on openness. This can also occur when the birth parent questions efforts to make the process accessible for a prospective adoptive or guardian parent, but it's much more common to happen when the birth parent has a disability. Mediators can repeat their neutrality and explain the difference between process and substance.

Oregon Mediation Association's Core Standard of "Impartial Regard" is not jeopardized by providing a mediation process that puts each participant in the best position to participate effectively. The mediator's role is not to make decisions about what the plan for openness will be. Therefore, providing reasonable modifications/accommodations does not prejudge the merits of the plan.

The Core Standards of Mediation Practice, Oregon Mediation Association, can be found at https://ormediation.org/wp-content/uploads/2016/04/CoreStandardsFina_2005.pdf

Example

Accommodating a birth father's psychiatric disability by timing mediation sessions around his medication schedule does not mean that the mediator is pressuring the adoptive parent to schedule visits the same way or to even allow visits at all.

Resources on Capacity to Mediate

Oregon Revised Statutes Relating to Legal Capacity

ORS 109.510 Age of Majority

Except as provided in ORS 109.520, in this state any person shall be deemed to have arrived at majority at the age of 18 years, and thereafter shall: (1) Have control of the person's own actions and business; and (2) Have all the rights and be subject to all the liabilities of a citizen of full age.

Oregon Rules of Civil Procedure (2007) Incapacitated Parties: Rule 27 B

Appearance of incapacitated person by conservator or guardian. When a person who is incapacitated or financially incapable, as defined in ORS 125.005, who has a conservator of such person's estate or a guardian, is a party to any action, the person shall appear by the conservator or guardian as may be appropriate or, if the court so orders, by guardian ad litem appointed by the court in which the action is brought. If the person does not have a conservator of such person's estate or a guardian, the person shall appear by guardian ad litem appointed by the court….

Protective Proceedings (guardianship, conservatorship, etc.)

- ORS 125.005 Definitions
  - (3) "Financially incapable" means a condition in which a person is unable to manage financial resources of the person effectively for reasons including, but not limited to, mental illness, mental retardation, physical illness or disability, chronic use of drugs or controlled substances, chronic intoxication, confinement, detention by a foreign power or disappearance. "Manage financial resources" means those actions necessary to obtain, administer and dispose of real and personal property, intangible property, business property, benefits, and income.
  - (5) "Incapacitated" means a condition in which a person's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that the person presently lacks the capacity to meet the essential requirements for the person's physical health or safety. "Meeting the essential requirements for

physical health and safety" means those actions necessary to provide the health care, food, shelter, clothing, personal hygiene, and other care without which serious physical injury or illness is likely to occur.

- ORS 125.300 In General
  - (1) A guardian may be appointed for an adult person only as is necessary to promote and protect the well-being of the protected person. A guardianship for an adult person must be designed to encourage the development of maximum self-reliance and independence of the protected person and may be ordered only to the extent necessitated by the person's actual mental and physical limitations.
  - (2) An adult protected person for whom a guardian has been appointed is not presumed to be incompetent.
  - (3) A protected person retains all legal and civil rights provided by law except those that have been expressly limited by court order or specifically granted to the guardian by the court. Rights retained by the person include but are not limited to the right to contact and retain counsel and to have access to personal records. [1995 c.664 §27]

Resources for Technical Assistance for Accommodating Individuals with Disabilities

Publications

- *Questions and Answers for Mediation Providers: Mediation and the Americans with Disabilities Act (ADA*), by the U.S. EEOC, National Council on Disability, and U.S. Dept. of Justice. https://www.ada.gov/ada_mediators.html
- The ADA Mediation Guidelines

  http://www.mediate.com/articles/adaltr.cfm
- American Bar Association
  - Tools for accessible meetings: https://www.americanbar.org/content/dam/aba/administrative/commission-disability-rights/accessible-meetings-toolkit.pdf
  - Tools for accessible virtual meetings: https://www.americanbar.org/groups/diversity/disabilityrights/resources/covid-resources/virtual-meetings-checklist/

- Simmons, Martha E. *One Mediation, Accessible to All*. https://www.americanbar.org/content/dam/aba/publications/dispute_resolution_magazine/ombuds/7_international_dispatch_one_mediation.authcheckdam.pdf
- Berstein, Dan. How to Help Parties with Disabilities without Discriminating. https://www.mediate.com/pfriendly.cfm?id=15667
- U.S. Department of Justice, Civil Rights Division's Disability Rights Section.
  - ADA Info Line: (800) 514-0301
  - ADA Home Page: www.ada.gov

Oregon and Regional Resources

Resource	Website and/or Phone Number
Disability Rights Oregon (formerly the Oregon Advocacy Center): Oregon's federally funded protection and advocacy agency	– (503) 243-2081 (Portland) – (800) 452-1694 – https://www.droregon.org/
National Federation of the Blind of Oregon	– 541-653-9153 – www.nfb-oregon.org
Northwest ADA Center (regional source for free information, materials, technical assistance, and training on the ADA and disability access)	– http://nwadacenter.org/ – Tip sheet on disability etiquette: https://nwadacenter.org/factsheet/respectful-interactions-disability-language-and-etiquette
Oregon Association of the Deaf	– www.deaforegon.com
Oregon Commission for the Blind	– (971) 673-1588 – (888) 202-5463 – www.oregon.gov/Blind
Oregon Developmental Disabilities Council	– (503) 945-9941 (Salem) – (800) 292-4154 – www.ocdd.org
Oregon Relay (for phone relay of TTY, HCL, and VCL calls)	– www.oregonrelay.com – Dial 771

Section 2: Mediating Plans for Sibling Connections

Learning Objectives

When you complete this section, you will be able to do the following:

- Define what a sibling relationship is and identify the importance of the relationship
- Describe how to maintain sibling connection through mediation

Overview

Placement with relatives and placing siblings together are ODHS priorities for placement of a child in legal custody. The importance of sibling relationships was highlighted in the 2017 Oregon law outlining the rights of siblings placed in foster care and requiring ODHS to establish the Oregon Foster Children's Sibling Bill of Rights.

Permanent separation of siblings in the custody of ODHS for the purpose of adoption or guardianship should only be done when there is no other way to meet the needs of all siblings. The caseworker has case planning responsibility to maintain and support lifelong sibling relationships for children in the department's legal custody. Sibling relationships should be facilitated and encouraged in situations where children are or will be in separate homes due to adoption or guardianship.[1] Encouragement and facilitation of sibling relationships will need to include those situations where not all siblings are in the legal custody of the department. For instance, a child in foster care may have a sibling who is an adult not in the care of ODHS, or they may have a sibling who was previously adopted by an individual who is not able to adopt the sibling in foster care. It is important to nurture and support all the sibling relationships. One way to do that is through mediation to develop a plan for openness. Mediators may receive a referral for mediation to help the prospective adoptive or guardian parent develop that plan.

Learn more about sibling issues in foster care and adoption, including the importance of siblings, which is addressed later in this section, in the following article: https://www.childwelfare.gov/pubpdfs/siblingissues.pdf.

Expand Your Knowledge

To learn more about Sibling Bill of Rights, refer to the Appendix to review the following documents:

- Oregon Laws 2017 Chapter 36
- Oregon Foster Children's Sibling Bill of Rights: I Have the Right:
- Oregon Foster Children's Sibling Bill of Rights: Tips and Ideas

What Do We Mean by a Sibling Relationship?

- **Full or half-siblings:** Children that are biologically related by one or both biological parents or related through a common legal parent (i.e., children that are legally adopted by the same parent or parents).
- **Step-siblings:** The child of one's stepparent by another person who is not one's parent.
- **Siblings through tribal law or customs:** Tribal law or customs define who would be considered siblings of an **Indian child**.

NOTE: Occasionally a caseworker will make a referral for mediation to develop a plan for connections between children who do not meet these definitions of siblings but who consider each other siblings (i.e., lived together in the same foster home or other home of a relative).

Importance of Siblings

Adoptees often report that the most significant and lasting relationship they have is with their siblings. For children in foster care, siblings may be the one constant relationship that exists for them. Siblings placed together in foster care may experience less trauma than those siblings placed separately. Siblings may provide nurturing, protection, and support for one another as well as a sense of family and cultural connection.

Maintaining Sibling Connection through Mediation

Questions to Consider when Mediating a Plan for Sibling Connections:

As the mediator is preparing for the mediation, here are some questions to be considered:

- Why do or will the siblings live apart?
- Do the siblings currently have contact with one another? If so, what is the nature of the contact?
- What are the ages of the siblings?
- Are the siblings geographically close?
- Do the siblings have a relationship with one another? Do they know one another?
- What, if any, special needs are present for each of the siblings? Are there other professionals such as child therapists, with whom you may want to talk about the children's therapeutic needs?
- Are there any safety issues that need to be addressed by the prospective adoptive or guardian parent to ensure that contact between the siblings is safe (see above bullet about contact with other professionals)?
- What is the relationship between the children's parents (birth parent, prospective adoptive or guardian parent, **resource parent**) if the siblings are all minors or between the child's parent and the child's sibling if the sibling is an adult?
- What about the sibling relationship is important to each of the siblings?

Refer to Section 2: Launching a Mediation in the Program Manual for more information.

Refer to Section 2: Launching a Mediation in the Program Manual for guidance on starting the mediation process and Section 3: Working with Adolescents in Mediation in this module when the mediation is concerning siblings where one or more are adolescents.

Section 3: Working with Adolescents in Mediation

Learning Objectives

When you complete this section, you will be able to do the following:

- Recognize special situations where an adolescent may be involved in mediation (e.g., an adolescent birth parent)
- Recognize how the adolescent brain may impact mediation
- Describe the process for launching the mediation with an adolescent, including the first meeting
- Identify ways the adolescent may be involved in developing the draft plan

Case Situations

Mediators guide the process that helps birth parents and prospective adoptive or guardian parents develop a plan for openness. Adolescents are sometimes participants in the mediation process. There are several ODHS adoption or guardianship case situations where the mediator may be working with adolescents.

In this section, we define adolescents as those aged approximately 12-18 years.

Birth Parent is a Minor

When referred for mediation, the adolescent birth parent is a party to that mediation, and, as such, they need to understand the mediation process. Mediation will not proceed unless the adolescent birth parent signs the Agreement to Mediate. If they have a guardian or GAL, that person would have to sign the Agreement to Mediate as well as participate as a decision-maker in the mediation. Even when there is a guardian or GAL, the mediator will attempt to include the adolescent birth parent in the mediation process, so that they can voice their interests, needs, and goals concerning openness and understand the plan that is developed.

Child Being Adopted is At Least 14 Years Old

A child aged 14 years or older will need to consent to their own adoption (ORS 109.328) and any Post Adoption Communication Agreement (PACA) (ORS 109.305). In addition, they usually want to be included in the planning for openness. If the child lacks input and ends up dissatisfied with the openness plan that the participants developed, their well-being and relationships with the participants may deteriorate.

Child Being Adopted or Placed Under Guardianship Wants to be Included

Usually, it is the child's attorney who determines whether the child is old enough and willing to participate directly in the mediation process. It is rare for children younger than about 12 to directly participate. Their attorney articulates the child's wishes and interests to the mediator (in addition to what the mediator is told by the participants, caseworker, and CASA), and reviews the draft plan for openness if the parties each give consent for review.

The Adolescent Brain

Working with adolescents is engaging, and yet it can be challenging. The adolescents whose family lives are being rearranged through ODHS and the juvenile court have often been through highly emotional and traumatic disruptions. As such, it is essential for the mediator to demonstrate active listening skills and empathy.

It is helpful for the mediator to understand that the adolescent brain is still growing and works differently than adult brains when problem-solving and decision-making. Adolescents are more likely to be impulsive and emotional. Their prefrontal cortex (responsible for thoughtfulness, caution, and logic) is still developing. Adolescents may misinterpret social cues and have trouble understanding the consequences of actions and choices. Trauma experienced by the adolescent (abuse/neglect, family separation, etc.) adds an additional layer to these complexities.

Expand Your Knowledge

To learn more about the adolescent brain, visit the following sites:

- https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/The-Teen-Brain-Behavior-Problem-Solving-and-Decision-Making-095.aspx
- https://www.universityofcalifornia.edu/news/evolutionary-advantage-teenage-brain

Launching the Mediation and Meeting the Adolescent

Prior to Meeting with the Adolescent

Adolescents who want to give input on an openness plan bring their experience with the participants and, often, strong emotions to the table. The adolescent typically has a long history with the birth parent(s). The prospective adoptive parent or guardian may be a resource parent or a relative that the adolescent also knows well. In many cases, the adolescent has also observed an ongoing relationship between the birth parent and the prospective adoptive parent or guardian. The adolescent will have opinions about what has worked, what has not worked, what to continue, and what to change as everyone moves forward.

Mediation is premised on the benefits of collaboration and cooperative action. Participants who craft their mutual solution to a dispute are more invested in its success. If adolescents feel excluded from the mediation process and dislike the openness plans imposed on them, unhappiness and sabotage may occur. Good collaboration with the adolescent will help minimize undesired consequences and increase desired outcomes.

The mediator should discuss with the caseworker whether the mediator should have direct contact with the adolescent. Prior to making direct contact with the adolescent, if deemed appropriate, the mediator should contact the adolescent's attorney, as well as any other necessary professional collateral contacts, such as a therapist. These conversations will allow the mediator to:

- Have a good picture of the dynamics of the case — the players, the issues related to openness, and the adolescent.

- Have already discussed with the participants the process for working with the adolescent, if possible.
- Know if the participants are open to hearing some input from the adolescent through the mediator at certain points in the mediation.
- Know, once the participants have a tentative plan sorted out, whether they will allow the mediator to debrief it with the adolescent for further input.

Adolescent Meeting Guidelines

These guidelines apply to meeting with an adolescent:

- If at all possible, the mediator should try to meet with the adolescent in person.
- Meet at a location that is comfortable for the adolescent (e.g., the adolescent's home, their attorney's office, their therapist's office).
- Try to avoid more formal settings (e.g., the courthouse, ODHS branch).
- Explore with the adolescent's attorney and caseworker whether they or others (e.g., child's therapist) should be included in the meeting with the adolescent and mediator.
  - The adolescent may be more at ease if accompanied by someone they already know and, hopefully, trust.
  - Including others in the meeting can minimize the chance of a false allegation of impropriety from the adolescent about the mediator.
- Ensure privacy so that the conversation with the adolescent cannot be overheard by others not participating in the meeting with the adolescent.
  - Understand that ensuring privacy can be challenging if the meeting is being held at the home of an adolescent already living with their prospective adoptive parent or guardian.
  - Reinforce that you do not want the adolescent to feel pressure to choose sides, please their caregiver, or feel accountable for any future difficulties.
  - Stress that they are not being put in the middle; that all participants are working together.

First Meeting with the Adolescent

The first meeting between the mediator and the adolescent will be focused on introductions and explaining mediation and the role of the mediator. Keep it simple. Explain that the goal is to help the adults (e.g., birth parent or other birth relatives and prospective adoptive or guardian parent) share their ideas about how they might keep in touch with each other after the adoption or guardianship is set up and how the adolescent and their birth parent or other birth relatives might keep in touch as well. Reinforce the fact that the mediator will not be the one making those decisions — if the adults can agree, the mediator will help them write it down for the judge to review. Everyone wants to come up with a plan that is good for the adolescent, so the mediator is asking for the participants to be allowed to share the adolescent's ideas and report back to the adolescent about what is being considered. Then the adolescent can let the participants know through the mediator how the plan sounds and how it might be improved.

Keep the meeting short unless the adolescent clearly extends it with questions or concerns. The mediator can ask if the adolescent has any questions, concerns, or additional information. Finish the meeting by sharing with the adolescent the expectation of a follow-up visit once the adults have some ideas pinned down. It may be best for contact between the adolescent and mediator to be arranged through the adolescent's caseworker, attorney, or possibly the therapist. Make that decision in consultation with the caseworker and adolescent's attorney and let the adolescent know how contact can occur.

Involving the Adolescent in the Development of the Draft Plan

Developing the Draft Plan with the Participants

As the mediator conducts separate caucuses with each participant, and sometimes joint sessions with all the participants to begin developing the draft plan, it is important to periodically explore whether input from the adolescent might be helpful to resolving any issue(s) being explored. If the participants give permission, the mediator might contact the adolescent and their attorney for input to share with the participants.

The mediator will work with the participants until they agree to a tentative outline of terms or even a working draft PACA or PGCA with which they are all reasonably comfortable.

Once this agreement has been reached, the mediator will seek the participants' permission to debrief the outline or draft PACA or PGCA with the adolescent, the adolescent's attorney, and possibly the adolescent's therapist.

Debriefing the Draft Plan with the Adolescent

Once the draft PACA or PGCA has been agreed upon by the participants, the mediator will share it with the adolescent. This will involve:

- Re-explaining mediation and the role of the mediator, which is to help the participants (birth parent and prospective adoptive or guardian parent) share their ideas and reach some tentative decisions together
- Letting the adolescent know that the participants have some shared values about openness; often the mediator can pass on these joint messages from the participants to the adolescent (e.g., the adolescent is loved by them, they are interested in how the adolescent is doing, they think keeping connected is important)
- Walking the adolescent through the draft PACA or PGCA developed by the participants; options include:
  - Talking through the tentative plan
  - Showing a copy of the draft PACA or PGCA to the adolescent as it is discussed
- Discussing with the adolescent the commitments that the participants are tentatively making to each other:
  - How they want to keep in touch with each other about the adolescent
    - Method (e.g., phone, email, text, private Facebook page)
    - How often to communicate
    - The type of information to be shared about the adolescent
      - Updates about health, education, interests, and activities
      - Photographs
  - How they want to keep in touch with each other
    - Method (e.g., phone, email, text, video chat, private Facebook page, visits, attending the adolescent's athletic events)

NOTE: Do not leave a copy of the draft plan with the adolescent after the meeting because it is still an unfinished confidential mediation document.

  - How often to communicate
  - Visits (e.g., where, for how long)
- Determining if the adolescent has questions or concerns
- Encouraging feedback on the plan with open-ended inquiries to the adolescent such as:
  - "Is what they planned comfortable for you? Is anything too hard for you?"
  - "Would there be a better way to do something (e.g., where to visit, how long the visits will be, who is present at the visit)?"
  - "Did they miss something?"
  - "Is there something you need in this arrangement that they didn't understand?"
  - "Is there something you want me to tell them? Ask them?"
  - "Do you want to suggest a change?"
- Deciding with the adolescent and attorney what feedback you may relay back to the participants

Reconnecting with the Participants

The mediator can relay the adolescent's feedback to each participant in their separate caucuses or in a joint session with all participants. A joint session with the adolescent present is also an option, but only when the adolescent wants to speak with the participants, is not feeling undue pressure or stress and the attorney approves.

The mediator should help the participants understand and consider the adolescent's input, and work through any mutual revisions to the plan until the participants have reached a final PACA or PGCA.

The mediator should proceed with seeking permission from the participants to disclose their final PACA or PGCA to their attorneys, the adolescent's attorney, and the caseworker. Finally, the mediator will work with the participants to determine what information should be relayed back to the adolescent.

Sample Language for Post-Guardianship Communication Agreement

This example of language for a PGCA heavily reflects an adolescent's input.

In this case, the adolescent was 14 years old and lived with his grandmother, who was the prospective guardian. His birth mother had a significant substance use disorder, and the adolescent was stressed by hearing frequent arguments between his mother and grandmother. In addition, he'd been embarrassed by his mother's behavior when she attended school events. He wanted some control over when he would see or talk to his mother. After revisions based on his input, the final openness plan included the following provisions:

Problem-solving and decision-making: The parties agree not to discuss any disagreements that may develop over implementation of this Agreement or over child-raising issues in front of the adolescent. The parties will confer and attempt to solve any problems that arise. Mother will support Grandmother's role as the adolescent's legal guardian.

Updates: Grandmother will update the mother approximately every two weeks about how the adolescent is doing, including information about his health, education, interests, and activities to the extent grandmother determines what information is in the adolescent's best interests to disclose.

Phone calls: Mother and grandmother may call each other as needed. Grandmother will provide opportunities for mother to speak to the adolescent on the phone, at times reasonable for the teen's age and normal routine. The adolescent may call or text mother.

Screening: Grandmother will screen calls and correspondence between mother and the adolescent as she feels is needed to keep the relationships positive and in the adolescent's best interests.

Visits between Parent and the Teen:

(a) Visit arrangements: Grandmother will provide opportunities for mother to visit with the adolescent at least once a month if mother requests a visit. The parties will work together in good faith to set mutually convenient visit arrangements (dates, times, locations, participants, and activities). Grandmother will make the final decision about what visit arrangements are appropriate after conferring with the adolescent.

(b) Location of visits: Initially the parties will visit in a public place accessible by public transportation. In the future grandmother has discretion to plan some visits at her and the adolescent's home.

(c) Guidelines: Visits will occur only if:

The parties have arranged the visit in advance.

The adolescent is willing to participate.

Mother is clean and sober.

Grandmother participates in the visit whenever she or the adolescent believes that supervision is needed.

Attendance at the adolescent's activities and school events: Subject to the same guidelines as regular visits, mother may attend the adolescent's school events and extracurricular activities, if it is in the adolescent's best interests and consistent with the adolescent's preferences.

Coordination with therapy: In implementing this Agreement, the parties will seriously consider the advice of the adolescent's therapist. If requested directly by the therapist, mother is willing to provide pertinent information and participate in the adolescent's therapy.

The teen's preferences: In implementing this Agreement, the parties will give serious consideration to any meaningful input the adolescent gives as to his preferences for contact with his mother.

Glossary

caucuses	Confidential, private meetings held by the mediator with individual direct mediation participants.
Court Appointed Special Advocate (CASA)	A volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the child pursuant to ORS 419B.112.
guardian ad litem	A type of temporary, limited guardian who is appointed by the court to protect a party's best interests in a court case. A GAL can appear for, assist, and act on behalf of a party only in that specific court case.
Indian child	Any unmarried person who has not attained 18 years of age and: (a) Is a member or citizen of an Indian tribe; or (b) Is eligible for membership or citizenship in an Indian tribe and is the biological child of a member or citizen of an Indian tribe.
post adoption communication agreement (PACA)	A written agreement for post-adoptive communication, signed by the child's birth parents or other birth family members and the child's adoptive parents and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.
post guardianship communication agreement (PGCA)	A written agreement for post-guardianship communication, signed by a child's birth parents or other birth family members and the child's guardian and is based on an informed decision-making process by the mediation participants. The content of the agreement is based on the best interest of the child.
resource parent	Formerly referenced as a Foster Parent; an individual who operates a home that has been approved by the Oregon Department of Human Services (ODHS) to provide care for a child or young adult placed in the home by the ODHS.

Appendix

- Mediation Authorization Form
- Mediation Referral Form
- Agreement to Mediate Form
- Authorization for Disclosure Form
- Oregon Laws 2017 Chapter 36
- Oregon Foster Children's Siblings Bill of Rights: I Have the Right
- Oregon Foster Children's Siblings Bill of Rights: Tips and Ideas

State of Oregon-Department of Human Services
Child Welfare Central Office Mediation Authorization Form
Mediation Referral Number: Mediator:
Mediator Contract Number:

To:		**From:**	
		Phone:	
		E-Mail:	Adoptions.Mediation@dhsoha.state.or.us
Number of Pages:	**, including cover**	**Address:**	**500 Summer St NE, E-71** **Salem, OR 97301-1067**

Case #:	
Child(ren)'s Names:	**Case # (If different)**

Mediation Referral ☐	☐ **Adoption Referral** ☐ **Guardianship Referral**
Effective Date:	
Expiration Date:	
☐**Amend Referral**	**New Expiration Date:**
☐**Add Child(ren) or Participants**	
☐**Additional Hours**	**From to**
☐**Travel Approved**	☐ **Translation or interpreter services needed (Caseworker to arrange)**

Approved by:

_____ _____
Oregon Department of Human Services **Date**

Confidentiality Note: The documents that comprise this facsimile transmission contains privileged information belonging to the Children Adults and Families Division of the Oregon Department of Human Services. This information is confidential and/or legally privileged and is intended solely for the use of the addressee designated above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this FAX in error, please destroy it in its entirety and notify us immediately by telephone.

Oregon Department of Human Services
CHILD WELFARE
Adoption Program

Mediation Referral

☐ For adoption or ☐ for guardianship

Section 1: Participant information

Date: _____ Case number: _____

Case name: _____

Signed MSC 3010 for **all participants** must be attached to this referral

Name(s) of child(ren) referred:	DOB:
If any child(ren) referred should participate in the mediation, note name(s): _____ _____	

Mediation participants *(check all that apply)*:	
☐	Birth mother
☐	Birth father
☐	Adoptive mother
☐	Adoptive father
☐	Guardian mother
☐	Guardian father
☐	Other *(specify relationship)*:
_____ _____ _____	

Who requested the mediation referral? _____

Section 2: Child placement plan

☐	Adoption general applicant	Adoption selection date:	
☐	Current caretaker	Permanency staffing date:	
☐	Relative caregiver	Permanency staffing date:	
☐	Non-caregiver relative	Local office/ICPC homestudy request date:	
☐	Guardianship	Permanency committee date:	
☐	Significant relationship	Permanency committee date:	

Are other placement resources being considered?* ☐ Yes ☐ No

***A mediation referral should be submitted if only one resource is being considered.**

Section 3: Documented safety concerns

The children's safety is paramount. Please note any documented safety concerns that must be addressed in a written, mediated agreement. You may check more than one and add details, if needed.

This list will be shared with mediation participants

Safety concerns:

- ☐ Current or past substance abuse
- ☐ Violence against a child or adult
- ☐ Sexual contact with a child
- ☐ Threats or intimidation toward a child's caretaker, or threats of removal of the child from his or her caretaker(s)
- ☐ Other concern(s): _____
- ☐ Additional details: _____

Section 4: Referral information

Name of mediator selected:* _____

***Worker must contact mediator <u>before referral is submitted.</u>**

Worker's name: _____ Date: _____

DHS local office: _____ Phone: _____ ext. _____

Supervisor's signature: _____ Date: _____

Central office use only

LAS signature: _____ Date: _____

Date received in CO: _____

Assigned to: _____ Assigned date: _____

Section 5: Contact information for mediator

1. **Child(ren)'s caseworker:** _____
   Phone: _____ ext. _____ Email: _____
   DHS office/address: _____
   City, state, ZIP: _____
2. **Certifier or adoption worker:** _____
   Phone: _____ ext. _____ Email: _____
3. **Band or tribe:** _____
   Tribal contact person: _____
   Phone: _____ ext. _____ Email: _____
4. **Biological mother's attorney:** _____
   Phone: _____ ext. _____ Email: _____

5. **Biological father's attorney:** _____
   Phone: _____ ext. _____ Email: _____
6. **Child(ren)'s attorney:** _____
   Phone: _____ ext. _____ Email: _____
7. **Adoptive parent(s) or guardian(s) attorney:** _____
   Phone: _____ ext. _____ Email: _____
8. **CASA:** _____
   Phone: _____ ext. _____ Email: _____

Section 6: Mediation participants

1. **Biological mother:** _____
   Phone: _____ Email: _____
   Address: _____
   City, state, ZIP: _____
2. **Biological father:** _____
   Phone: _____ Email: _____
   Address: _____
   City, state, ZIP: _____
3. **Adoptive parent(s)/guardian(s):** _____
   Phone: _____ Email: _____
   Address: _____
   City, state, ZIP: _____

Other mediation participant(s):

1. **Name:** _____
   Phone: _____ Email: _____
   Address: _____
   City, state, ZIP: _____
   Relationship to the child: _____
2. **Name:** _____
   Phone: _____ Email: _____
   Address: _____
   City, state, ZIP: _____
   Relationship to the child: _____
3. **Name:** _____
   Phone: _____ Email: _____
   Address: _____
   City, state, ZIP: _____
   Relationship to the child: _____

4. **Name:** _____

Phone: _____ Email: _____

Address: _____

City, state, ZIP: _____

Relationship to the child: _____

Caseworker use only
Completed/signed CF 0437 to be sent to: Adoptions.Mediation@dhsoha.state.or.us

AGREEMENT TO MEDIATE

This is an Agreement among the persons who sign the Agreement. Each person who signs this agrees that the following terms and conditions apply to the mediation:

The process of mediation has been explained to me. The purpose of mediation is to reach a cooperative final mediation Agreement that is in the best interest of my child(ren) _____ .

I understand that the role of the Mediator is to be impartial. The Mediator is not a decision-maker and does not represent any of the persons who sign this Agreement. The Mediator cannot force any person who signs this Agreement to agree to any plan. The Mediator has told me of any conflicts of interest that they may have in this matter. I understand that the Mediator follows the Code of Ethics established by the _____

I am participating voluntarily in the mediation and understand that I may choose to end the mediation at any time.

I understand that the Mediator is not an employee of ODHS. The Mediator has a professional contract with ODHS and will be paid for services through that contract.

I understand that the Mediator cannot put into effect a final mediation Agreement unless all the persons who sign this Agreement say that they can. I understand that the Mediator will provide to all persons who sign this Agreement and their attorneys a copy of the final mediation Agreement that the participants sign. The final mediation Agreement will not be kept confidential.

The Mediator will not reveal anything that is said in mediation without the permission of all participants *except for* any information about an injury or possible injury to a child, any crime that likely will cause death or bodily injury to any person, or information that makes the Mediator concerned about the health or safety of any child.

I understand that mediation is confidential and private because it is protected by Oregon law and ODHS rules. I may request a copy of the ODHS rules from the Mediator, attorney or caseworker. “Confidential and private” means that what the participants say to the Mediator and to each other is private unless the rules let the participants share the information with other people. The participants cannot tell people who are not a part of the mediation about what is said during the mediation. The laws that make ODHS records private are not changed by ODHS rules. The rules will explain more about what information can and cannot be shared with other people. If I have questions or comments about the rules, I will not sign any Agreement and will talk with my attorney.

Oregon laws and rules control this Agreement, the mediation, and the final written Agreement.

I understand that the Mediator will help us reach a final mediation Agreement, but cannot give legal help or advice. I understand that I must arrange to speak with an attorney if I have legal questions about the Agreement or the mediation. I understand that if I do not qualify for a court appointed attorney, I will have to be responsible to pay for my attorney costs.

I agree to come to all scheduled appointments, to call ahead if late or rescheduling, and to notify the Mediator if I decide to end mediation.

By signing below, I am showing that I have read this Agreement and understand it and agree to its terms and conditions.

_____ _____
Participant Date

_____ _____
Participant Date

_____ _____
Participant Date

_____ _____
Participant Date

_____ _____
Participant Date

_____ _____
Mediator Date

Template: _____

Save As | Reset | Print

◉ Show instruction pages
○ Hide instruction pages

Authorization for Disclosure, Sharing and Use of Individual Information

This form allows the referral, coordination and oversight of provider services.

☐ Check here to add a legal representative

Legal last name:	**First name:**	MI:	Date of birth:
Other names:			
Address:	City:	State:	ZIP:
Phone:	Email address:		
Identification type: Pick one			

When I sign this form, I authorize those I name to give specific personal information about me. If I answer "yes" to "mutual exchange," I allow agencies I name to share information back and forth. This is so they can provide better services to me.

Release FROM:

Purpose of the disclosure, sharing and use:	
Entity name: Pick one	
Date of records: Pick one	
Contact person:	Address:
City, state and ZIP:	
Phone number:	Email address:
Fax number:	Mutual exchange: ○ Yes ○ No
Expiration date or event*:	

Do you request special health information to be released? ◉ Yes ○ No

Specially protected information: (*There may be additional laws for use and disclosure if there is the type of record or information listed in this box. I understand that* ***no information*** *will be disclosed* ***unless*** *I or my representative* ***initial next to the information types below.***)

HIV or AIDS: _____ **Mental health:** _____ **Genetic testing:** _____

Alcohol or drug diagnoses, treatment, referral: _____

Is there any specific information **not** to release? ○ Yes ○ No

Release TO:

Purpose of the disclosure, sharing and use:	
Entity name: Pick one	
Date of records: Pick one	
Contact person:	Address:
City, state and ZIP:	
Phone number:	Email address:
Fax number:	Mutual exchange: ○ Yes ○ No
Expiration date or event*:	
Is there any specific information **not** to release? ○ Yes ○ No	

ADD a releasing entity | **REMOVE** this releasing entity (*above*)

Not valid without signature page.

Template:_____

Your acknowledgment

- I was given the chance to ask questions about this form and what it does.
- I understand what this form means and I approve of the disclosures or releases listed.
- I understand that state and federal law protect information about services I receive from any listed:
  » Agency » Business » Organization » Person
- This authorization is valid for one year from the date I sign it unless otherwise noted.*
- I understand my representative or I can cancel this authorization. However, information shared before I cancel cannot be undone. I can orally cancel an authorization for drug and alcohol information. All other cancellation requests must be written. I must provide any request to cancel to the agency, business, organization or person that is providing the information.
- I understand that federal or state law prohibits re-disclosure of the following, without authorization by me or my representative:
  » Drug and alcohol diagnosis » HIV and AIDS information » Mental health
  » Referral information » Treatment records » Vocational rehabilitation records
- I understand that information that does not have re-disclosure restrictions may be re-disclosed. Re-disclosed information may no longer be protected under federal or state law.
- I understand someone may need to contact me about this form to confirm my identity. They may also need to get more information.
- I understand that deciding not to sign this form may:
  » Prevent agencies from deciding if I am eligible for certain programs.
  » Prevent me from getting referrals. It may also make coordination of provider services more difficult.
  » Affect my ability to get health services if it is necessary to share information.
  » Keep the Oregon Health Plan (OHP) or Medicaid from paying for a service because they do not have authorization.
- **I am signing this authorization of my own free will.**

Signature:	
Printed name:	Date:

Security statement

This form may contain your personal information. If you return the form by email there is some risk it could go to someone you don't want to have the information. If you are not sure how to send a secure email, consider using regular mail or fax.

For questions or help to complete this form, please contact the agency you work with.

- *Oregon Health Authority: 503-947-2340*
- *Oregon Department of Human Services: 503-945-5600*
- *Oregon Commission for the Blind: 971-673-1588*
- *Oregon Department of Employment: 800-237-3710*
- *Oregon Department of Education: 503-947-5600*
- *Oregon Housing and Community Services: 503-986-2000*
- *Oregon Department of Justice: 503-378-4400*
- *Oregon Department of Corrections: 503-945-9090*
- *Oregon Youth Authority: 503-373-7205*
- *Oregon State Police: 503-378-3720*

** This authorization is valid for one year from the date I sign it, unless otherwise noted.*

Instructions by section

When you submit the form, you do not need to include the instruction pages.

Creating preset templates
To save time, you can preset the number and type of sections. You can also prefill your organization's information, then save template versions of this form for quick printing. Use the non-printing "Template" field in the top right corner of the form and name the template for your future reference.

Release TO and FROM sections	
Purpose of disclosure, sharing and use	• Give specific reasons why the information disclosure, sharing and use are needed. • If the person does not want to provide a reason in this field the requesting entity may include the statement "at the request of the person" as the purpose the person initiates the authorization.
Entity name (*drop-down list*)	• Choose an entity from the drop-down list. • If the entity is not listed, choose "Other (please type in here):" Then, type in the entity's name. An entity's name must be specific. For example, listing "medical" or "service provider" is not adequate. Please list the name of the medical or service provider. For a person or other type of organization, such as a school or employer, list the name of the person or other type of organization.
Specific information to be disclosed (*pops up after an entity is selected*)	• Choose a document type from the drop-down list. • If an information type is not listed, choose "Other (please type in here):" and type in a description. Some examples of specific information are: » Assessments » Case plans » Financial information » Medicaid billing summaries » Psychological reports » Results of urinalysis » Treatment plans • Do not indicate "entire record" unless it is necessary to accomplish the purpose (*see "Purpose of the disclosure, sharing and use", above*). • Use the buttons to add or delete additional requested information types, if you need to.
Date of records	• Indicate the specific date range for the requested records.
Expiration date or event	• This authorization is valid for one year from the date I sign. unless otherwise noted. For example, if "hospital discharge" or "end of litigation," is noted.
Mutual exchange	• A "Yes" allows the specific information listed on the form to go back and forth between the record holder and the people or programs listed on this authorization. Mutual exchange opens all requested records for discussion between the record requestor and specified record holders.
Did you request special health information to be released?	• Choosing "Yes" will display a section where special health information types can be stated. • A check mark in the space next to the type of health information is not enough. The person must initial the space next to the information if they agrees to release this information. • If you need this section visible in a printed copy, please make sure to choose "Yes" prior to printing.
Is there any specific information **not** to release?	• A "Yes" choice will display a text box where you can list specific information. • If any specific information should not be included when the records are released, please list them here. • If you need this section visible in a printed copy, make sure to choose "Yes" before to printing.

Re-disclosure	• Re-disclosure is the disclosure of information by the person on this form. • There may be restrictions on the re-disclosure of information released under this form. • Federal and state regulations prohibit re-disclosure of alcohol and drug, and HIV or AIDS information without specific authorization.
Adding requesting and releasing entities	• If there is a need for multiple requesting or releasing entities, use the ADD or REMOVE buttons to add or remove any additional "Releasing agency, business, organization or person" sections before you print the form.

Client acknowledgment section	
Signature of the person on this form or a person legally authorized to act for them.	• A person legally authorized to act for the person on this form should never be asked to sign a blank or incomplete authorization form.

Releasing entity: Document when records were shared.

- Entity must:
  - » Maintain a copy of the completed authorization form, either electronically or in paper file, and
  - » Following agency retention schedules.
- If completed authorization forms are stored electronically, a process shall be in place for cancellation. If a signed authorization is later (*cancelled*), that revocation must be noted electronically.
- Do not use labels on the authorization form.
- When completed correctly, the form is the only thing needed to process a disclosure.

CHAPTER 36

AN ACT HB 2216

Relating to rights of foster children who are siblings.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 3 of this 2017 Act:

(1) "Foster child" means a child who is in the legal custody of the Department of Human Services pursuant to the provisions of ORS chapter 418 or 419B and who is placed in substitute care, including but not limited to care with a foster parent or a child-caring agency as defined in ORS 418.205.

(2) "Sibling" has the meaning given that term in ORS 419A.004.

SECTION 2. It is the intent of the Legislative Assembly that siblings who are foster children have certain essential rights, including but not limited to the following:

(1) To obtain substitute care placements together whenever safe and appropriate.

(2) To maintain contact and visits with siblings while placed both in and out of substitute care placements, including contact by telephone and electronic communication, as safe and appropriate.

(3) To be provided with transportation to maintain contact and have visits with siblings.

(4) To be placed with foster parents and caseworkers who have been provided with training on the importance of sibling relationships.

(5) To ensure that contact with siblings will be encouraged in any adoptive or guardianship placement, as safe and appropriate.

(6) To have a sibling contact plan that has been developed as a result of the active engagement and participation of siblings and that is complied with as part of any substitute care placement.

(7) To have more private or less restrictive communication with siblings as compared to communications with others who are not siblings, as safe and appropriate.

(8) To be immediately and timely notified of placement changes or catastrophic events affecting a sibling, as safe and appropriate.

(9) With respect to a foster child's rights under this section:

(a) To receive a document setting forth such rights as is age-appropriate and developmentally appropriate within 60 days of the date of any placement or any change in placement;

(b) To have a document setting forth such rights that is age-appropriate and developmentally appropriate on each occasion that a foster child's case plan is considered and reviewed;

(c) To have access to a document setting forth such rights that is age-appropriate and developmentally appropriate at the residence of all foster parents and child-caring agencies; and

(d) To be informed of such rights on at least an annual basis.

(10) To be provided with an explanation in an age-appropriate manner as to why contact with a sibling is or has been denied or prohibited.

(11) To have the rights under this section apply regardless of whether the parental rights of one or more of the foster child's parents have been terminated, as safe and appropriate.

(12) To request that the foster child's attorney advocate on behalf of the foster child for contact and visits with siblings:

(a) While the foster child is in foster care;

(b) When the court is considering whether to order visitation between the foster child and the foster child's siblings under ORS 419B.367; and

(c) When decisions are made regarding post-adoption contact between the foster child and the foster child's siblings.

SECTION 3. (1) The Department of Human Services shall adopt rules establishing the Oregon Foster Children's Sibling Bill of Rights, specifying the rights of foster children who are siblings consistent with the provisions of section 2 of this 2017 Act.

(2) The department shall periodically review the rules establishing the Oregon Foster Children's Sibling Bill of Rights to ensure that the bill of rights complies with the principles and requirements set forth in section 2 of this 2017 Act. The department shall promote the participation of current and former foster children who had or have siblings in the development of the rules constituting the Oregon Foster Children's Sibling Bill of Rights and the development of state foster care and child welfare policy.

SECTION 4. Nothing in sections 1 to 3 of this 2017 Act affects the application of the Indian Child Welfare Act (25 U.S.C. 1901 et seq.).

SECTION 5. Sections 1 to 3 of this 2017 Act apply to foster children with siblings in substitute care with a foster parent or child-caring agency on or after the effective date of this 2017 Act.

Approved by the Governor May 15, 2017
Filed in the office of Secretary of State May 15, 2017
Effective date January 1, 2018

OREGON FOSTER CHILDREN'S

SIBLING BILL OF RIGHTS

I HAVE THE RIGHT:

- To live in the same home as my siblings if possible
- To see and talk to my siblings in person, through letters, by phone, email or in other electronic ways
- To help make a plan that lists how my siblings and I will see and talk to each other
- To be able to talk and visit with my siblings in a natural setting with privacy
- To be told why I cannot live with, talk to or see my siblings if I am not able to
- To have help with transportation so that I can see and talk to my siblings
- To live with foster parents who are trained on the importance of sibling relationships
- To work with caseworkers who are trained on the importance of sibling relationships
- To have continued sibling contact and visits encouraged whenever my siblings or I are going to be in a guardianship or adoption
- To be told when my siblings who are in foster care experience life events including emergencies or changes in their living situations
- To request that my attorney advocate for me and represent my wishes for seeing and talking with my siblings

THERE ARE ADULTS IN MY LIFE WHO MAKE RULES AND SET LIMITS TO MAKE SURE MY ACTIVITIES AND THE PEOPLE IN MY LIFE ARE SAFE AND APPROPRIATE.

IF I HAVE QUESTIONS OR NEED HELP, I CAN ASK AN ADULT I TRUST OR CALL THE FOSTER CARE OMBUDSMAN AT YOUTH, EMPOWERMENT AND SAFETY (Y.E.S), 1-855-840-6036 OR FCO.INFO@STATE.OR.US.

DHS
Oregon Department of Human Services

You can get this document in other languages, large print, braille or a format you prefer. Contact 503-378-3486. We accept all relay calls or you can dial 711.

CF 0262 (12/2017)

OREGON FOSTER CHILDREN'S

SIBLING BILL OF RIGHTS

I HAVE THE RIGHT:

- To live with my brothers and sisters in foster care if possible
  - To have the adults in my life help me stay connected to my brothers and sisters if we are living or going to live in different families
  - To help make a plan about how I will see and talk to my brothers and sisters

- To be told why I cannot live with, talk to or see my brothers and sisters if I am not able to

  - To have foster parents and caseworkers who know how important my brothers and sisters are to me
  - To be told if something changes with my brothers and sisters
  - To have my attorney tell the other adults in my life how I want to talk to and see my brothers and sisters

IF I HAVE QUESTIONS OR NEED HELP, I CAN ASK AN ADULT I TRUST OR CALL THE FOSTER CARE OMBUDSMAN AT YOUTH, EMPOWERMENT AND SAFETY (Y.E.S), 1-855-840-6036 OR FCO.INFO@STATE.OR.US.

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OREGON FOSTER CHILDREN'S

SIBLING BILL OF RIGHTS

TIPS AND IDEAS

The Oregon Foster Children's Sibling Bill of Rights gives children and youth in foster care specific rights designed to protect and strengthen their bond with siblings. These rights include but are not limited to the right:

- To receive a document that lists their rights, and a verbal explanation of those rights
- To be placed in foster homes with their siblings, whenever possible
- To visit and maintain contact with siblings and receive assistance with transportation
- To have a sibling visit and contact plan that has been developed with their active engagement and participation and is followed while they are in care
- To be told why they cannot live with, talk to or see their siblings if they are not able to

HOW CAN YOU HELP PROMOTE AND STRENGTHEN SIBLING CONNECTIONS? BE CREATIVE!

Caseworkers	Foster Parents, Adoptive Parents and Guardians	Attorneys and Advocates	Community Members
• When siblings cannot be placed in the same home, keep them in close distance of each other • Rethink the idea of visits! They should feel casual and natural • Ensure the siblings have contact between visits • Frequently re-evaluate any barriers to joint placement and the appropriateness of sibling contact • Post the children as a sibling group on adoption bulletins	• Be open to sibling groups of varying ages and genders • Be understanding of typical sibling behaviors • Build relationships with the foster parents of your child's siblings • Take turns hosting sibling visits such as trips to the park, sleep overs, day trips and celebrations; also consider enrolling siblings together in sports and activities • Reach out to your support network for help	• Continue to ask about the efforts made to place siblings together and address barriers to sibling contact • Ask about the frequency and quality of visits and ongoing contact • Offer to help the children ask for changes in the sibling visit and contact plan	• Become a foster or adoptive parent • Become a respite provider to help give foster parents a chance to recharge • Volunteer at your local DHS office to help with transportation for visits • Educate your friends and family on the need for supportive homes for siblings living in foster care

DO YOU KNOW ABOUT THESE RESOURCES?

- Camp to Belong Oregon is a program that reunites brothers and sisters living in separate homes for events of fun and sibling connection. They provide weeklong summer camp programs and one day events around the state.
- Department funding is available for adoption and guardianship mediation regarding contact and visits with siblings, parents and other relatives.

To see the Oregon Foster Children's Sibling Bill of Rights poster, visit *https://apps.state.or.us/Forms/Server/ce0262.pdf.*

You can get this document in other languages, large print, braille or a format you prefer. Contact 503-378-3486. We accept all relay calls or you can dial 711.

CF 0263 (12/2017)

DHS Oregon Department of Human Services

References

[1] *Sibling Issues in Foster Care and Adoption*. (2019, June). Child Welfare Information Gateway. https://www.childwelfare.gov/pubpdfs/siblingissues.pdf