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## PARAMETERS OF CONFIDENTIALITY IN CHILD PROTECTION ALTERNATIVE DISPUTE RESOLUTION

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### ABSTRACT

*It has been internationally recognised that alternative dispute resolution (ADR) is effective in many child protection cases. In the South African Children's Act, four ADR methods are applicable to child protection. It will be shown that a major weakness in the ADR framework in the Act is a failure to provide appropriate coverage on the crucial aspect of confidentiality. This article explores the tensions around confidentiality in ADR processes for both professional and family participants. Where participants fear that what they divulge during ADR is not confidential, they may be inhibited from being constructively involved. This can defeat the purpose of ADR. On the other hand, in child protection ADR a correct balance needs to be struck so that information essential for the further resolution of the case or for protecting persons from danger is communicated. How best to enable effective child protection ADR by creating an appropriate confidentiality framework is discussed in this article.*

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**Key words:** confidentiality, child protection mediation, lay forums, family group conferences

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## **INTRODUCTION**

The value of alternative dispute resolution (ADR) as a means of reducing stresses and helping with solutions in many child protection matters has been recognised both nationally and internationally. In South Africa, the Children's Act 38 of 2005 (the Act) provides for four ADR methods that can be used for child protection cases. These are mediation, pre-hearing conferences, family group conferences and other lay forums (sections 49, 69, 70 and 71). Regardless of the method selected, successful ADR is dependent on honest and open discussions by parents/caregivers and family members. To promote such discussions, parents and family members need to be aware of how information they reveal and discuss in ADR is going to be used and the potential impact of these revelations. Similarly, ADR practitioners need to be cognisant of confidentiality and mandatory reporting requirements.

The Act confers on presiding magistrates of children's courts a wide discretion to refer any child protection matters for ADR (section 49). However, it will be shown that insufficient guidance on disclosure and confidentiality of information which emerges in child protection ADR is provided in the Act. The aim of this article is to reveal the inadequacies and provide some recommendations on how to further develop confidentiality provisions and practices. This will be done through a textual analysis of legislation and a literature review. In the first part of the article, the importance of confidentiality guidelines and different possible models are discussed. In the second part, the relevant provisions in the Children's Act and associated regulations are analysed. In the final part of the article some recommendations for improving guidance on confidentiality and disclosure are provided.

## **IMPORTANCE OF CONFIDENTIALITY AND DIFFERENT MODELS**

Guidance on confidentiality is needed by family members (including children), social workers, ADR facilitators and court officials. In order to allay their fears and uncertainties, family members need guidance on what the potential consequences are if they reveal sensitive information during child protection ADR. They also need guidance on who they can subsequently tell about what emerged during ADR. Investigative social workers attending ADR as representatives of the state similarly need guidance on what information they can reveal during and after ADR. ADR facilitators need to be protected by sufficiently detailed guidelines covering what information is appropriate for them to elicit and record during ADR, and to whom that information should subsequently be communicated. Children's

court magistrates, being tasked with deciding when to use child protection ADR and in what form, need guidance on what information they are required to request and can use as evidence in any subsequent care and protection litigation.

Guidance provided for persons involved in ADR must allow for an appropriate degree of confidentiality of any information divulged. Confidentiality which protects against subsequent exposure outside ADR has a number of important benefits. It increases levels of confidence amongst participants and thus creates a forum conducive to honest and productive communication (Heinz and Weidmer, 2011; Giovannucci and Largent, 2009; Chandler and Giovannucci, 2004). It facilitates utilisation of problem-solving strategies and may thereby increase the scope of constructive settlement options that become feasible (Cameron, 2011). In relation to results, it has been shown that outcomes achieved are often closely linked to the level of trust participants have in the process (British Columbia Family Group Conference Reference Guide, 2005). In addition to family participants sharing more freely, the Association of Family and Conciliation Courts Guidelines (AFCC Guidelines, 2012:17) notes that where guidance enables sufficient confidentiality, “[l]awyers, agency representatives and other professionals are also able to more freely share and discuss their concerns...”.

Giovannucci and Largent (2009:41) refer to confidentiality as “a cornerstone” which is crucial in enabling genuine and productive discussion, and development of trusting relationships in child protection ADR. They, therefore, emphasise the importance of having in place a sufficiently detailed policy and legislative framework that is transparent about the extent and limits of confidentiality. However, achieving appropriate guidelines is a complex task. What makes it difficult is the need to create an appropriate balance between confidentiality of information that is to be kept private in the ADR environment, and subsequent disclosure of information which emerged during ADR in order to protect children, and sometimes other persons also. For example, in a research study in Texas, some judges raised concerns that when confidentiality rules prevent sufficient disclosure of ADR discussions, it is difficult to ascertain how parties reached agreements (Bryant, 2010).

An important factor which needs to be kept in mind is that child protection falls within the sphere of public law because the state has a responsibility to protect children. It can thus be argued that any information revealed in ADR could and should be used in future children's court processes. However, Hehr (2007:472) notes that there are “two competing” views on confidentiality in child protection ADR. The first view is that, if children's best interests are to

be served and accountability encouraged, then all information which is disclosed must be made available to ensure no further harm to children. This is sometimes referred to as the open model (Cunningham and Van Leeuwen, 2005; Savoury, Beals and Parks, 1995).

An alternative view is that if confidentiality is not fully guaranteed parties will fear negative consequences, such as a criminal prosecution. This will potentially stifle genuine and honest communication of real issues. Thus the essential purpose and benefits of ADR will not be achieved (Hehr, 2007). The approach which favours high levels of confidentiality is sometimes referred to as the closed model (Cunningham and Van Leeuwen, 2005; Savoury et al., 1995). One criticism of the closed model is that it offers too much immunity to perpetrators of child abuse or neglect. Hehr (2007), however, disagrees with the contention that high levels of confidentiality inevitably prevent accountability. She contends that the solution is to ensure that any agreements reached during ADR must include referrals of perpetrators for therapy and that decisions taken during ADR must be contingent on issues being resolved. This, she maintains, will ensure a sufficient degree of accountability while still preserving a high level of confidentiality. She does, however, conclude by arguing that there is a need for uniform confidentiality guidelines in child protection cases.

Another criticism of the closed model centers on child safety concerns (Cunningham and Van Leeuwen, 2005). In many jurisdictions, including South Africa (as will be further discussed below), once abuse has been revealed or there is a reasonable suspicion of abuse or neglect, this has to be reported. Therefore, admissions of abuse are generally exempt from confidentiality agreements (Firestone, 2009; Giovannucci and Largent, 2009). For the purposes of this article, where there are some exceptions to confidentiality, this will be referred to as a closed model with exceptions.

Two examples of a closed model with exceptions are section 24 of the Child, Family and Community Service Act (CFCSA) of British Columbia, and Ontario Regulation 496/06 created in terms of the Ontario Child and Family Services Act. Section 24(1) of CFCSA states that:

- “A person must not disclose, or be compelled to disclose, information obtained in a family conference, mediation or other alternative dispute resolution mechanism, except:
- (a) with the consent of everyone who participated in the family conference, mediation or other alternative dispute resolution mechanism,

- (b) to the extent necessary to make or implement an agreement about the child,
- (c) if the information is disclosed in an agreement filed under section 23, or
- (d) if the disclosure is necessary for a child's safety or is required under section 14.”

As can be seen, this provision requires that most information must be kept private and then specifies clearly the exceptions to confidentiality.

Paragraph 1 of the Ontario Regulation 496/06 requires that ADR methods must satisfy the following criteria: all parties must consent, it can be terminated by any of the participants at any time, it must be conducted by an impartial facilitator who has no decision-making power, it must satisfy the confidentiality requirement and it must not be an arbitration. Paragraph 2 of the Regulation stipulates further that:

“Representations, statements or admissions made in the course of the alternative dispute resolution and documents prepared or exchanged during the alternative dispute resolution cannot be used in evidence or produced in a civil proceeding, subject to the following exceptions:

- i. the statements, admissions or documents give rise to the duty to report that a child may be in need of protection under section 72 of the Act,
- ii. where there are reasonable grounds to believe that the disclosure is necessary to address a real or perceived threat to any person's life or physical safety,
- iii. an individual consents to the disclosure of his or her own personal information, or
- iv. the terms of an agreement, memorandum of understanding or plan arising from the alternative dispute resolution may be disclosed to a court and all counsel for the participants in the alternative dispute resolution, including counsel for the child where applicable.”

Here, the general protection applies against court proceedings, and then specific exceptions to confidentiality are listed.

The two Canadian examples provide some useful guidance on what information is privileged and what is not. As can be seen, both the Act and the regulation allow for exemptions from confidentiality in certain circumstances: mandatory reporting responsibilities of a child in need of protection, perceived threats to the safety of children and where consent to

disclose is provided by participants. In addition, the only information provided to the court is the agreement or plan (section 24(1)(c) of the CFCSA and paragraph 2(iv) of the Ontario Regulation). The Ontario regulation also expressly prohibits utilisation of any information derived, in subsequent civil proceedings. This means that, for example, parents who subsequently have a custody dispute cannot call the facilitator to give testimony and may not use any disclosures from the ADR process.

As will be shown in the discussion below, this kind of guidance has unfortunately not been provided in South African legislation.

## **AN EVALUATION OF THE SOUTH AFRICAN CHILD PROTECTION ADR LEGISLATION**

Relevant South African legislation is to be found in the Act and in regulations subsequently published in terms of that Act. Each of these will be discussed separately.

### **The Children's Act**

As noted in the introduction, ADR child protection processes in South Africa include mediation, pre-hearing conferences, family group conferences and a broad category referred to as other lay forums (sections 49, 69, 70 and 71). For further discussion of these see Matthias, (2014a); Schäfer, (2011); Zaal, (2010); De Jong, (2009); Schmid (2007). Unfortunately, the Act does not state that participation in ADR must be voluntary (see Schäfer, 2011; Zaal, 2010; Schmid, 2007). One of the essential cornerstones of ADR is thus glossed over. However, in predicting the suitability of any of these four ADR categories in a particular matter, and then selecting one for implementation, the children's court has to consider the vulnerability of the child, the child's ability to participate in proceedings, power relationships within the family and any allegations made by parties (section 49). A matter may not be referred to pre-hearing conferences or other lay-forums if there have been allegations of abuse or sexual abuse of a child (sections 69(2) and 71(2)). However, no similar prohibition has been made in relation to mediation and family group conferences (for further discussion on this see Matthias (2014b); Schäfer (2011)).

The sections of the Act related to records of ADR processes are worded the same for pre-hearing conferences and lay-forums. These sections, (69(4)(b) and 71(3)(a)) both state that:

“The children’s court may:

- (b) prescribe the manner in which a record is kept of any agreement or settlement reached between the parties and any fact emerging from such conference which ought to be brought to the notice of the court;”

With family group conferences, on the other hand, the word, “may” is substituted by the word, “must” (section 70(2)(b)). Two important points emerge concerning the powers of presiding magistrates. One is that they have a very wide discretion to decide what information they will require from facilitators of pre-hearing conferences, lay forums and family group conferences. As noted by Zaal (2010:364) “[t]he approach taken in the Act is that no uniform standards governing what information should be treated as privileged are required”. The second point is that honesty and openness in the ADR process may be compromised because “any fact” may have to be reported to the children’s court. There is no realm of protection in relation to facts. De Jong (2009:123) points out that as a result participants “may try to conceal certain relevant facts in order to make a good impression on the mediator or facilitator so that nothing negative about them might be reported to the children’s court”.

It should also be kept in mind that scope for confidentiality is limited by reporting provisions in section 110 of the Act. Mandatory reporting of child abuse and deliberate neglect is required from an identified list of persons. Of particular relevance to child protection ADR is that the list includes social service professionals, social workers and traditional leaders. Being involved in ADR does not exempt them from this compulsory reporting requirement. In addition, section 110(2) provides for the voluntary reporting of any child by any person who believes that a child is in need of care and protection.

### **The regulations**

Some further details on reporting requirements for pre-hearing conferences, lay forums and family group conferences are provided by the Department of Justice and Constitutional Development’s (DJCD) regulations published in terms of the Act (DJCD, 2010, regulations 12, 13 and 14). Of interest, however, is that by contrast no regulations have been published on child protection mediation. This is despite the fact that mediation regulations have been published in relation to parental responsibilities and rights (Department of Social Development Regulations, 2010, regulation 8).

DJCD's regulation 12(4) on pre-hearing conferences stipulates that at the conclusion of a conference the chairperson is required to submit "a full written report of the pre-hearing conference" within five days. This report must include any agreement and settlement reached between the parties, any matters to be dealt with by the court and "any other matter the chairperson deems necessary" (DJCD, regulation 12(4)(a-d)). Therefore, in addition to providing a report on the agreement and settlement the chairperson has total discretion on what other information should be provided to the children's court. Having to provide a "full" report suggests that not much must be kept back. Confidentiality of both oral and written submissions at a pre-hearing conference is thus not addressed, and is arguably even discouraged, in the regulation.

Unlike with pre-hearing conferences, the facilitator of a family group conference, before beginning discussions, is required to agree with the parties on the nature of the report to be submitted to the children's court (regulation 13(8)). In terms of regulation 13(8):

"...the parties must decide whether the facilitator is to file:

- (a) full report on the conference, including anything that the facilitator considers to be relevant to the matter; or
- (b) a report that either sets out any agreement reached by the parties or states only that the parties did not reach agreement on the matter" (DJCD, regulation 13(8)).

The parties' decision on whether to submit a full report or only the agreement is, however, once again subject to any directions given by the presiding officer of the children's court concerning what should be included in the report (DJCD regulation 13(8)). As has been noted in the discussion above, with a family group conference the presiding officer *must* prescribe (section 70(2)(b)) what is required, as compared to *may* prescribe in relation to pre-hearing conferences and lay group forums. It is clear, therefore, that there will always be directives of the presiding officer that will override family group participants' preferences. As Zaal (2010) notes, the wording "subject to any directions given by the presiding officer" provides no detail or limits. An important point made in the British Columbia Family Group Conference Reference Guide (2005:6) is that family group conferences are "not intended to provide an opportunity to gather facts to support a court case," and that it is not a "free examination for discovery". In contrast, family group conferences have been conceptualised in the Act and regulations as convenient repositories for information to be subsequently used by courts. The overriding emphasis on what is useful for court is unfortunate because the



primary purpose of a family group conference should be to find solutions, rather than collect evidence. This is why they are referred to as “a solution-focused process” by Connolly and Masson (2014:408).

The DJCD’s regulations covering lay forum reporting to children’s courts are similar to those governing family group conferences. Before discussions commence, the chairperson is required to negotiate with the parties to the lay forum on whether a full report, including anything that the chairperson considers relevant, will be submitted. Or alternatively, the participants can decide in negotiations that there will only be a report on the settlement reached or indicating that no agreement was reached. Whilst this appears to allow for a high degree of confidentiality, the reporting decision is once again entirely subject to any directions given by the presiding officer of the children’s court (DJCD regulation 14(6)).

As is evident from the discussion above, confidentiality is not protected and is not really addressed in the regulations. This is unfortunate. Aside from the important reasons in favour of a degree of confidentiality as noted above, it should also be borne in mind that the Act allows potentially for a wide range of persons (including nonprofessional lay forum facilitators) to be involved in chairing and facilitating ADR processes. Even professionals such as magistrates may not have a high degree of specialist training on ADR (Zaal, 2010). Therefore, uniform national guidance providing sufficient detail and enabling a degree of protection of information is essential.

In contrast to the lack of protection of confidentiality in the Children’s Act, the South African Rules Board for Courts of Law Act (107/1985) as amended by the DJCD in 2014, which governs civil disputes, provides more details on confidentiality. Rule 77(4)(c) stipulates that a written mediation agreement must be completed and that the parties must be assisted with this by the clerk or registrar of the court. Form Med-6 of the Rules Board for Court of Law Act is a pro forma agreement form which has to be completed and signed prior to mediation. Part 12 of this pro forma agreement focuses specifically on confidentiality. In 12.1 the parties and the mediator agree that “mediation will be strictly confidential and without prejudice”. The form also stipulates that mediation discussions, written and oral communications, draft resolutions and unsigned mediated agreements shall not be admissible in any court proceeding. Parties agree that it is only the signed mediated agreement which will be admissible in court (12.2). An additional point in the agreement is that the parties may not ask the mediator to testify in court or to “provide any materials from the mediation in any court proceeding between the parties”. In 12.4 it is stipulated that the mediator has an ethical responsibility to break

confidentiality if there is a suspicion that any person may be in danger of harm.

### **SOME STRATEGIES TO ADDRESS CONFIDENTIALITY IN CHILD PROTECTION ADR IN SOUTH AFRICA**

The analysis above has shown that family members, other participants, facilitators of ADR and court officials all need guidance concerning what information elicited during child protection ADR can remain confidential. It has also been shown that the current South African legislative framework as governed by the Act and regulations provides limited guidance with relatively little real protection of confidentiality. In terms of offering some recommendations for improvement, the three main models, namely, open, closed and closed with exceptions should firstly be considered. It is recommended that South Africa needs to develop improved guidance based around a closed model with exceptions. This proposal is made in order to maximise confidentiality, and yet also produce a framework that protects children's best interests and is in accordance with the law governing mandatory reporting. The following strategies need to be considered in the development of a proposed closed model with exceptions which delivers improved guidance on confidentiality.

#### **Supplemental regulations**

It is recommended that South Africa should follow the approach taken in Ontario and British Columbia by replacing the current free discretion for magistrates with more detailed uniform standards to guide and protect those involved in child protection ADR. As in those two jurisdictions, this should be done by creating regulations specifically governing confidentiality. A first point of departure in the regulation should be a clear indication that participation in child protection ADR is voluntary. Also, if the child wishes to participate and the facilitator does not regard this as in the child's best interests, the child should be given a right to refer to the children's court for a participation ruling in terms of section 49 of the Act.

#### **Confidentiality agreements**

In order to encourage open and honest communication in child protection ADR, the importance of written pre-ADR agreements outlining the extent and limitations of confidentiality has been highlighted by commentators (AFCC Guidelines, 2012; Boxall, Morgan and Terer, 2012; Giovannucci and Largent, 2009; Cunningham and van Leeuwen, 2005; Firestone, 2009).

Such agreements, and protocols covering their utilisation, are being applied in a number of jurisdictions. As discussed in the South African legislation section above, a South African written pro forma agreement is available for voluntary civil mediation in South Africa (Form Med-6, DJCD Rules, 2014), but not for child protection ADR. It is recommended that a similar type of pre-ADR agreement, adjusted for child protection cases, should be developed and added to the Act as a form. In the creation of such agreements, Firestone (2009:110) usefully recommends that this must be with “input from all child protection stakeholders and with the approval of the court”. The proposed South African agreement wording should therefore be circulated amongst children's court magistrates and social workers with experience in child protection before it is finalised as a form published in terms of the Act.

### **Content of confidentiality agreements**

It is recommended that the proposed pre-ADR agreement form should cover confidentiality in relation to both oral and written communications which emanate during ADR, what happens to any notes taken during the process, and any unsigned or signed concluding agreements. In a closed model with exceptions as proposed, the pre-ADR agreement should expressly include an exemption from confidentiality for any revelation of child abuse and neglect that emerges during ADR. This will accord with the mandatory reporting provision in the Act; but it will do so with transparent preliminary information to family members before they begin the ADR. This will reduce the danger of them feeling that they were ambushed or tricked into making admissions by means of the ADR process.

In relation to involved social workers, Giovannucci and Largent (2009) make the important point that they have a unique position which is different from other participants. This is because they typically appear as a representative of an organisation. As a result, they will frequently need to discuss ADR progress and outcomes with their supervisors and sometimes other colleagues. An allowance for this, therefore, needs to be factored into the wording of the proposed pre-ADR confidentiality agreement. Involved social workers must be enabled to communicate information needed for advancing the case. Such information must then be required to be kept confidential by other members of the organisation.

Unlike in civil mediation where only the agreement is submitted to court, in child protection ADR, as shown in the discussion above, there may be a need or desire for additional information to be submitted. The facilitator has some discretion in deciding what should be communicated, and there is also the

decision of whether to submit the full report, or just the concluding agreement. The form should indicate that participants will negotiate together on which of these options is to be adopted. It has also been noted that a children's court could decide that it requires certain information. The proposed pre-ADR agreement must, therefore, include a section to be completed as information for participants beforehand about what, if anything, the children's court requires. Children's court magistrates should be trained on the importance of making minimal informational demands, particularly on sensitive aspects that could derail the ADR process. It should be made clear to them that the main time for gathering evidence is at the subsequent court hearing itself, rather than remotely during ADR.

Commentators and researchers have shown how important the use of language is in confidentiality agreements. Hehr (2007) and Cunningham and van Leeuwen (2005) have noted that ADR participants often don't understand confidentiality agreements and the intricacy of confidentiality rules. Cunningham and van Leeuwen (2005:12) note that "plain language" must therefore be used. Hehr (2007:474) states that, because confidentiality rules are by nature intricate and the clientele often not well educated, "it is extremely important that mediators have enough guidance so that they, in turn, may be able to better inform and help participants." In the South African context it is also important that confidentiality agreements are available in different languages.

An additional item that should be included in the proposed confidentiality agreement is that the ADR facilitator may not be called to give evidence concerning what transpired during ADR and that materials from ADR may not be used in any subsequent private civil court proceedings between the parties (see Cunningham and van Leeuwen, 2005; Ontario Regulation 496/06; DJCD Rules, 2014).

### **Understanding and explaining confidentiality agreements**

As discussed, the Act allows for a wide range of ADR facilitators, including traditional authorities. It is vitally important that all facilitators fully understand the confidentiality requirements and that they can adequately explain these to participants. ADR facilitators need to know the exception clauses and the limits of confidentiality protection, for example, that imposed by the mandatory reporting requirement of section 110 of the Act. Magistrates should be required to assist in empowering parents by explaining the purpose of any particular ADR method which they decide to refer to.

## **A code of ethical standards for ADR facilitators**

Another way of improving the implementation of child protection ADR would be by providing a code of ethics for ADR facilitators in South Africa (see Matthias 2014b; De Jong, 2009). Useful sources for those drafting such a code would be the Mediate BC Standards of Conduct (2005), the Ontario Code of Professional Conduct (Ontario Association for Family Mediation, 2013) the Michigan Mediator Standards of Conduct (Michigan Supreme Court, 2013) and the California Rules of Court (2015). These standards provide detailed guidelines on the duties of confidentiality for mediators. Aspects covered include the mediator's acknowledgement that all communications, including notes and records, are confidential; that disclosure to a third party is only with consent and that the mediator is familiar with the legislation and regulations governing confidentiality. The California Rules of Court (Rule j(2), 2015) also refer to the facilitator's responsibility to be objective, to be aware of their biases and to control these, and that the child must not be asked to state a placement preference. Additionally the Rules state that the facilitator must take into consideration the safety and best interest of the child and the safety of other participants. He or she must encourage the development of settlements which maintain these values (California Rules of Court j(6), 2015). In relation to training, the Rules provide that facilitators must operate within "the limits of their training and experience" and disclose any limitations that would affect their ability (California Rules of Court j(7), 2015).

## **CONCLUSION**

It has been shown that having some guidance on confidentiality is vital for successful implementation of the four different types of child protection ADR envisaged in the Act. The failure to provide appropriately for confidentiality in the Act, and in subsequent regulations published in terms of it, is a serious omission. It creates a danger of serious problems such as forced ADR, parties feeling too intimidated to participate constructively, and misuse of ADR as primarily an evidence collecting mechanism for the convenience of children's court magistrates. On the positive side, it has been shown that some constructive steps can be implemented in order to enable more effective ADR. These include development of uniform national guidelines, and in particular a standard pre-ADR confidentiality form so that participants can be more confidently involved and empowered with a knowledgeable sense of parameters and implications. Further supplementary measures such as a code of ethics for facilitators and appropriate directions for children's court magistrates, are also essential.

## REFERENCES

- Association of Family and Conciliation Courts (AFCC Guidelines). (2012), "Guidelines for Child Protection Mediation", [http://www.afccnet.org/Portals/0/Guidelines for Child Protection Mediation.pdf](http://www.afccnet.org/Portals/0/Guidelines%20for%20Child%20Protection%20Mediation.pdf) (Accessed on 18/06/2015).
- Boxall, H., Morgan, A. and Terer, K. (2012). "Evaluation of the Family Group Conferencing Pilot Program" *Research and Public Policy Series 121, Australian Government, Australian Institute of Criminology (2012)*, <http://www.aic.gov.au> (Accessed on 20/03/2015).
- British Columbia Ministry of Children and Family Development. (2005). "Family Group Conference Reference Guide", [http://www.mcf.gov.bc.ca/child\\_protection/pdf](http://www.mcf.gov.bc.ca/child_protection/pdf) (Accessed on 18/06/2015).
- Bryant, C. (2010). "Child Protection Mediation in Texas: Past, Present and Future" *The University of Texas School of Law Mediation Clinic* <http://texaschildrencommission.gov/media/381/childprotectionmediationtexts.pdf> (Accessed on 15/07/15).
- California Rules of Court. (2015). "Rule 5.518: Court-connected Child Protection/dependency Mediation", [http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5\\_518](http://www.courts.ca.gov/cms/rules/index.cfm?title=five&linkid=rule5_518) (Accessed on 15/07/2015).
- Cameron, N. (2011). "Collaborative Practice in the Canadian Landscape" *Family Court Review* 49(2):221-228.
- Chandler, S.M. and Giovannucci, M. (2004). "Family Group Conferences: Transforming Traditional Child Welfare Policy and Practice" *Family Court Review* 42(2):216-231.
- Children's Act 38 of 2005 (South Africa).
- Child, Family and Community Service Act (CFCSA) of 2006 (British Columbia).
- Connolly, M. and Masson, J. (2014). "Private and Public Voices: Does Family Group Conferencing Privilege the Voice of Children and Families in Child Welfare?" *Journal of Social Welfare and Family Law* 36(4):403-414.

Cunningham, A. and Van Leeuwen, J. (2005). *Discussion Guide for Communities Implementing Child Protection Mediation* London: Centre for Children and Families in the Justice System.

De Jong, M. (2009). "Child-focused Mediation" in Boezaart, T. (Ed.). *Child Law in South Africa* Claremont: Juta, 112-132.

Department of Justice and Constitutional Development, South Africa (DJCD). (2010). *Regulations Relating to Children's Courts and International Child Abduction* (R250, Government Gazette, 31 March 2010).

Department of Justice and Constitutional Development, South Africa. (2014). *Rules Board for Court of Law Act (107/1985): Amendment of the Rules Regulating the Conduct of the Proceedings in the Magistrate's Courts of South Africa* (R183, Government Gazette, 18 March 2014).

Department of Social Development, South Africa. (2010). *General Regulations Regarding Children* (R261, Government Gazette 33076, 1 April 2010).

Firestone, G. (2009). "Empowering Parents in Child Protection Mediation" *Family Court Review* 47(1):98-115.

Giovannucci, M. and Largent, K. (2009). "A Guide to Effective Child Protection Mediation: Lessons from 25 Years of Practice" *Family Court Review* 47(1):38-52.

Hehr, A.M. (2007). "A Child Shall Lead Them: Developing and Utilizing Child Protection Mediation to Better Serve the Interests of the Child" *Ohio State Journal on Dispute Resolution* 22(2):443-476.

Heinz, P, and Weidmer, M. (2011). "Collaborative Law and the Rules on Court-Annexed Family Mediation" *Ateneo Law Journal* 55:938-956.

Matthias, C.R. (2014a). "Preparing Social Workers for Alternative Dispute Resolution in Care and Protection Cases" *Social Work/Maatskaplike Werk* 50(3):421-433.

Matthias, C.R. (2014b). "Making Alternative Dispute Resolution a Reality in Care and Protection Cases" *The Social Work Practitioner-Researcher* 26(3):287-304.

Mediate BC. (2005) “Standards of Conduct”, [www.mediatebc.com?PDFs/1-28-Standards-of-Conduct/standards.conduct.aspx](http://www.mediatebc.com?PDFs/1-28-Standards-of-Conduct/standards.conduct.aspx) (Accessed on 15/06/15).

Michigan Supreme Court, Office of Dispute Resolution. (2013). “Mediator Standards of Conduct”, <http://courts.mi.gov/Administration/SCAO/Resources/Documents/standards/odr/Mediator%20Standards%20of%20Conduct%20.1.13.pdf> (Accessed on 01/07/2015).

Ontario Association for Family Mediation. (2013). “Code of Professional Conduct”, <https://www.oafm.on.ca/membership/policies/standards-of-practice> (Accessed on 01/07/2015).

Ontario Regulation 496/06. (2006). [www.ontario.ca/laws/docs/R06496\\_e.doc](http://www.ontario.ca/laws/docs/R06496_e.doc) (Accessed on 01/07/2015).

Savoury, G.R., Beals, H.L. and Parks, J.M. (1995). “Mediation in Child Protection: Facilitating the Resolution of Disputes” *Child Welfare* LXXIV(3):743-762.

Schäfer, L. (2011). *Child Law in South Africa: Domestic and International Perspectives* South Africa: LexisNexis.

Schmid, J. (2007). “Lay Forums in Child Welfare” *Social Work/Maatskaplike Werk* 43(1):45-60.

Zaal, F.N. (2010). “Children’s Courts and Alternative Dispute Resolution in Care and Protection Cases: An Assessment of the Legislation” *THRHR* 73:353-367.