

OH! THE POS-ABILITIES!©

WHAT MEDIATORS SHOULD KNOW ABOUT THE COLLABORATIVE
PROCESS

WHEN FAMILIES REQUIRE EXTRAORDINARY CONSIDERATION

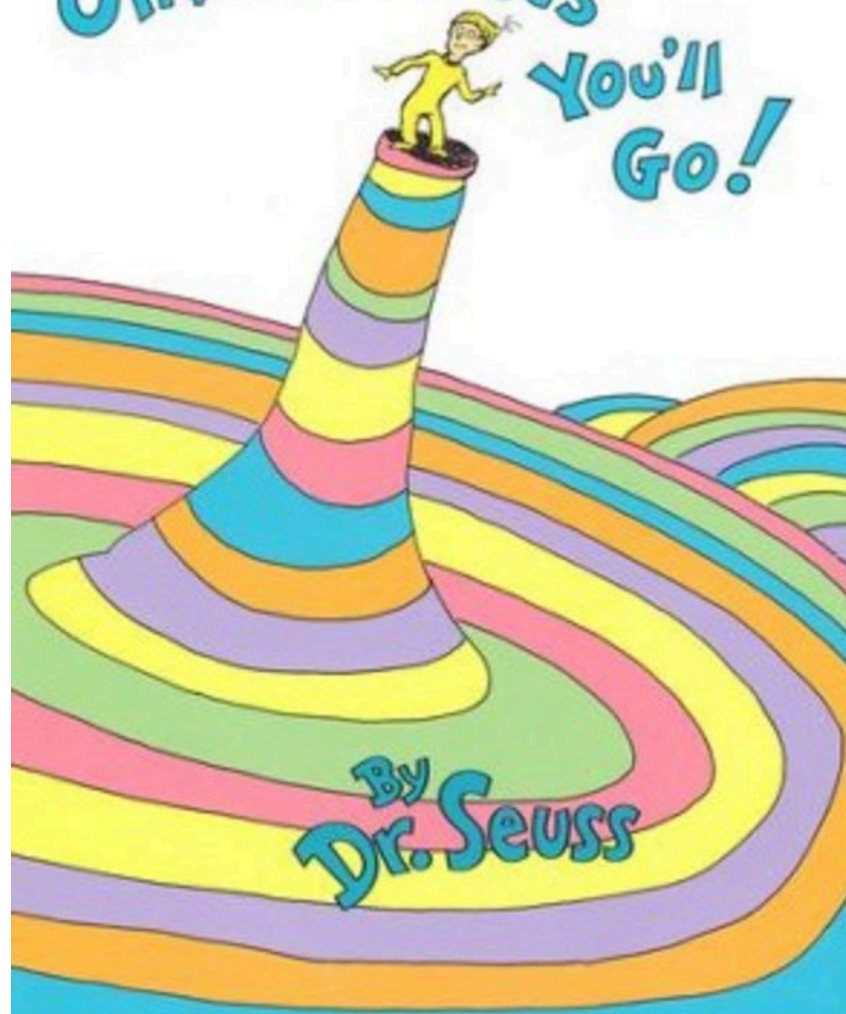
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Oh, the Places
You'll
Go!



By
Dr. Seuss





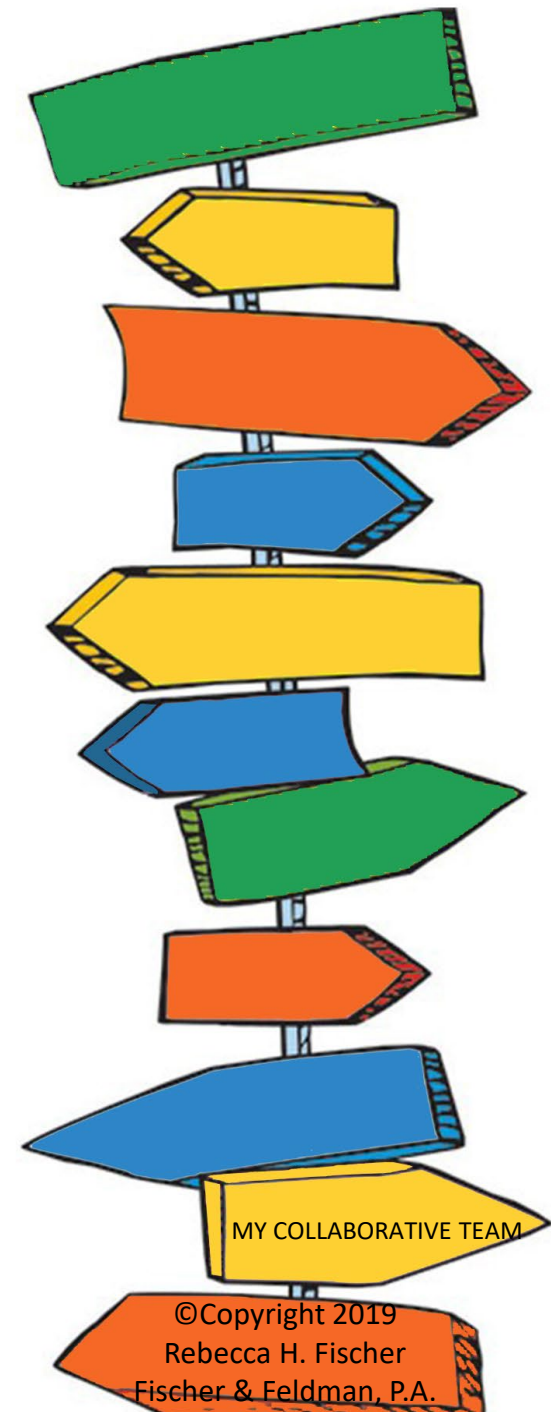






14 IDEA CATEGORIES

1. Autism
2. Deaf-Blindness
3. Deafness
4. Developmental Delay
5. Emotional Disturbance
6. Hearing Impairment
7. Intellectual Disability
8. Multiple Disabilities
9. Orthopedic Impairment
10. Other Health Impairment
11. Specific Learning Disability
12. Speech or Language Impairment
13. Traumatic Brain Injury
14. Visual Impairment Including Blindness



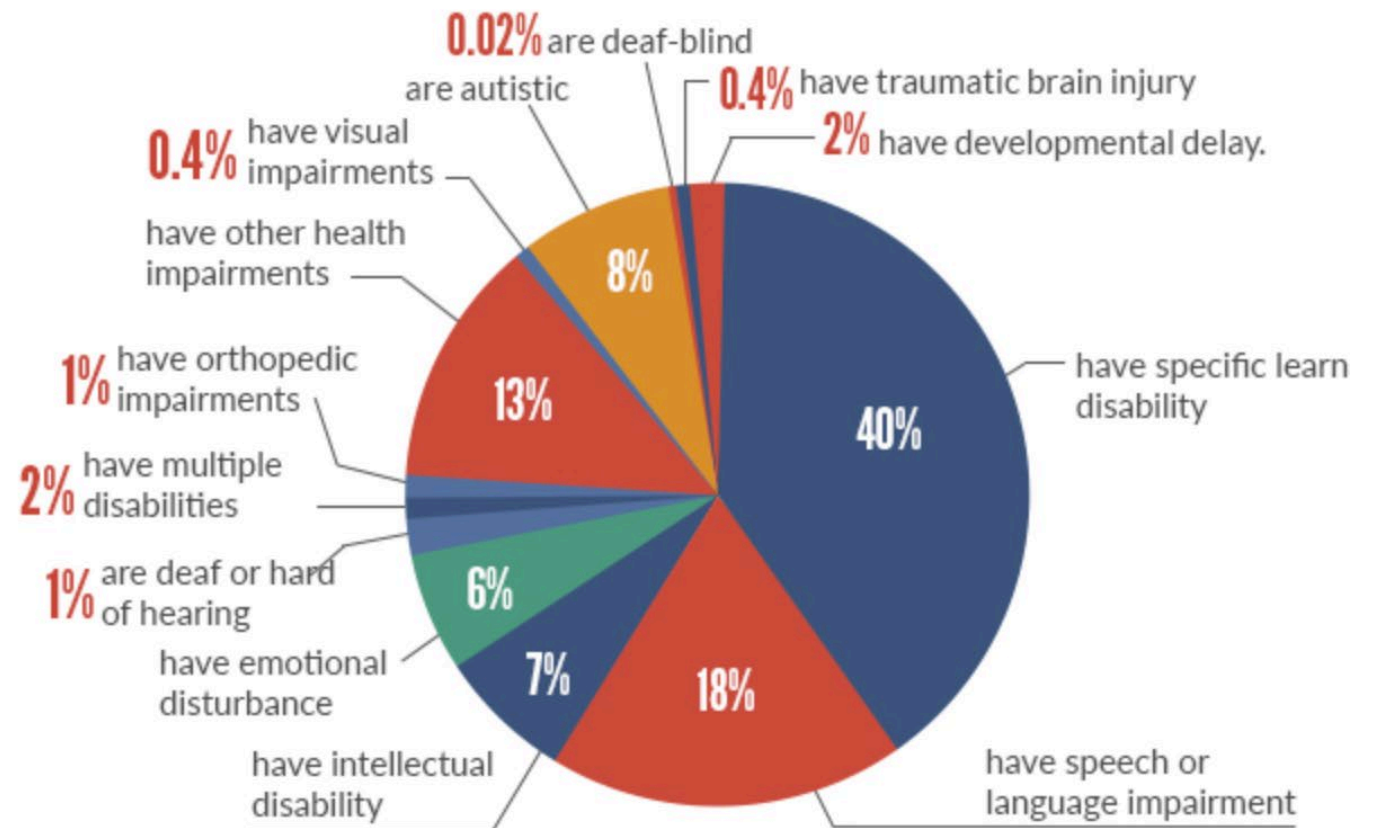
EDUCATION

Among **68 million** students ages 6 to 21 in the United States

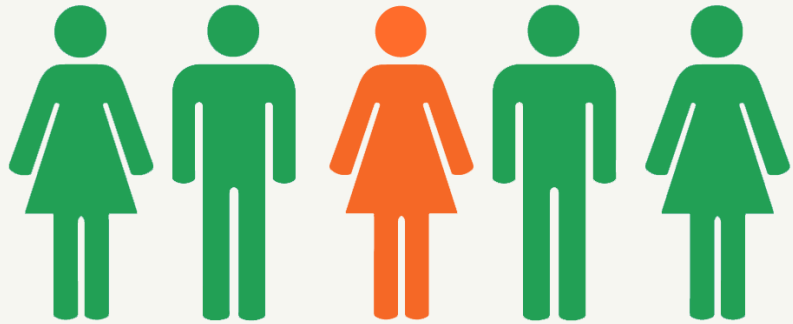
about **5.7 million** (8.4%) received special education services under IDEA in 2012

A total of **6.4 million** youth ages 3 to 21 received special education services under IDEA in 2012

Among students **ages 6 to 21** receiving special education services



Who Are People With Disabilities in the United States?



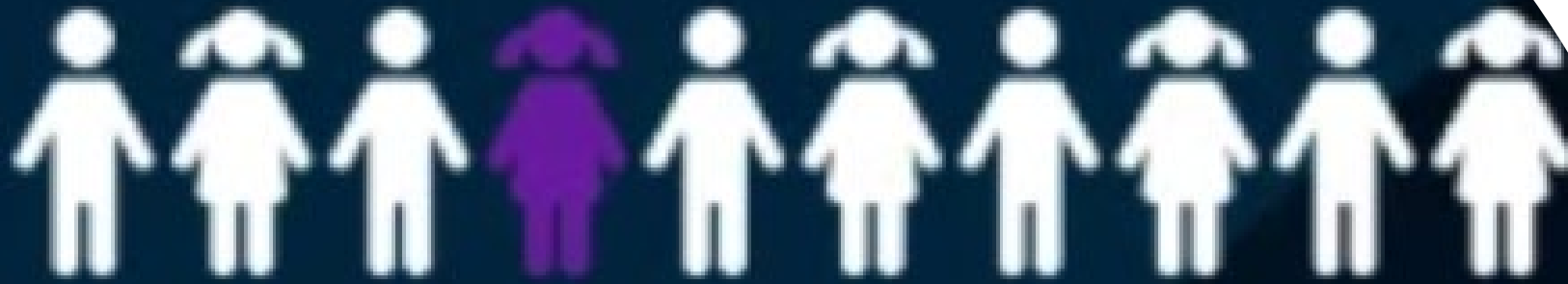
1 in 5

U.S. Adults, or 64 million people,
have a disability



Of those, **35%**, or 22 million,
are of prime working-age
(ages 16–64)

Source: *A Hidden Market: The Purchasing Power of People with Disabilities*, 2018



1 IN 20 CHILDREN

globally have a disability



The Evolution of Special Education

1975

**PL 94-142 EHA
(Educating the
Handicapped Act)**

1973

Rehabilitation
Act: Section 504

1986

(0-3; preschool; parents reimbursed)

1990
ADA

1990

IDEA (transition planning; more categories)

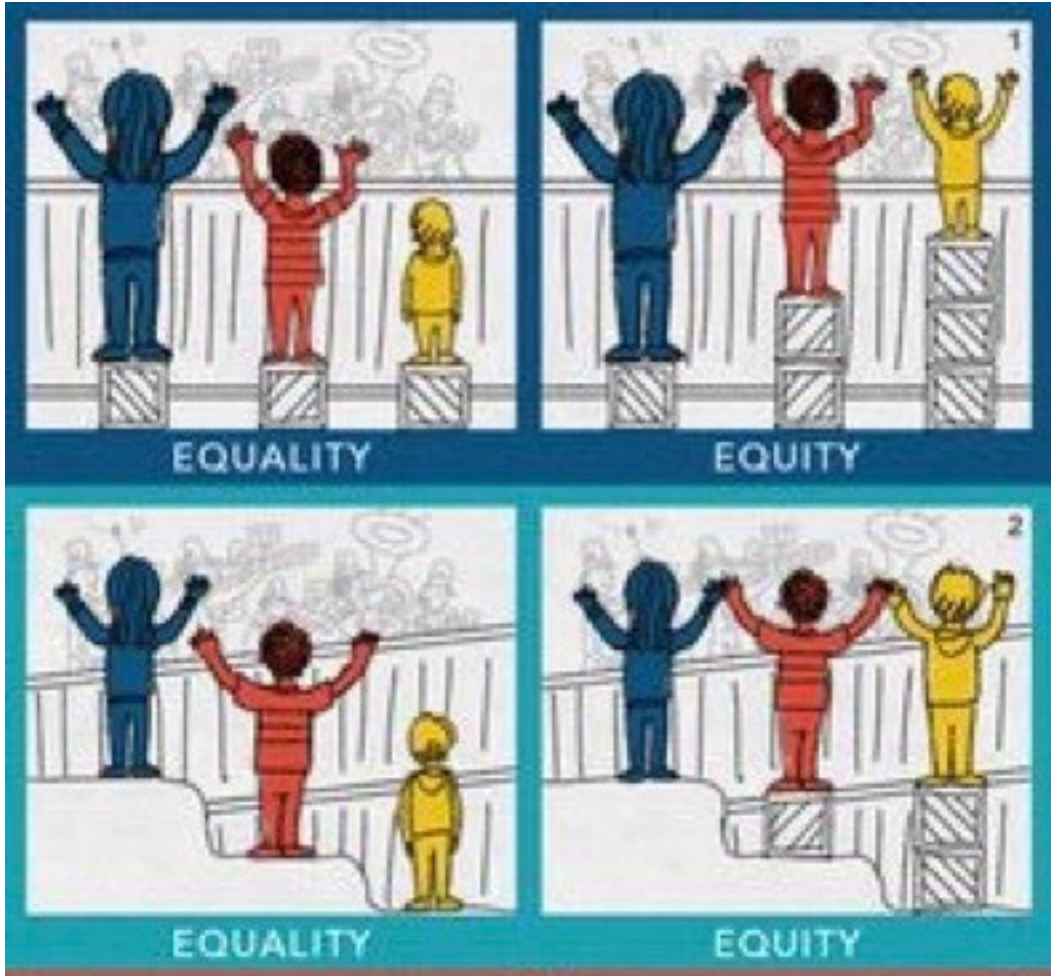
1997
IDEA

2001
NCLB

2004
IDEIA

2015
ESSA





Equity versus Equality

WHY COLLABORATIVE?

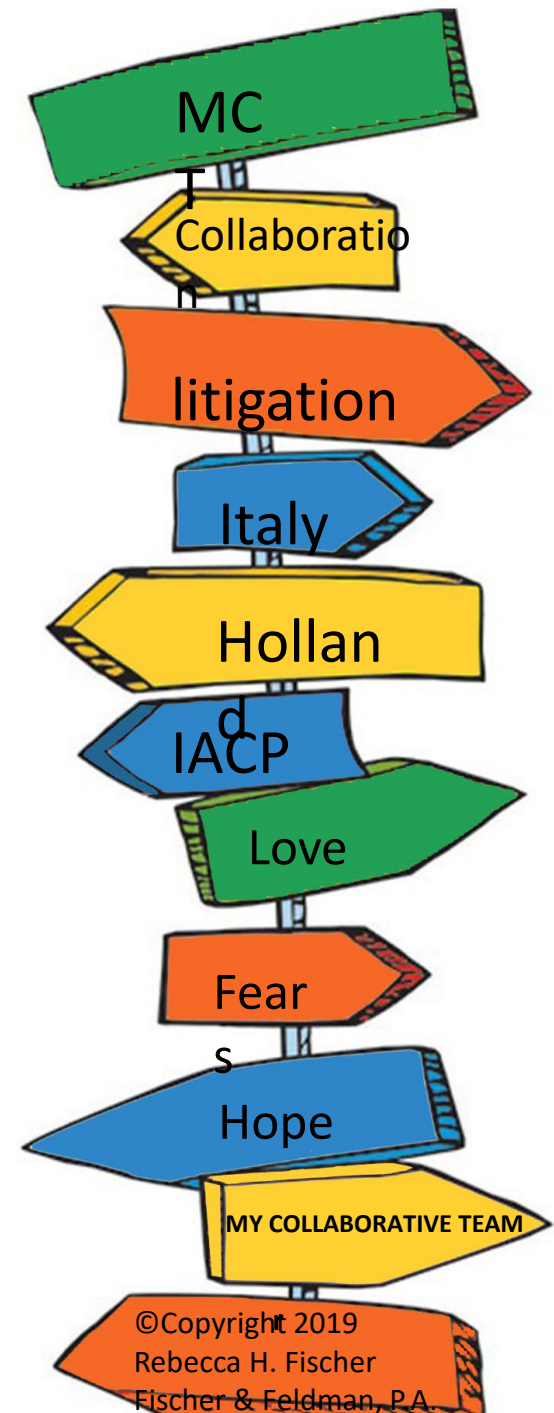
- The **disability rights movement** was/is a civil and human rights movement against discrimination
 - Demand for inclusion, acceptance, equity
 - To everything society has to offer
- **Accountability** means taking the extra (as a society taking care of each other) steps during the “process” in order for there to be equity in the “results”
 - The **Collaborative Process** is one way to achieve equity in divorce for children with special needs
- **Litigation** will cause further **destruction** to the family



THIS IS WHERE YOU COME
IN!

TOPICS

- Collaborative Marital Settlement Agreement and Parenting Plan
- Child Support
- Property Distribution (including retirement accounts)
- Timesharing
- Support Systems During and After Divorce



DO ANY OF THE CHILDREN HAVE SPECIAL NEEDS?

PHYSICAL, INTELLECTUAL, EMOTIONAL, OR
LEARNING DISABILITY OR BEHAVIOR OR MOOD
DISORDER







CONSIDERATIONS FOR COLLABORATIVE MARITAL SETTLEMENT AGREEMENT AND PARENTING PLAN

- Special Needs
- Child Support Deviation
- Unique Parenting Plan
- Property Distribution Equities
- Guardianship or Guardian Advocate
- Special Needs Trust

“Sometimes the questions
are complicated and the
answers are simple.”

— Dr. Seuss



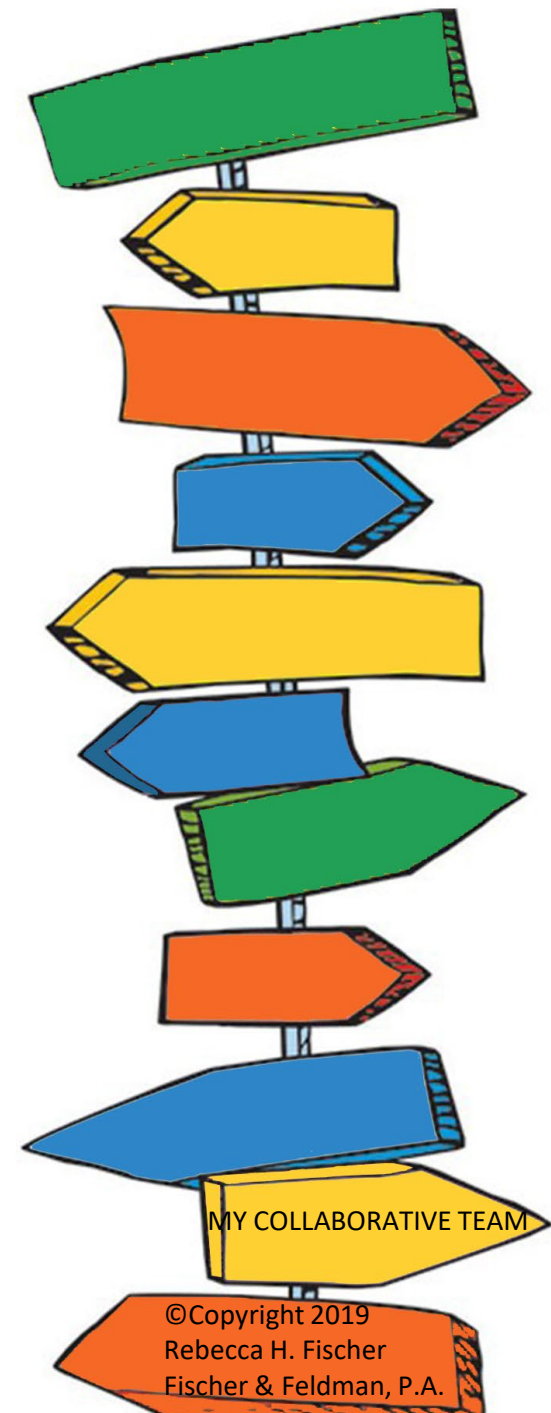


CONSIDERATIONS REGARDING CHILD SUPPORT

In addition to standard child support, certain items should be considered when determining support in a **Collaborative divorce** involving a child with special needs

SPECIAL CONSIDERATIONS FOR PROPERTY DISTRIBUTION

The Collaborative Process allows for creative property distribution which meets the unique needs of the family



“Think left and think right
and think low and think
high. Oh, the thinks you can
think up if only you try!”

-Dr. Seuss

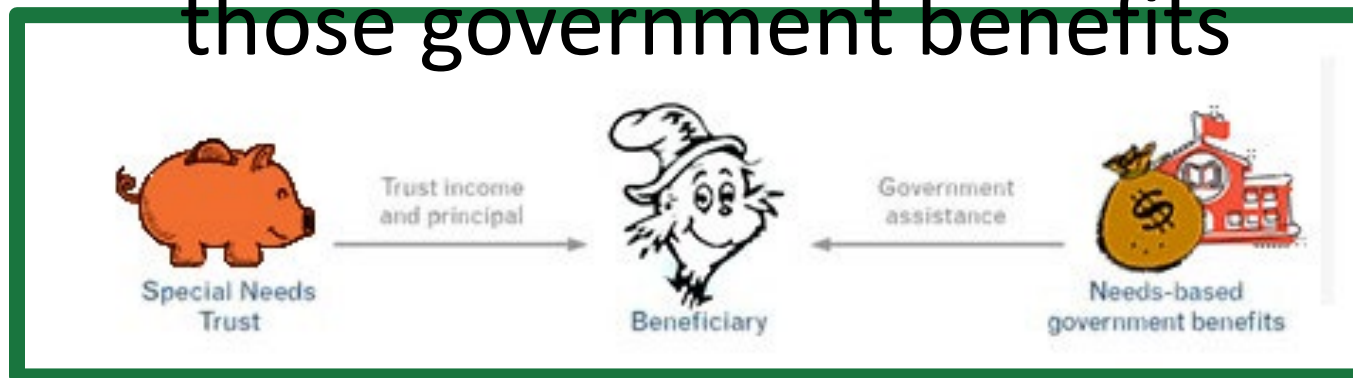




Oh the Places You'll Go with Financial Planning

PURPOSE OF FINANCIAL PLANNING

Designed to preserve a beneficiary's eligibility for needs-based government benefits while benefiting from trust assets in such a way as to supplement, not replace, those government benefits



BENEFITS

Supplemental Security Income/ Medicaid



SSI ELIGIBILITY

- Cash assistance program
- For financially eligible individuals 65+, blind or disabled
- Eligibility tied to asset and income limitations

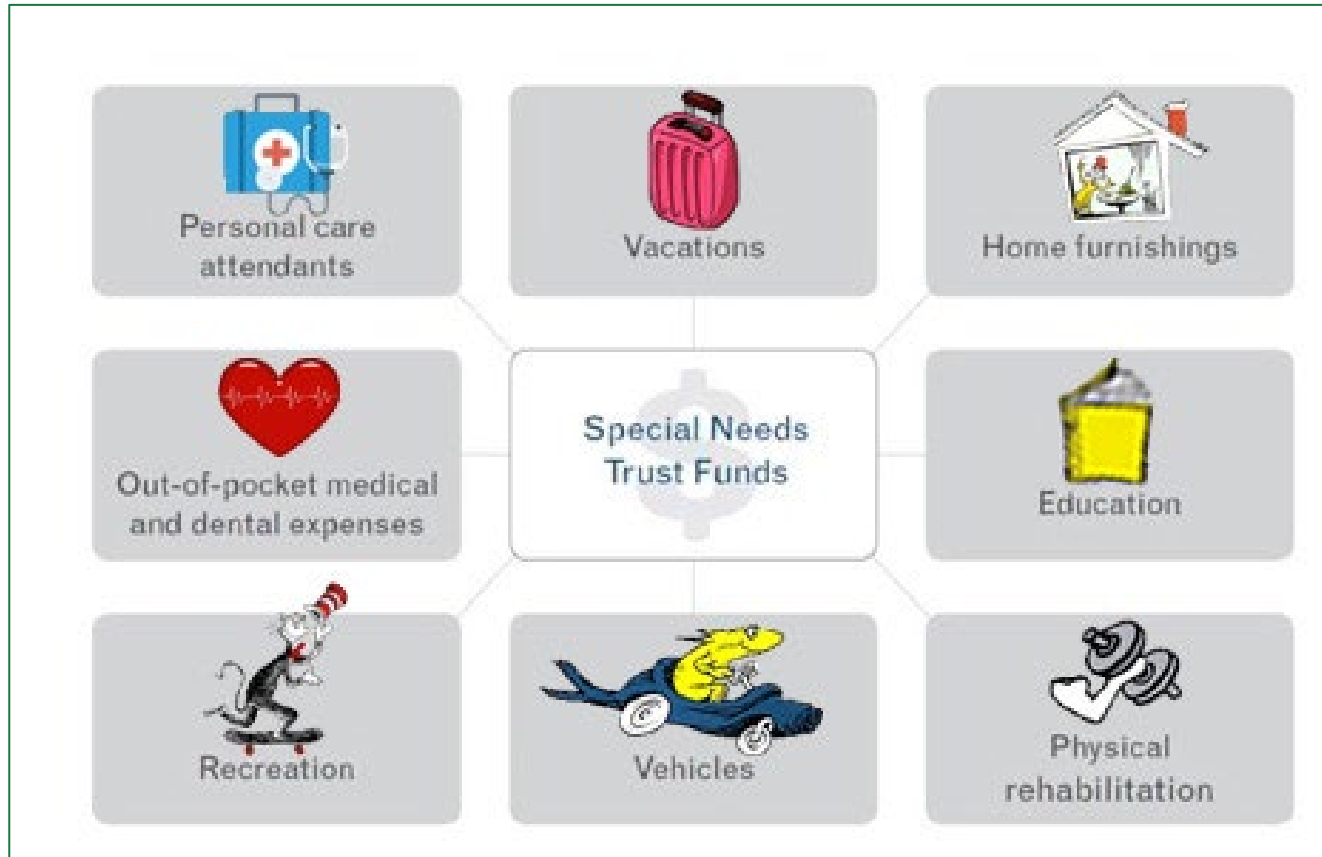


MEDICAID ELIGIBILITY

- Federal/state insurance program
- For certain individuals/families with limited income and resources
- In most states, people who are eligible for SSI are automatically eligible for

Medicaid

QUALIFIED EXPENSES FOR SNT FUNDS



ELEMENTS OF FINANCIAL PLANNING

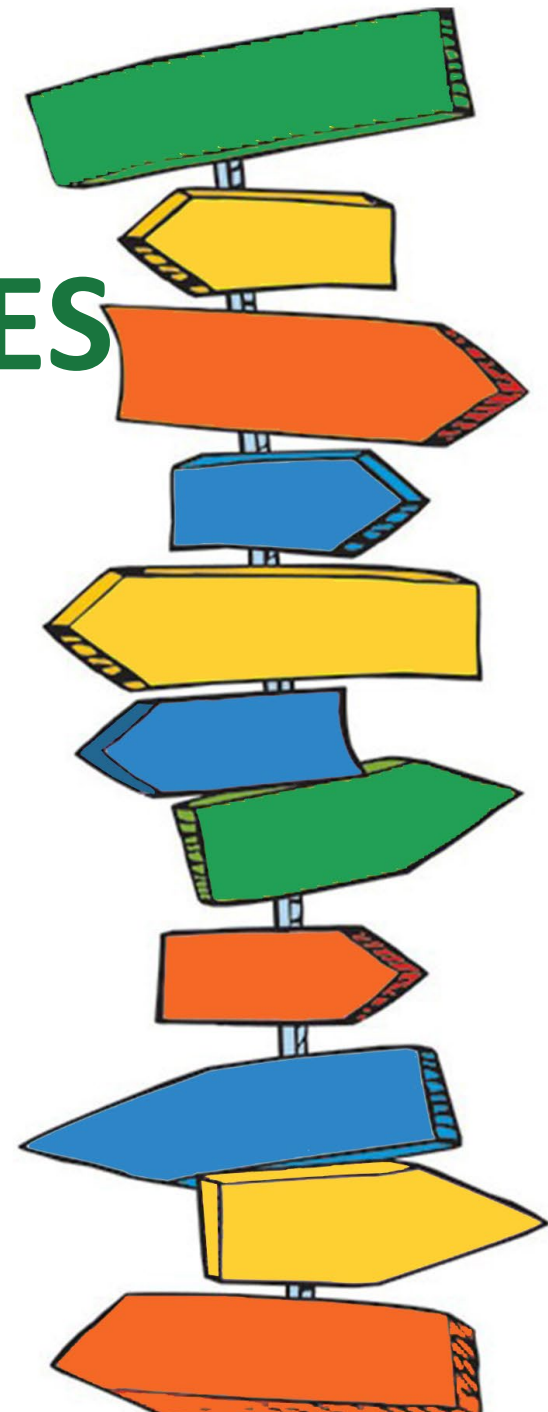
Once the special needs trust is created, additional elements of planning can be introduced:

- budgeting, expense and debt management
- asset and liability projections
- cash flow analysis
- income needs projections
- life and disability insurance needs
- estate planning
- scholarship/grants access
- medical insurance needs



FOUR KEY FACTORS IN EVALUATING TRUSTEE CANDIDATES

- **Competence, knowledge and experience**
- **Conflicts of interest**
- **Personal connections**
- **Individual vs. corporate trustees**



3 STEPS TO FITTING SPECIAL NEEDS TRUSTS INTO YOUR PRACTICE

1. Identify the need & stay educated
2. Select the appropriate trustee
3. Refer to a special needs attorney



1: IDENTIFY NEED

- Identify clients who have children who may have a disability or special needs
- Communicate the desirability of SNTs as a way to ensure wealth transfer *without* jeopardizing the beneficiary's government benefits
- Good option for beneficiaries with diminished capacity or an inability to handle assets independently
- Identify professional referral sources for first-party SNTs
- Stay educated. This field of law has experienced recent changes (i.e. ABLE legislation and the Special Needs Trust Fairness Act)



2: SELECT THE APPROPRIATE TRUSTEE

- Discuss the benefits of a corporate trustee vs. an individual trustee
- SNT administration requires a working knowledge of the beneficiary's benefits and the time to appropriately attend to their social, health and financial affairs
- A corporate trustee is often better positioned to effectively administer an SNT in a way that is compliant with state/federal law
- ***Guardianship Considerations***

“To the world you may be
one person but to one
person you may be the
world.”

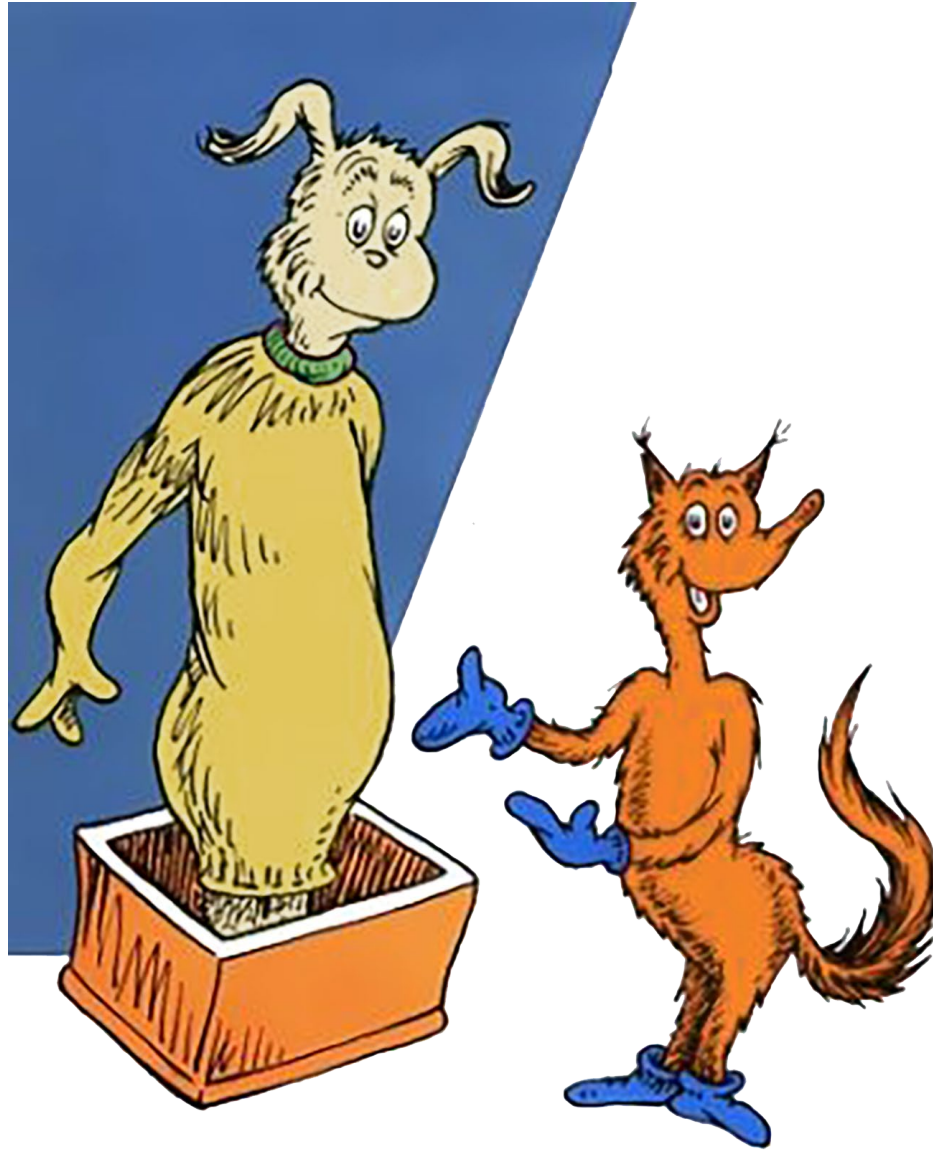
— Dr. Seuss.



CONSIDERATIONS FOR THE PARENTING PLAN

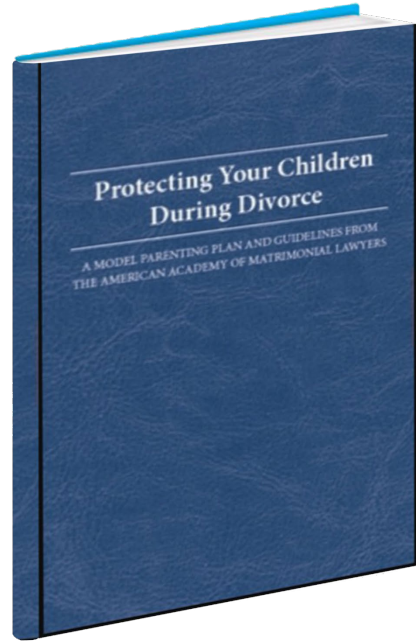
- The **Collaborative Team** recognizes the crucial need for a unique plan
- Maintains parents' focus on the needs of the child
- The **Collaborative Process** offers the opportunity to create a personalized timesharing plan to serve the special needs of the child and siblings
- The **Collaborative Team** addresses the impact of the child with special needs on siblings and the effects on the siblings' timeshare
- The **Collaborative Team** addresses the roles of the siblings in the future

**THINK
OUTSID
E THE
BOX**



**PARADIG
M SHIFT**





SDRI
SEPARATION & DIVORCE READINESS INDICATOR

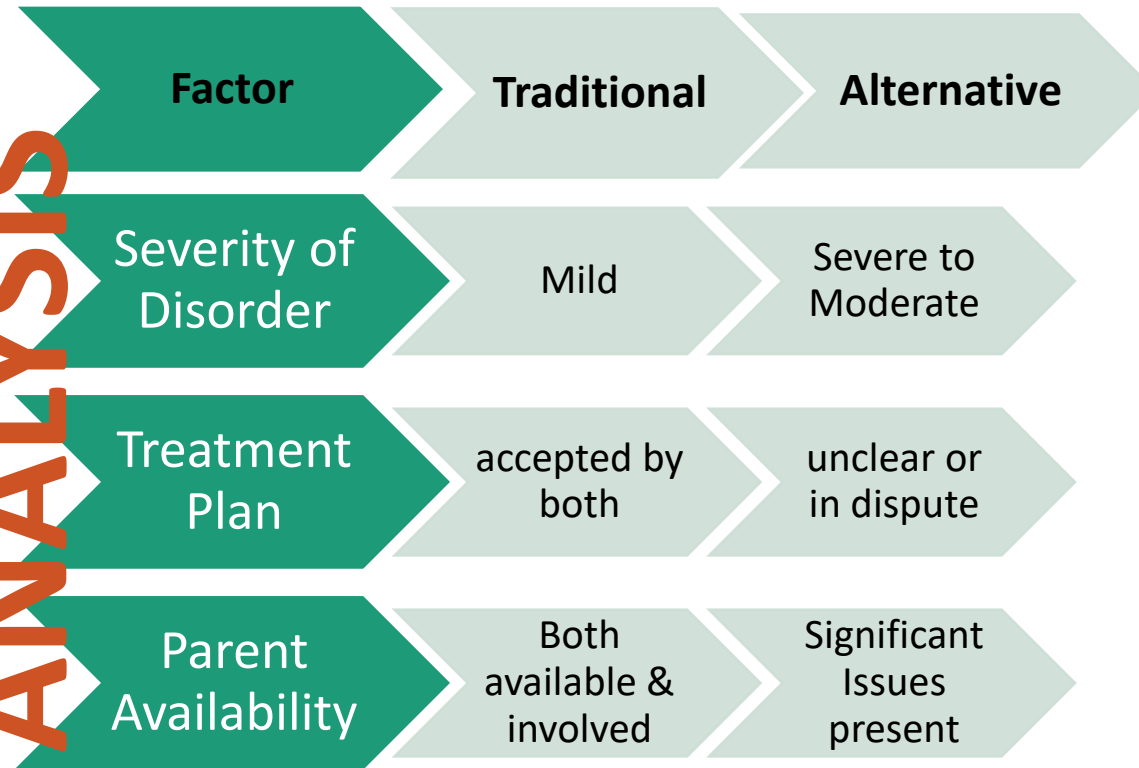


RISK AND PROTECTION

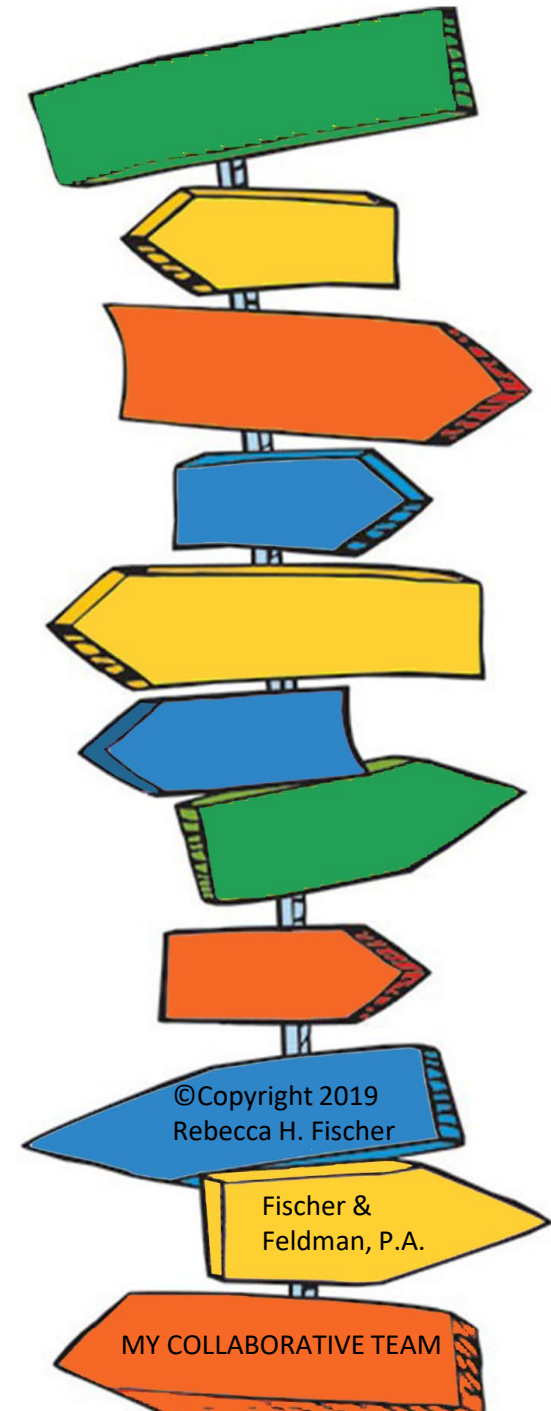
- **Safety:**
 - Physical safety/Supervision
 - Environmental Safety
- **Parenting Skills:**
 - Temperament Match
 - Structure/Routine
 - Discipline
 - Time/Availability
 - Understanding/ Acceptance of child's condition
 - Emotional attachment
- **Medical Needs:**
 - Openness to intervention
 - Availability for appointments
- **Advocacy**
- **Educational Needs:**
 - Awareness of special educational needs
 - Co-parenting and communication about educational needs
 - Steps to arrange special services
- **Therapeutic Service:**
 - Mental health
 - OT, PT, or others
 - Parent participation in services
- **Parenting Plan Schedule:**
 - Transitions between homes
 - Predictability of schedule
 - Consistency with developmental level (not just chronological age)
- **Financial Considerations**

FACTOR

ANALYSIS



Factor Analysis informs
Parenting Plan
Recommendations
& Determinations



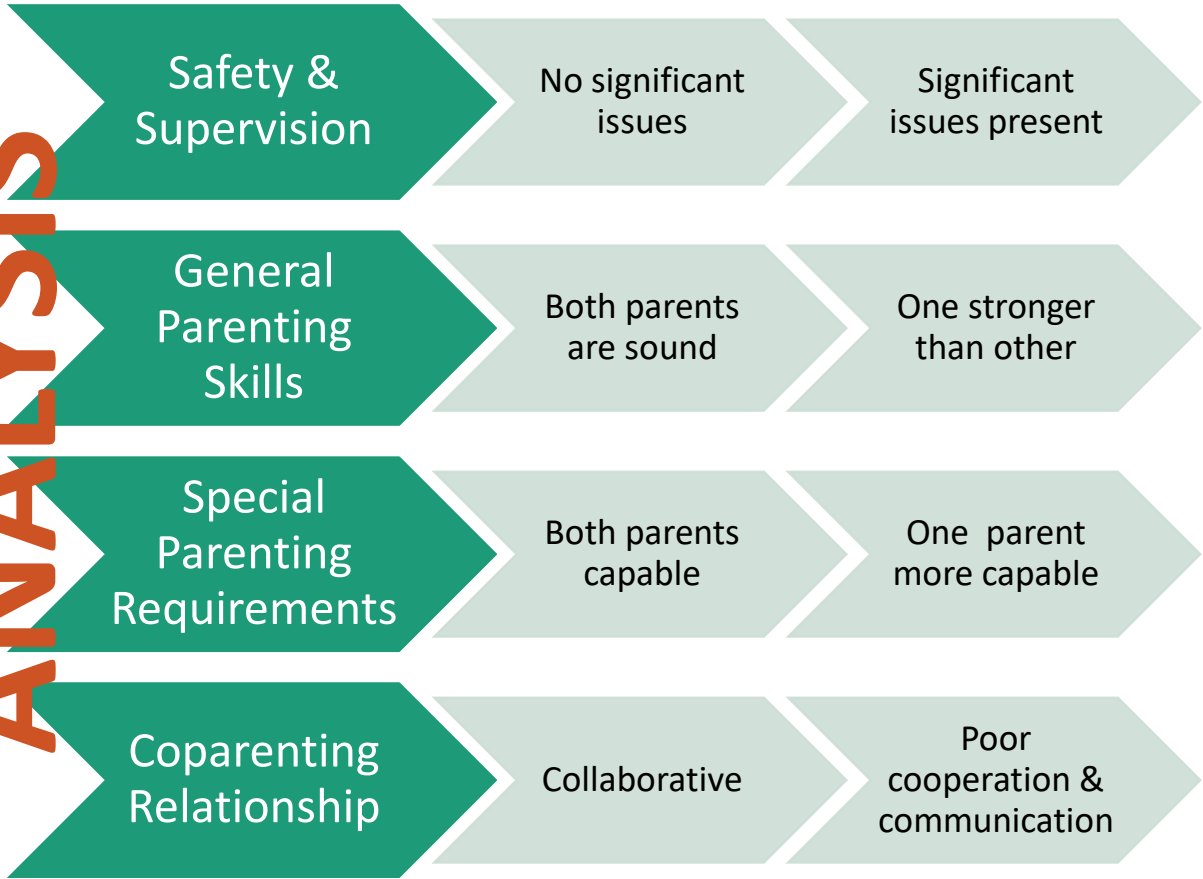
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Fischer &
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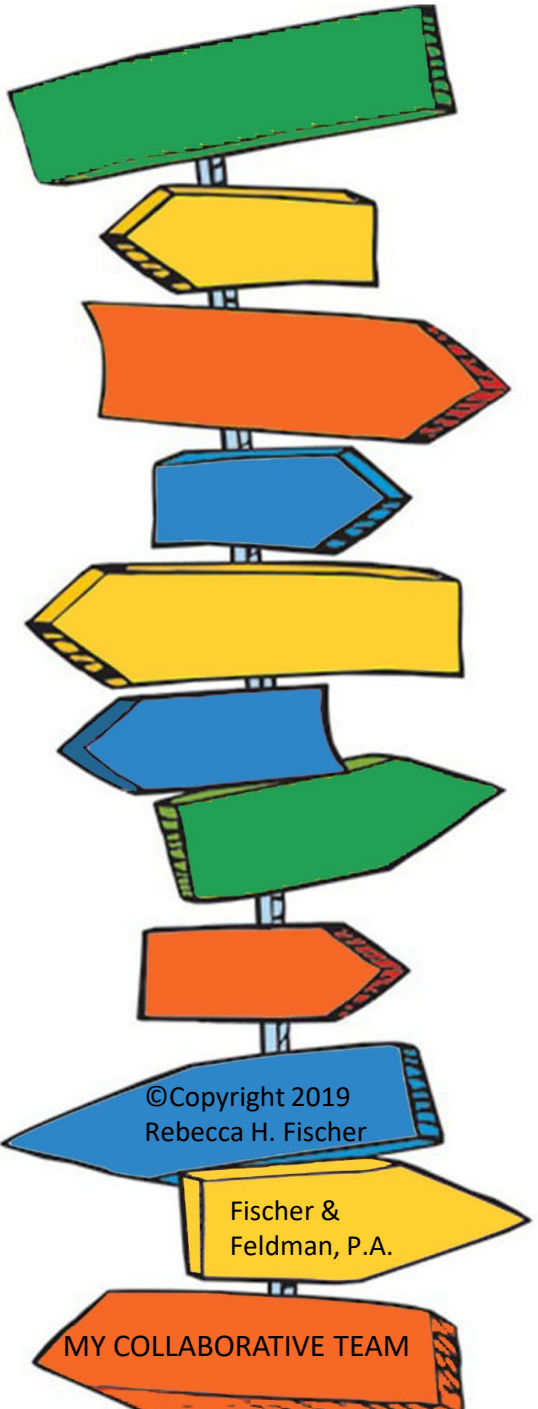
MY COLLABORATIVE TEAM

FACTOR

ANALYSIS



Factor Analysis informs
Parenting Plan Recommendations
& Determinations



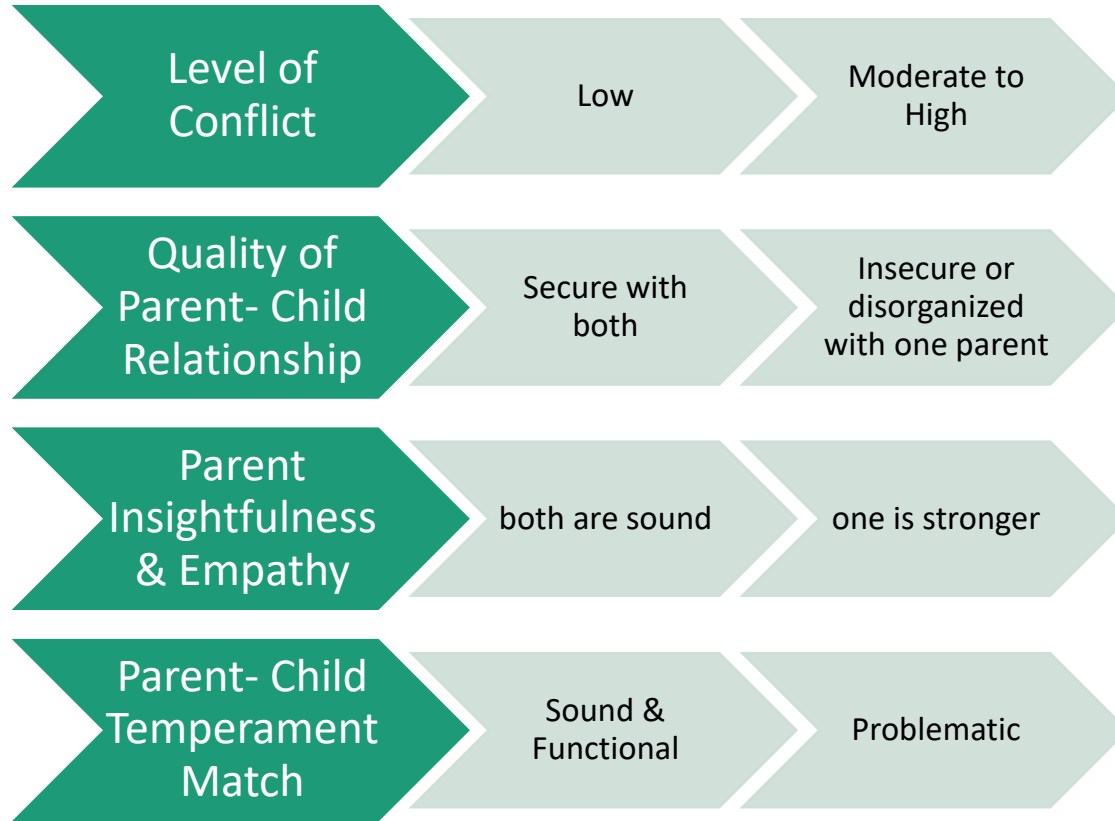
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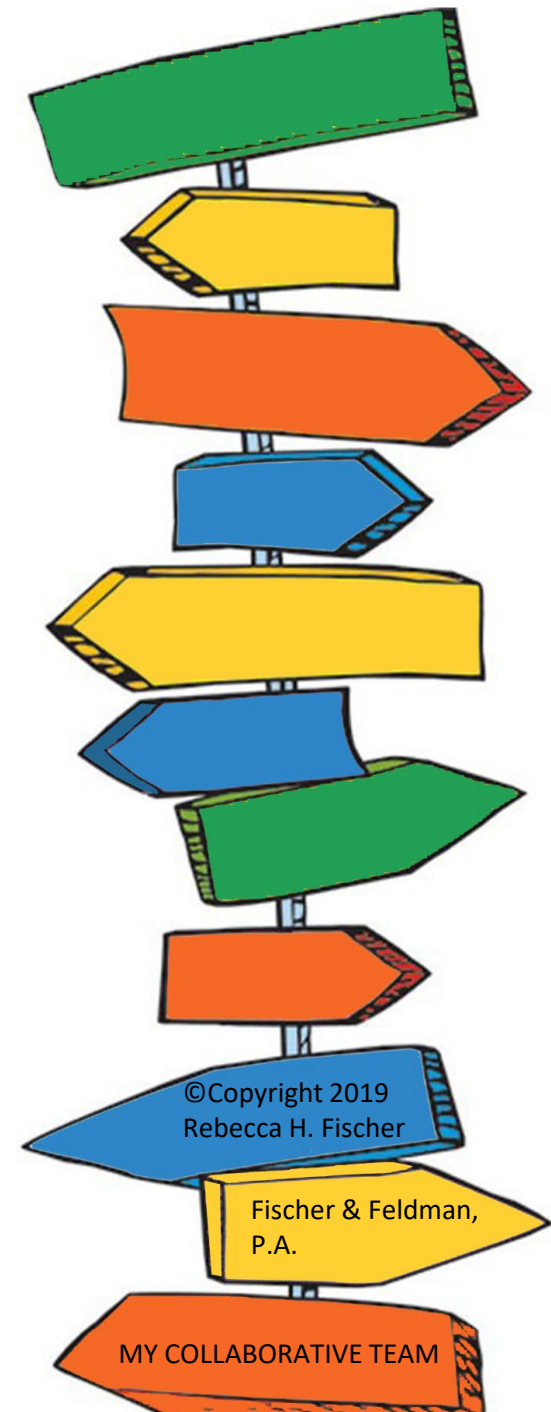
MY COLLABORATIVE TEAM

FACTOR

ANALYSIS



Factor Analysis informs
Parenting Plan Recommendations
& Determinations



SUPPORT SYSTEMS DURING AND AFTER DIVORCE

- Doctors/Medical Professionals/Therapists/Clergy
- Books & materials
- Classmates, teachers, principals, school counselor
- Children support groups
- Friends, neighbors, and family
- Sibling support groups
- Special Needs Trust/estate distribution
- Who will take care of the child when the parents are no longer able





“It’s not about what it is,
it’s about what it can
become”

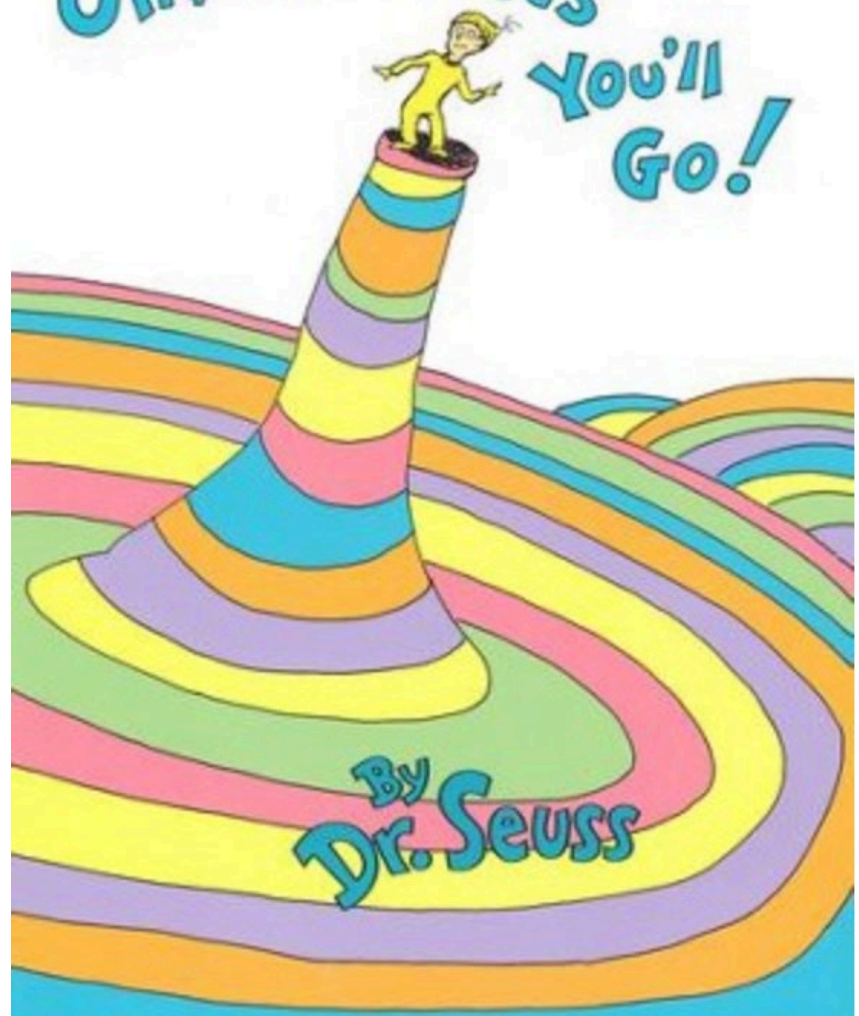
— Dr. Seuss

A collage of Dr. Seuss characters. In the center is the Cat in the Hat with his iconic red and white striped hat and a red bow tie. To his right is Thingy, a blue, multi-limbed creature. Below them are two Sneetches with blue hair and red shirts. To the left is the Lorax, a brown, bird-like creature. The background is a light blue with a pattern of small white dots.

WHAT I WISH I KNEW THEN

It takes a village and team of caring partners wanting the family and children to realize the greatest outcome and success

Oh, the Places
You'll
Go!

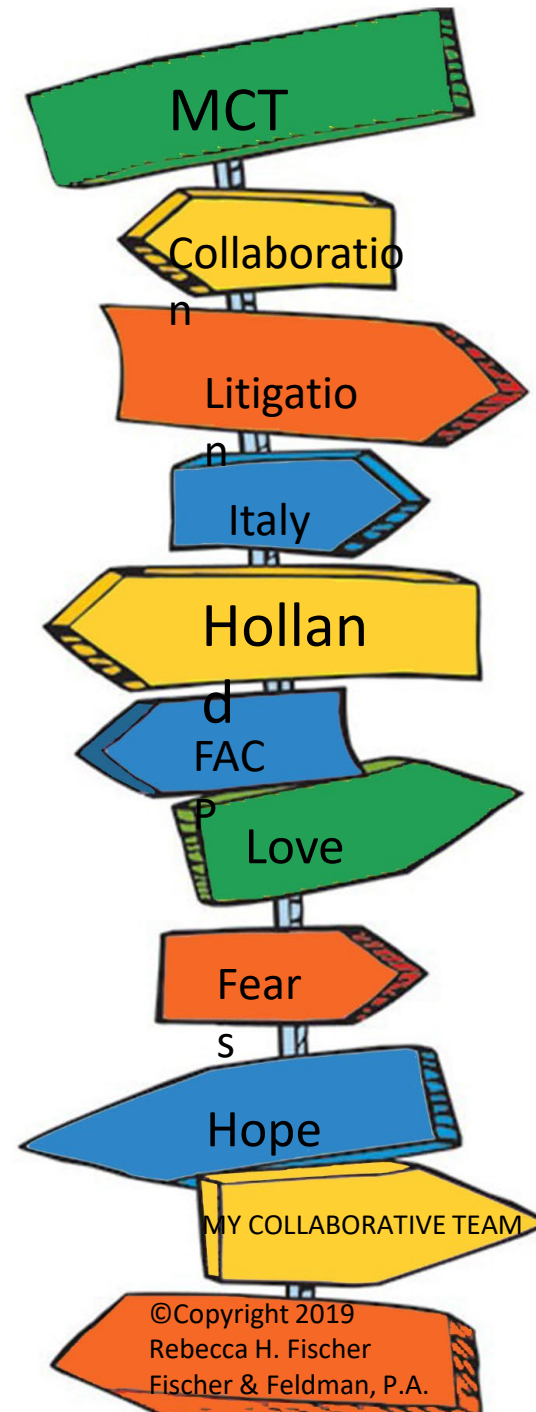


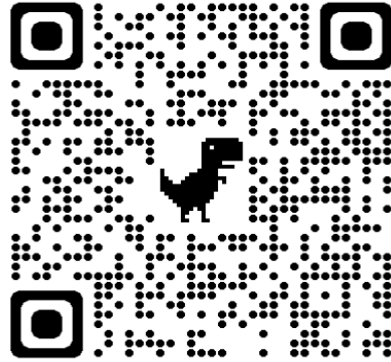
By
Dr. Seuss

Welcome to



<https://youtu.be/r15PuYoID9>



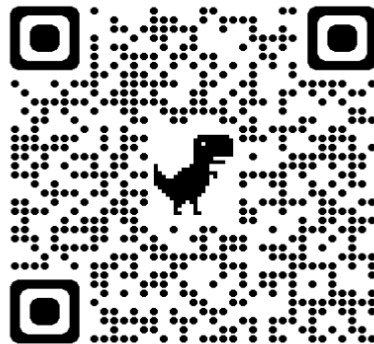


THIS QR CODE TAKES YOU TO MY COLLABORATIVE TEAM'S HOME PAGE.

GO TO "LEARN MORE" "RESOURCES."

YOU WILL FIND THE HANDOUT FOR OUR PRESENTATION.

THANK YOU FOR JOINING US



TO REGISTER FOR OUR UPCOMING INTRODUCTORY INTERDISCIPLINARY
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Enlightening the World About Collaborative Divorce

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