



The Mediation Center
Finding common ground.

Family Mediation Information Separation, Divorce and Custody

What is mediation?

Mediation is used by couples who are separating, divorcing, or who have not been married but have children or assets in common. Mediation is a voluntary negotiation process that allows people to discuss the decisions they face and to work toward agreements that are fair and balanced. A neutral third party called a mediator helps people talk about their concerns. All decisions reached in mediation are made by agreement of the parties, and all of the discussion is informal, private and confidential.

The mediation does not make decisions for you or tell you what to do. The mediator guides discussion to help clarify issues and hear what each person wants to accomplish. The mediator then helps the parties discuss possible solutions and figure out what additional information is needed for them to make fully informed decisions. The mediator does not provide legal or financial advice. At the end of mediation, the mediator will type the agreements as a Memorandum of Understanding or Mediator Notes, and send a copy to each party.

What can we talk about in mediation?

In general, **parenting** (developing a parenting schedule, discussing where the children will live, and how the parents will share responsibilities and decision-making), **property division** (how marital assets and debts will be shared), and **support** (child support and/or spousal support). You can also bring up other topics in mediation. During your first mediation session, the mediator will talk with both of you about what topics you want to discuss and then guide discussion on those topics.

What is the cost and how long does it take?

Family mediation services are provided on a sliding scale based on the income of each participant. The average number of mediation appointments that separating partners/spouses find useful is between 1 to 4 appointments. Each appointment is 2 hours. You may continue using mediation as long as you both agree to attend.

Do I need a lawyer?

We encourage you to consult with an attorney. It is likely you will be making decisions with both short-term and long-term effects and it is important that you have legal information before making those decisions. At the end of mediation, your mediator will type up your joint decisions into Mediation Notes or a form called a Memorandum of Understanding. To convert the Memo or Notes into a legally binding agreement, an attorney can prepare a Separation Agreement, or possibly a court order for a judge to sign. If some issues are settled and others are not, the Memo may be considered a "partial agreement".

At The Mediation Center, attorneys usually do not attend the mediation sessions. If you want your attorney to attend the mediation session, this must be agreed to in advance by all parties.

How do I set an appointment?

Call The Mediation Center - 251-6089 x13). We will listen to you and ask questions about your situation to see if mediation will be helpful for you. We will work with you and the other party to schedule an appointment. Generally, appointments are scheduled within two weeks.

Why is mediation confidential?

The Mediation Center offers a neutral place for discussion and settlement. Mediation is confidential – with certain exceptions - so that parties can have the chance to settle differences on their own, without court. Parties can discuss and consider various ideas for settlement without having to worry that what is said in mediation might be used in court. The staff, volunteer and records of the Mediation Center cannot be subpoenaed.

What if I need advice or more information?

While your mediator helps guide discussion, your mediator will not answer specific legal or financial questions nor decide what is best in your situation. It is likely that you may want to take your questions to an attorney, accountant or financial advisor, or perhaps a counselor or psychologist in order to be better prepared to make decisions, and we encourage that.

Can we use mediation again later?

Yes, people often come back to mediation to discuss new issues, make new arrangements regarding children or communication, or to address unresolved financial or property issues. If you return to mediation and reach a new joint decision that affects or changes an existing court order, it is very important that the existing court order be updated. This must be done with an attorney's help after clarifying changes in mediation.

What are the options for resolving the legal issues of separation and divorce?

- **Resolving separation issues by yourselves:** People meet together and agree on decisions such as parenting, property division and support. These decisions are given to one party's attorney to draft a Separation Agreement or a court order. The other party may or may not hire a separate attorney for advice and review of the documents.
- **Mediation:** The parties meet in mediation to agree on decisions such as parenting, property division, and support. Parties may choose to consult with attorneys between sessions and/or at the end of mediation, in order to be fully informed about the legal effects of the ideas under consideration. Attorneys may be present in mediation sessions only if both parties agree to that in advance. Once mediation ends, the attorney(s) can draft mediated agreements from the Memo of Understanding or Mediation Notes into a Separation Agreement or a court order.
- **Collaborative Attorneys:** Each party hires a Collaborative attorney and everyone works toward non-adversarial settlement, through a series of 4-way meetings (both parties and both attorneys) without court. Collaborative attorneys then draft the Separation Agreement or court order.
- **Attorney Advocates:** Each spouse hires an attorney advocate during negotiations and/or litigation. In litigation attorneys represent their clients in court, and a judge makes the final decisions regarding the children, property division, and support.