



## Frequently Asked Questions about Mediation for Divorce, Separation, and Custody Matters

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

- **Mediation:** Couples meet together with a neutral third-party mediator. The mediator does not give advice or make decisions for you, but helps you walk through a process to try to arrive at solutions that work for everyone. Mediation is private and confidential and often takes less time than other processes. You can use the services of a Mediation Center, a 501(c)3 nonprofit; hire a private attorney or non-attorney mediator; or, in some cases, use the mediators who work for Family Court at no cost. We believe that these are all good options, depending on each family's needs and preferences.
- **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.
- **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.
- **Resolving separation issues by yourselves:** People meet together and agree on decisions such as parenting, property division and support. These decisions are given to an attorney who can 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.

Of these options, the Mediation Center offers only mediation services.

### Who can use Family Mediation at the Mediation Center?

Family Mediation is used by couples who are separating, divorcing, or who have not been married but have children and/or assets and liabilities in common. Same-sex, opposite-sex, traditional and non-traditional families are all welcome. Parents who ended their relationship long ago can also use mediation to decide whether and how to update or change agreements.

### How does mediation work?

Mediation is a voluntary negotiation process that allows people to discuss issues and to work toward agreements that are fair and balanced. The mediator is neutral, non-judgmental, and helps the parties have a productive discussion about the issues at hand. All decisions reached in mediation are made by agreement of the parties, and discussion is informal, private and confidential. The mediator does not, and legally cannot, provide legal or financial advice. The contents of mediation cannot be used in court.

### Do I need a lawyer or other advisor?

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.

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. The vast majority of people come to mediation without their attorney. Attorneys may be present in mediation sessions only if both parties agree in advance. If one party wants to bring an attorney and the other does not agree, we will not be able to schedule mediation for you.

It may also be useful for you to consult with a financial advisor, tax advisor, psychologist, or therapist before mediation, between sessions, or before finalizing an agreement. We encourage you to seek the resources you need to make fully-informed decisions.

### **Can I file the agreement we reach in mediation with the court?**

If agreements are reached in mediation on some or all issues, the mediator will put those agreements in writing as a "Draft Memorandum of Understanding" or "Mediation Notes". North Carolina law prohibits mediators from writing or finalizing separation agreements or parenting plans. However, your decisions will be recorded in writing for you and sent to you via e-mail or postal mail.

If you and the other party agree that you want the agreements reached in mediation to become all or part of a binding agreement, you will need to consult with an attorney who can prepare a Separation Agreement or possibly a court order for a judge to sign. We are unable to advise you in this process.

While you may still need the services of an attorney to finalize your agreement, it is often more cost effective to use mediation to reach agreements on the issues.

### **Can I bring other people to mediation to support me?**

Mediation works best when only the people directly involved in the conflict are present. If you wish to bring a support person with you, they are welcome to wait in the lobby. If you want them to be present in the session, you must let us know ahead of time. We will call the other party to see if they agree. If you and the other party cannot agree beforehand on whether others will be present in the session, we will be unable to schedule mediation for you.

### **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?**

The cost for a family mediation session is \$150 per person or \$300 per couple (if the couple is sharing finances). If you cannot afford this fee, you can apply for a sliding scale fee reduction. Please download the forms on our website at [www.mediatewnc.org/family](http://www.mediatewnc.org/family). On average, separating partners/spouses choose to have between 1 and 4 mediation appointments. Each appointment is up to 2 hours long. One appointment is scheduled at a time, and you may continue to use mediation as long as you both agree to attend.

### **How do I make an appointment?**

Call The Mediation Center - 251-6089 x214 or e-mail [communitymediation@mediatewnc.org](mailto:communitymediation@mediatewnc.org). 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.

### **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 important that the existing court order be updated. This must be done with an attorney's help after clarifying changes in mediation.