

• **What is mediation?**

Mediation is an alternative method of settling disputes. A neutral third person guides you and the other party in arriving at your own solutions to your disagreements. Mediation is thus quite different from arbitration or litigation where a third party listens to the evidence and then imposes a decision.

• **What issues can we mediate?**

Most issues in a divorce can be mediated. That includes custody, visitation, property division, spousal support and payment of marital debts. You may agree to mediate only those matters relating to your children or you may want to mediate all of your differences.

• **When can we begin mediation?**

Mediation can begin at any point in the divorce process. However, mediation is more likely to be successful if it is begun early in the process before the parties have come to an impasse. Make no mistake, mediation is hard work for both parties. The sooner it begins, the better.

• **Why would we want to mediate when we have attorneys?**

Mediation does not take the place of attorneys. It is simply one way of resolving disputes between the parties. Even if you choose to mediate, you will need a lawyer. Attorneys determine whether all of the marital assets have been disclosed. They advise you about your legal rights and responsibilities. They advise you about whether your mediated agreement is fair. Finally, they draft and file the documents necessary to implement your agreement.

• **How much does mediation cost?**

The cost of mediation varies. Some courts provide mediation services free or at a reduced cost. Others refer parties to private mediators who set their own rates. Mediation may appear to be an extra and unnecessary expense. However, it may save you money in the long run if you can reach a full or partial agreement and avoid prolonged litigation. Before you make a decision regarding mediation, ask your attorney how expensive a fully

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litigated case, including an appeal, may be.

• How long does mediation take?

The length of mediation differs from case to case. Sometimes an agreement can be reached in a few hour-long sessions. The process can be longer if the issues are complex or the parties uncooperative. In general, mediation is not intended to be a lengthy process.

Mediation is not the answer for everyone. Each party must be open to communication. Each party must be willing to respect the position of the other. A person who is determined to win, control, stay angry or fight is not a good candidate for mediation.

A victim of domestic violence may not be a good candidate for mediation if he or she feels dominated or controlled by the other party.

• How does the mediation process work?

Mediation is an informal meeting between the parties and the mediator. The mediator controls the process and guides the parties toward reaching a voluntary agreement. The mediator gives each person full opportunity to express a position and to suggest how a dispute should be settled. The mediator does not take sides. The mediator does not permit one party to dominate the other. The goal of the mediation process is to reach a mutually satisfactory agreement or even a partial agreement if the parties are able to agree on some issues but not all.

• Where do I find a mediator?

Mediation is new in some communities. In others, it has existed for some time. If you live in a community where mediation is readily available, ask friends whose opinions you respect to recommend a mediator experienced in domestic relations cases. You might also ask your attorney or the local bar association. Your local domestic relations or juvenile court may have a list of qualified individuals or agencies who provide mediation services.

• Who is qualified to be a mediator?

Some states have established standards for qualification as a mediator. Others do not. Ask your attorney whether your state has spelled out the qualifications for mediators. Always ask about your mediator's education.

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training and experience as a family law mediator.

• **Does the mediator ever tell the court what was said in mediation?**

States differ regarding the confidentiality of the mediation process. Before you agree to mediation, it is important that you find out if your remarks will be held in confidence or if the mediator can be called upon to testify in your trial if mediation fails. Generally, it is better for the mediation process to be confidential. That way both parties feel free to speak out honestly.

• **What happens if mediation doesn't work?**

Mediation is not always successful. When it fails, the parties may continue to try to negotiate a settlement through their attorneys. When all attempts at settlement fail, the case is taken to trial and the issues are decided by a judge.

• **What are the advantages of mediation over litigation?**

Successful mediation has many advantages over litigation. Because it is an informal procedure and not governed by the rules of evidence, each party has the opportunity to fully discuss beliefs, positions and grievances. Often, mediation results in the parties focusing on the needs of their children instead of their own needs. It leaves people with the feeling that they are in control of their own destiny. It also gives them skills to solve future problems without returning to court. When successful, mediation tends to be less expensive and faster than litigation. Most important, mediation gives the parties the opportunity to formulate their own plan for the future rather than submit to a decision from the court. The court merely reviews the mediated agreement to determine that it is fair to all parties and that it complies with the law.