

Frequently Asked Questions About Divorce Mediation

Why Should I Consider Mediation For My Divorce?

Mediation allows separating and divorcing couples to take control of planning their own lives, and allows them an environment in which to make good decisions about their futures. It is especially beneficial for parents, who though separating, will need to continue making joint decisions about their children well into the future. The decision-making process learned in mediation can serve as a model for future communications. Also, mediated settlements have consistently higher compliance rates because the parties have created their own agreement.

What Does The Mediator Do?

A family law mediator is a neutral party specially trained to help couples resolve the issues in their divorce. The mediator facilitates the communication between the parties by making sure each party is given an uninterrupted time to speak, asking a party to restate or explain a point when necessary, and asking questions to make communication clear. The mediator also provides information about the legal system, how issues may be viewed by lawyers or judges, and what alternatives may exist for solving issues. When necessary, the mediator will refer the couple to third party experts such as appraisers, accountants and financial planners.

How Does the Process Work?

The couple and the mediator meet in a series of mediation sessions, usually lasting about two hours.

First meeting: The couple and the mediator identify the issues needed to be discussed, the order in which they will be discussed, and what information needs to be gathered and shared. If the parties are ready, the mediator and parties can discuss several of the issues at the first meeting. Between the first and later sessions the couple gathers any additional relevant financial data, or if necessary, the opinions of experts.

Further Meetings: Discussions revolve around how to compromise on the various issues in order to meet the needs of both parties and any children. The mediator assists by providing information about the court system and common ways divorce issues are resolved.

The Agreement: When an agreement has been reached on all issues, the mediator drafts the agreement for review by each of the parties and their attorneys, if any.

How Long Does Mediation Take?

The complexity of the issues and ability of the individuals to be flexible as they negotiate a fair agreement determines the length of the mediation. Every case is different. Generally, mediation sessions are scheduled for two hours, and the average case usually takes two or sometimes more sessions.

Is Mediation Cheaper Than Using Lawyers to Handle a Divorce?

Many lawyers charge a retainer fee of between \$2,500 and \$5,000. The total cost may be substantially higher than the retainer payment, particularly in complex cases or when the placement of the children is contested.

Also, keep in mind that "cost" not only means dollars spent but the emotional cost to the parties and their children who go through litigated divorces. This emotional cost is greatly reduced by the mediation process.

Will our Agreement be Enforceable?

The agreement is enforceable once it has been signed by the parties and approved by the court.

Should I See a Lawyer During Mediation?

Mediation is not a substitute for the services of a qualified attorney. Both parties are encouraged to obtain independent legal advice during the mediation process, and to have their lawyer review the agreement before it is signed. Even when the mediator is a lawyer, the mediator cannot give either party legal advice.

What if My Case is Too Complicated for Mediation?

No case is too complicated to be settled using mediation.

What Does it Mean When You Say Mediation is Confidential?

State law says that no one, not even the two parties, can use what is said in mediation as evidence in court.

What if We Can't Agree on All Issues?

An agreement can be prepared on all settled issues, and the parties can either litigate the remaining issues or take further time to think about them and come back to mediation.

We Don't Get Along Well - How Can We Possibly Mediate?

Although many mediating couples are amicable and work well in mediation, there are also many couples who are very emotional about the divorce and don't think they can negotiate face to face. Assisting couples who have high emotions, but who still would like to work things out peacefully, is part of every mediator's training. People do calm down and become effective mediation participants when they see that the process at work.

My Spouse is Very Powerful - How Can I Hope to Be Successful in Mediation?

The mediator will not allow one party to overpower the other in mediation. If one of the parties is unable to be effective during this process, the mediator will stop the mediation. However, many people who considered themselves to be the "weaker" of the two spouses have been quite effective in mediation.