

ATTACHMENT B

Introduction to Family Law Mediation

What is mediation?

Mediation is an opportunity for people to talk together and make their own decisions on what to do next, with the help of a neutral mediator. Mediation is private and confidential. In mediation, you can tell the other person what is important to you about the situation and how it has affected you. You can tell them what you want them to understand. You can ask questions. You can hear what they have to say. Sometimes mediation is the only chance people have to talk directly to each other, to talk things through, to be heard. Most of the time, people hear new information in mediation. Often, people feel heard for the first time. There is no agreement in mediation unless you both agree to it.

Most people are sure that mediation won't work for them, yet over 70% of the people who mediate reach an agreement. When people do reach agreement, they save money and time and they make their own decisions. Even when people do not reach an agreement in mediation, they often find that they are clearer on what to do next and better able to move on.

What are the advantages of mediation?

- Decision-making remains with the parties. When the parties have created the agreement, they are more likely to cooperate with its terms.
- Many times, it is informal, quicker, private and less costly than taking your case to court.
- In cases involving children, the parties work together to solve disputes regarding their children as opposed to having a judge decide. Children's emotional well-being is greatly improved when parties cooperate and maintain a relationship with their children.

What does the mediator do?

The mediator provides a safe and impartial setting for parties to discuss issues and facilitates the discussion on creating an agreement resolving the issues without having to go to court.

What does mediation cost?

Each mediator has a set hourly rate for mediation. The cost of mediation is typically split equally between the parties and paid at the time of each session.

What issues may be mediated?

Any issue that is disputed between parties and subject to being decided by a judge can be mediated. The confidentiality of mediation is protected by a contract between the parties and the mediator. The mediator can be made to testify only under extraordinary circumstances. A mediator is prohibited from communicating information to any third party about the parties' behavior or statements unless child abuse is involved or there is a credible threat of harm to a party or third party.

How long does mediation last?

In most cases, a mediation session can be accomplished in a half day. However, a session may continue so long as the parties agree and progress is made. The number of sessions needed to complete an agreement is influenced by the parties' cooperation and the difficulty of the issues.

What role do attorneys play in the mediation process?

Your attorney can prepare you for the mediation process and answer questions during the process. Your attorney will be present during mediation.

What are the chances of mediation being successful?

Mediation succeeds when the parties cooperate to reach an agreement on their own terms. Parenting plans work best when both parents participate and agree to the co-parenting arrangement. In addition, mediation can help settle many property division issues and identify options that may be available to resolve property disputes.

What if we can't agree on everything (or anything) in mediation?

The judge will make decisions about what will happen if mediation does not result in agreement on all the issues, which may include going to trial.

How should I prepare for mediation?

If you are afraid to be with your partner or won't be able to speak up or disagree with him/her in mediation, tell your attorney and your mediator. Mediation may not be appropriate in your case.

Make a list of all the issues you would like to discuss or decide in mediation. This list can help you clarify what's important to you and why. In mediation, it is helpful to start by focusing on what's important to you — not the final decision you think you want.

Consult with your attorney about your list.

Ask your attorney what additional issues you need to discuss and add those to your list. (Your attorney can tell you if there are additional issues you need to consider based on what the law says needs to be decided in cases like yours.)

Then, for each issue on your list, ask your attorney:

- Are there any legal, financial, tax or other long-term ramifications of this issue? For example, the parenting schedule affects how the child support is calculated. Legally, some issues are related to others, and you need to know about them.
- What is the range of what the court might decide and why? If you can't decide on the issues, the court will. It is useful to know the range of what might happen if you two can't make the decisions.
- If we need to go to court, how soon will we be able to go to court and about how much will it cost? This helps you understand your options.
- Can you suggest a range of possible solutions? Then, add these to your own list.
- Make a record of your monthly budget (your income and expenses.) Gather information on your assets, debts, personal property, etc. Bring this to mediation.

Be sure you understand and have copies of any other information you may want to discuss in mediation. You can bring your notes and any work sheets, correspondence, or any documents you think might be useful.

You already understand the personal aspects of your situation. It can be very useful to understand the legal aspects of your case as well. To use your time and money effectively in mediation, it's best to talk with your attorney before and in between mediation sessions, so you are fully informed as you talk and make decisions in mediation. Your attorney is an important resource.

What are possible issues we can discuss in mediation?

A. Parenting Issues

1. Time Sharing

- a. Day-to-day schedule (school year and summer)
- b. Vacations
- c. Holidays
- d. Birthdays
- e. Transportation between parents

- f. Time with extended family members
 - g. Making changes in the time sharing schedule
 - h. How specific does a schedule need to be
2. Parental Decision Making
- a. Health
 - 1. Who provides insurance coverage
 - 2. Payment of non-covered medical expenses
 - 3. Notification of major medical emergencies
 - 4. Decision making during emergencies
 - b. Education
 - 1. Extra-curricular activities
 - 2. Parent/teacher conferences
 - 3. School related expenses
 - 4. Paying for college
 - c. Religion
- B. Child Support
- 1. Child Support Guidelines: who pays and how much
 - 2. How long will child support last
 - 3. Specific plan for child support payment
 - 4. When to review and modify child support
- C. Communication Between Parents
- 1. Decision-making process between parents
 - 2. What to do when parents disagree
 - 3. Updating the parenting agreement
- D. Financial Issues
- 1. Real estate: family home and other real property
 - a. To sell or not to sell
 - b. How to value
 - c. When to sell
 - d. Sharing selling expenses

- e. Division of equity
- f. Tax implications
- 2. Division of Other Assets
 - a. Furniture, household, and personal property
 - b. Motor vehicles
 - c. Checking and savings accounts
 - d. Stocks and bonds
 - e. Retirement accounts
 - f. Profit sharing plans
 - g. Life insurance
 - h. Business and other miscellaneous property
- 3. Division of Liabilities and Debts
 - a. Credit cards
 - b. Personal loans
- 4. Spousal support (alimony)
 - a. Permanent or temporary
 - b. Method of payment
 - c. Tax implications
- 5. Taxes
- 6. Current year filing and refunds
- 7. Who will take deductions
 - a. Dependent
 - b. Child care
- 8. Overall tax implications of your agreement
- E. Any other issues you wish to resolve