

# MAKING THE MOST OF YOUR MEDIATION A GUIDE FOR INDIVIDUALS IN FAMILY MEDIATION

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## Preface

*For many individuals, mediation is a new concept. Although it is similar to some processes that we are familiar with, in many ways it is very different. Because of this, many have gone to mediation unprepared.*

*This article has been written to better prepare individuals for mediation. It is not meant to answer all of your questions – in fact, it may raise more questions than it answers. Even so, this material will help you gain a greater understanding of the mediation process.*

*As you read, questions will arise. Write them down and discuss them with your attorney and/or mediator. The more you know before you go to mediation, the better prepared you will be to make the most of it.*

## INTRODUCTION

Divorce happens. And it happens often. Some estimates indicate that 50 percent of all marriages end in divorce. Traditionally, we have relied upon the courts to decide contested issues concerning property division and parenting responsibilities. This, however, is changing. For many, mediation has become the preferred alternative in adversarial divorce.

In divorce, one usually turns to a lawyer and the legal system to deal with the legal elements of divorce, leaving the personal aspects to a therapist, clergy, or friend. Although mediators do not act as attorneys or as counselors, mediation often deals with portions of both the legal and personal issues in the same process.

## WHAT IS MEDIATION?

Mediation can be defined as a process in which individuals meet with a neutral party in an attempt to resolve disputed issues with the objective of reaching a mutually agreeable, workable resolution.

## MEDIATION IS FLEXIBLE

There are no universal rules of procedure in mediation. The flexibility of the process allows each parent and the mediator to follow the most effective path toward resolution. The mediation process may take one or two sessions or it may last ten or twelve sessions over the course of several weeks. Each session typically lasts for one or two hours but can last longer. How long your mediation process will take and how long each session will be will depend upon many factors including you and the other party, the style of your mediator, the complexity of the issues in dispute and the jurisdiction in which you live.

## THE EFFECTS OF DIVORCE ON SPOUSES AND CHILDREN

Much has been written about the effects of divorce on spouses and children. It is rare to find a situation where a family facing divorce does not experience emotional and psychological adjustments which are painful and life altering. Mediation recognizes the traumatic experience that divorce is and attempts to alleviate or change some of the negative aspects – legal *and* emotional – of the divorce process.

## HOW DOES DIVORCE AFFECT CHILDREN?

Divorce ends marriages but it does not always end families. When children are involved, divorce does not terminate the family – it only changes by location.

## THE BENEFITS OF MEDIATION

Why mediate? We have already mentioned either directly or indirectly many of the benefits of mediation. By way of review, the benefits most often mentioned when comparing mediation with litigation are listed below:

- WIN-WIN OUTCOMES
- PREDICTABILITY OF OUTCOMES
- PERSONAL EMPOWERMENT
- WORKABLE SOLUTIONS
- LOWER COST
- SAVED TIME
- HIGH COMPLIANCE RATE
- CUSTOMIZED AGREEMENTS
- ANSWERS THE CHILD'S QUESTIONS OF BELONGING AND SECURITY FOR DECISIONS

**HOW SUCCESSFUL IS MEDIATION?**

While research data is varied, it does appear that those who mediate almost always report a higher satisfaction with the outcome than their adversarial system counterparts. Also, compliance with mediated agreements is generally higher than with court imposed decisions.

**MEDIATION IS NOT ALWAYS APPROPRIATE**

Mediation is not appropriate in every situation. Mediators in private practice can make the ultimate decision on whether they will mediate a particular case. Additionally, mediators often reserve the right to terminate the mediation process for any appropriate reason. If you have a concern about whether or not your case is appropriate for mediation, you should discuss this with your attorney or mediator.

**CONCLUSION**

Divorce happens. It is often painful and destructive. The adversarial system has long been criticized by those who feel that the courtroom is not the place to make decisions concerning families facing divorce. The use of mediation to help divorcing couples is growing. Mediators are more common and can now be found in most areas of the country. This article was written to help you understand the benefits of mediation and to help you to be better prepared to make it work for you. We hope it has been helpful.