

THE MEDIATION ALTERNATIVE

WHAT IS FAMILY MEDIATION?

Family mediation is an informal and confidential process in which separated, divorcing, divorced, or never-married parents use the help of an impartial person—the mediator—in resolving issues they face. The role of the mediator is to assist the parents in identifying and resolving issues—and to help them improve their cooperation so they can make future decisions on their own. **By far the most important participants are the parents;** the mediator is present merely to assist them.

Any agreements in mediation are voluntary and are reached because the parents find them to be best for themselves and their children. No one else decides for parents what is best.

WHAT COMES OUT OF MEDIATION?

Some parents mediate with their attorneys present, and for them agreements are final when everyone present reaches and signs a resolution. Most parents mediate without their attorneys present, and for them legal agreements are tentative until they speak with their attorneys later. In either circumstance, agreements in mediation can save parents money and emotional upset, while promoting their ability to build a cooperative relationship and avoid future conflicts.

In addition to the opportunity to resolve any issues between them, parents can use child-focused mediation to accomplish the key paradigm shifts to a better coparenting relationship.

COMPETITIVE PARENTING

Servicing adults' anger and fear

Arguing the past

Win-lose competition

Conflict

COOPERATIVE PARENTING

Protecting the children

Building the future

Win-win cooperation

Healing

HOW ARE CHILDREN PROTECTED BY MEDIATION?

Because children are often the unseen, unrepresented, and most at-risk persons in family cases, we make their interests a focus of mediation. Our commitment to highlight the interests of children is in part personal and in part based on a wise Indiana Supreme Court Rule in place since 1992:

The mediator shall in child-related matters ensure that the parties consider fully the best interests of the children and that [they] understand the consequences of any decisions they reach concerning the children.

Mediation has helped many parents to transform their relationship from a competitive one to the cooperative one their children need them to have. Experience shows overwhelmingly that when parents focus on the interests of their children, they create the best chance of serving their own best interests as well. As one colleague put it:

Parents who agree about one thing will agree about everything, if that one thing is this, “What do we want our children to look like when they are 25?” --Pat Brown, attorney/counselor/mediator

WHAT IS THE SCOPE OF MEDIATION?

In defining mediation, it is often helpful to say what it is not. Mediation is not therapy or counseling, although many parents in mediation identify key issues worth their exploration in counseling.

Mediation is not a trial or judgment. It is an opportunity for the parents to do what only they can do—make the decisions and commitments necessary to protect their children. While some mediators are lawyers and may give legal information, they do not give legal advice.

Mediation is not an investigation. It’s not an occasion for parents to trade accusations; it’s a coming together to reach effective solutions.

Mediation is intended to assist parents in considering the fullest range of alternatives available to them. It invites parents to maturely consider everyone’s needs and produce a win-win resolution for all members of the family.

HOW DOES ONE PREPARE FOR MEDIATION?

It is essential that parents complete the assigned exercises. This means not only doing the work on www.UpToParents.org (for divorcing and divorced parents) or www.ProudToParent.org (for parents never married to each other), but also giving thought to what they want for their entire family and to ways that this can be achieved by common agreement. *The work requires considerable thought and attention, so for your sake and your family's sake please get started immediately.*

IN WHAT WAYS IS MEDIATION CONFIDENTIAL AND PRIVATE?

While almost no rule of confidentiality is absolute, mediation is confidential and private in three respects.

First, so parents do not make the mistake of thinking of the mediator as a judge or as a witness, the law provides that no mediator may be subpoenaed to report to a court on what occurs in mediation, other than to report:

- \$ the status of the mediation,
- \$ a mediated agreement,
- \$ the inability of the parents to reach an agreement, or
- \$ with the agreement of the parents, important but informal agreements intended to guide parents to better cooperation (such as the parents' Commitments chosen from www.UpToParents.org or www.ProudToParent.org).

Second, a mediator may want to spend some time talking to each parent separately, and parents are free to request that particular items in private discussions not be shared. It is the responsibility of the parent wanting to use that rule of confidentiality to let the mediator know what should not be shared.

Finally, mediation is a private resolution of a private matter. It is informal, and families have the benefit of not having their private matters probed in a public setting in the view of outsiders.

HOW PARENTS SUCCEED IN MEDIATION

Mediation is always helped by the parents' maturity, their ability to separate their own grievances from their children's needs, and their ability to value the perspectives and needs of one another and their children. Parents who succeed in mediation tend to do the following:

- They see the urgency of cooperating to protect their children, and they spend considerable time on the assignments they receive before the first mediation.
- They separate any grievances they might still have with each other from the task at hand **and** building a better future.
- They constantly think of specific ways to cooperate better and to support each other's roles in their children's lives.

THE HOPE OF MEDIATION

Most parents using mediation in our office resolve the issues they are facing **and** leave with a better parenting partnership—a partnership that can help avoid future conflict. You can be among those parents if you choose to be.

Charles A. Asher
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