

## **MEDIATION**

Mediation is an increasingly popular alternative to the traditional divorce process. During mediation, the parties work with a neutral attorney-mediator to assist them in reaching agreements regarding child placement, support and other financial matters, and future planning.

The attorney-mediator does not represent either party and does not provide legal advice. The attorney-mediator guides the parties through the process by providing information and she can also draft the necessary court paperwork based upon the parties' agreements.

Mediation can be used by pro se (unrepresented) parties or by people who do have legal representation. Mediation can also be appropriate for family conflicts other than divorce, including paternity cases and post judgment issues.

Please see our Mediation Guidelines below for helpful tips about the mediation process.

## MEDIATION GUIDELINES

The negotiations that take place in the mediation process require listening and communicating your needs and interests, and constructive problem solving. The goal for mediation is to help the two of you make informed decisions and create a mutually acceptable and livable agreement. Your lawyer mediator will facilitate the gathering of information, provide necessary education, and help guide the process. Ultimately, the success of the mediation process depends on the two of you.

Here are some basic guidelines that will help promote a positive and productive process.

1. Bring an OPEN MIND to the negotiations. Be willing to explore options and “think outside the box”. Avoid taking inflexible positions or making non-negotiable demands.
2. Attack the issues, not each other.
3. Focus on goals and interest – look to your future well-being, not blame for the past.
4. You will receive a lot of advice from family and friends. Look to the professionals in the mediation process for guidance or referrals where necessary.
5. Practice tactful honesty – a tactful approach is more likely to help get the other person’s cooperation and facilitate an agreement than fault-finding or debate.
6. Understand the other person’s point of view. Mutual understanding is a prerequisite for positive results and agreements. Listen first to understand, second to respond. Listen without dismissing, discounting, interpreting, or interrupting.
  - How does the other person view the issues?
  - How would s/he define the problem(s) that need to be resolved?
  - How would s/he describe my behavior?
  - How has my behavior in the dispute affected her/him?
  - What are the most important issues to her/him?
7. Avoid the following inflammatory language which hardens the conflict and can derail the mediation process:
  - Insulting, condescending or sarcastic comments
  - Negative labels for the other’s behavior
  - Mind-reading and making assumptions
  - “Always” and “Never” statements
  - Threats of any kind
8. Speak for yourself, not for the other person. Do not describe each other’s feelings or motivations. Focus on your own.
9. Demonstrate RESPECT for each other – even if you are hurt, angry or distrustful of the other, civil communication is essential for an effective process.
10. Seek mutual benefit for the entire family. Resolution requires a mutual agreement.
11. Honor all commitments, including agreements made for temporary management of finances, custody, placement, and support. This is an essential foundation for reaching final agreements.
12. Remain optimistic that with diligence and effort, a mutually acceptable result is possible. Even the most difficult conflicts can be resolved when there is the intention and commitment to do so.