

Frequently Asked Questions (FAQs) about Family, Divorce, Domestic Relations Mediation



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Are you considering
a divorce? Learn how
participating in
mediation may help
the divorce process
for everyone
involved.

The following information is intended to inform mediation participants about the mediation process in general. In mediation, you will be making all of the decisions. The mediator has no decision-making power and cannot bind you to a decision you do not intend. Thus, you need to consider how you can best represent your interests in mediation, as well as, the results that you would like to create in mediation.

Mediation is an alternative dispute resolution process.

Participation in mediation is completely confidential and you are not bound to any terms unless you agree to them.

In the court process, if you and your spouse do not agree on an element of your divorce, the judge will ultimately decide and you will have to live with the outcome. Unlike court, mediation offers you the opportunity to reach an agreement that both parties can be satisfied with.

How does mediation work?

If you've done any research regarding mediation, you will find a lot of different answers to your questions. Please be aware that mediation takes many forms and sometimes that is because of the state the mediation is taking place in and sometimes it is due to the mediator providing the services.

Generally speaking, participants can participate in anywhere from one to ten mediation sessions between two and eight hours per session. There is a variety of approaches in this sense - from a more therapeutic, ongoing process to a one-day, full-detail negotiation.

How long will the mediation take and how much will it cost?

In my experience, in Arkansas, mediators more commonly provide one-day services as opposed to ongoing sessions. This is the approach I take to family mediation.



If you've looked at the Internet, you may be confused as to what to expect. For informational purposes, many locations throughout the United States have different answers to this question. The length of time mediation will take and how much it will cost can be big unknowns.

Mediation depends entirely on whether the participants can work together and come to an amicable agreement. It also depends on how long parties want to participate in the process before ultimately giving the decision to the judge. It has to take into account how many issues and how willing the parties are to agree.

Mediation can take very little time when participants have few issues to be resolved, are willing to be flexible, and are interested in agreeing. This can occur in situations where the parties are already in agreement on most issues and can work

together on the final details of an agreement. In situations where many significant issues have not been worked on, the process may take longer and cost more.

For example:

An all-inclusive divorce mediation with comprehensive separation or dissolution of marriage mediation generally requires two to five, three-hour meetings, and three to ten hours of document review and post-mediation paperwork, with a cost ranging from \$1000 to \$5000.

Clients with a limited number of open issues and the ability to communicate well will fall at the lower end of this scale. Clients with several issues or more substantial issues may find themselves in the upper ranges of this scale. Please note that spouses with several issues interested in resolving their dispute in court would probably incur much higher expenses.

Unfortunately, it is hard to predict with precision how long a mediation will take or how much mediation will cost without finding out what mediators are doing in your specific locale.

What if we already agree on lots of issues?

Fantastic! The first thing that we want to do in mediation is to identify what you already agree on. We will use those points of agreement as a foundation for your overall Agreement. The standards that make sense to you on certain "easy" issues can often be applied to resolve other issues. We will want to be sure that your Agreement is well-informed and that you are aware of the many issues that you may want to consider. What

is included in your Agreement is up to you. Our goal is to support your well-informed decision-making.

If you are in this situation, you may ask the mediator for a half-day mediation session as opposed to a whole day, if you feel that you and your spouse will agree fairly quickly.

What are our chances for success?

Over the years, statistics show approximately 85-90% of mediating parties reach comprehensive resolution. This high success rate is due to most participants being highly motivated to reach an agreement when allowed to mediate.



What if we don't reach an agreement?

In mediation, all discussions and materials are confidential. If no agreement is reached, evidence of the mediation discussions, mediation materials, and any draft mediation resolution will not be admissible in court or any other adversarial proceeding.

Who pays for mediation?

Usually, mediation fees are paid for 50%/50% by each participant. This arrangement encourages both parties to participate in good faith to reach an amicable agreement. However, some locales and government programs provide fee assistance or create a scale based on income for participants to pay a portion of the mediation fee.

What about our own attorneys?

As a mediator, I advise you to have any mediated Settlement Agreement reviewed by individual legal counsel before you sign that Agreement. In practice, most participants already have legal counsel upon entering into the mediation process. In doing so, usually, one party's attorney writes up the final agreement per the professional memorandum provided for submission to the court. Many parties attend mediation with their attorney present. In many jurisdictions, the party's attorney recommended mediation as an alternative to going to court.

What about utilizing experts?

It may make sense, in a particular case, for mediation participants to retain mutually trusted experts. For example, participants may desire a trusted valuation of real property, personal property, or a business. It is also not uncommon for mediating parties to choose to jointly consult with an accountant or tax expert. Mediation participants with parenting concerns may find it beneficial to obtain the thoughts and recommendations of a trusted child psychologist. Mediation participants may choose to jointly retain an impartial advisory

attorney who, based upon an agreed-upon set of facts, may render an advisory non-binding opinion on how a court might resolve the identified issues.

What else can I do to prepare?

Perhaps the most important thing any mediating party can do to ensure a satisfying and successful mediation experience is to prepare for the mediation discussions by seeking clarity as to his or her desired outcomes and perceived standards of fairness. Stated otherwise, "What do you want?", "What are you okay with?", and "What is unacceptable?"