

Mediation

When parties need help to resolve a dispute, they often turn to mediation. Mediation is generally a confidential, flexible, creative, client-controlled process. In mediation, the disputing parties work with a neutral third party, the mediator, to resolve their disputes. The mediator helps the parties identify needed decisions, gather essential information, prioritize their goals, develop possible options, and craft an agreement the parties consider fair. The mediator helps the parties find common ground, overcome emotional roadblocks, and deal with unrealistic expectations. He or she may also offer creative solutions and may assist in drafting a final settlement document. The role of the mediator is to interpret concerns, relay information between the parties, frame issues, and guide the resolution process.

Mediation generally is a voluntary process, although in most family law cases the courts require some participation in mediation. Unlike litigation, where a Judge or a Master imposes a decision, the parties and their mediator ordinarily control the mediation process -- deciding when and where the mediation takes place, who will be present, how the mediation will be paid for, and how the mediator will interact with the parties.

If a resolution is reached, mediation agreements are formalized and usually are presented to the court. If no agreement is reached, however, the parties may continue with a different dispute resolution process. Voluntary agreements reached through mediation are binding and enforceable contracts.

The mediation process generally is considered more prompt, inexpensive, and procedurally simpler than litigation. It allows the parties to focus on the underlying circumstances that contributed to the dispute, rather than on narrow legal issues. Mediation allows for greater creativity than does litigation, because the court process limits the issues that may be addressed and the relief that can be granted.