

Mediation FAQs

What is mediation?

Mediation is a calm, civil, private — and usually less expensive — way to work out agreements. In mediation you have the chance to make customized agreements that reflect your unique needs and values, based on full disclosure, in a private, safe and confidential setting — without any pressure. And in mediation, courtroom procedure can be relaxed so you can tell your story, and make your agreements, your way.

What are the steps in mediation?

Mediation typically has three steps, which you can move through at whatever pace best suits you.

- Step One: I start by listening to you. I want to learn your concerns, any goals you have for the process, as well as any 'ground rules' you wish for the mediation. I will also learn about your children, if you have children: things like each child's academic, social and developmental level and progress. Finally, I will help you identify and gather the legal and financial documents and other information you'll need, so later on you'll be prepared to make choices that best fit you.
- Step Two: Next, I will help you identify the specific topics that you'll need to address in mediation. We will also set the course to resolve them, one at a time — in a structured and safe setting — and at a pace that best suits you. And since I am also an attorney, I can help you understand the law and what a court might do in situations like yours, providing you with specific guidance to resolve each topic. And since I am also a trained mental health professional, I can help you keep things calm, be heard, and reach agreements.
- Step Three: Last, once you are comfortable with all aspects of your agreement, the necessary legal documents are drafted and filed with the court. Since I'm also an attorney, I can take care of most of this for you, which is typical. Or you can do this yourself, or have someone else do this if you prefer. And once a judge approves your agreement, it is official and legally binding, just as in court-litigated cases.

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Why choose mediation?

There are lots of reasons so many people choose mediation:

- You get keep control of the key decisions affecting your family, money and life, rather than surrendering them to lawyers or a court.
- You aren't set up as enemies against each other, but instead as two people with some issues to resolve.
- You to avoid prolonged, and often expensive, court proceedings.
- Unlike public court, it's typically confidential and private.
- I'll keep things fair, never allowing pressure, strong-arming or coercive tactics.
- Mediation is usually less expensive.

Are mediated agreements enforceable?

Yes, once approved by a judge. When you have agreed on all points, I will draft your legal agreement and related documents. And in Connecticut, once a judge approves your agreement and related documents, it is as official, legally binding, and enforceable as it would be in court litigation.

Will my mediated agreement be observed in the future?

Research shows that mediated agreements are most often observed, and at a higher rate than court litigated cases. Also, once your agreement is approved by a judge, you have the full array of court remedies available to you to compel the other person to observe it, just as you would in litigation.

Since the mediator works for both of us, do I need my own lawyer? Can I use one if I want?

It's your choice. You don't need to hire your own lawyer — many people choose not to and have been satisfied with the process. But if you'd like, you can also have your own lawyer advise you individually, which some find reassuring.

Either way, since I happen to also be an attorney, I can help both of you understand the law, outline for both of you what a court might do, and draft your agreement and related documents.

Can we mediate if one of us has filed court papers or hired a lawyer?

Yes. You can still use mediation, regardless of where you are in the process: just sorting it out, have or have not filed papers, have or have not hired a lawyer, or have been using attorneys in court litigation.

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Can we mediate if we don't get along well?

Most often, yes. You don't have to be on very friendly terms to mediate. And given that I have a Master's Degree in marriage and family therapy, I usually can help people work out agreements, even when they're still upset with each other. So as long as each of you is willing to 'come to the mediation table' and be somewhat reasonable, you can most often mediate.

Can we mediate if I don't trust my partner to disclose everything?

In Connecticut, mediated divorces must use the same sworn financial disclosure documentation — called Financial Affidavits — that courts require in litigation. Each client must fill out his or her own Financial Affidavit. Intentionally misrepresenting information on a Financial Affidavit can result in criminal charges. So most often, in my experience, clients understand the benefit of full disclosure.

In addition, if you like, in mediation you can use many of the same disclosure tools used in litigation, such as interrogatories, depositions and professional valuations, to get the level of disclosure that makes you comfortable, though this is not required.

Can we mediate if I don't understand finances that well?

As a former teacher/professor, I'll take all steps necessary to make sure that each of you grasps your overall financial picture before you make any agreements. And if you wish, you can use a financial, legal or other advisor of your own during mediation to be doubly sure. When clients wish to work with outside professionals, I typically offer referrals to help them find someone best suited to their needs.

Do mediators take sides?

As your mediator, I work for both of you. I'll never take sides with one of you against the other. I will always work for both of you and the family as a whole.

How long does mediation usually take?

Only as much time as you need. That's because mediation is a completely transparent process — when we work together you'll know exactly what you've completed, what you are currently working on, and what's left to do. And you direct how much/little time you take on any topic. So when you're done, you're done: once you've resolved all topics and finalized your divorce with the court, mediation is complete.

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How should I choose a mediator?

Ask questions. Here are a few important ones:

- How many divorce mediations have you completed? Over how many years?
- What percentage of your practice is dedicated to divorce mediation?
- Why did you become a mediator?
- What formal mediation/dispute resolution training have you received, besides a basic 40-hour introductory workshop?
- What mediation/dispute resolution professional associations do you belong to? Are you a general member (lowest level of experience) or a practitioner/advanced member (highest level of experience)?
- Are you an 'evaluative' mediator — who will both guide the process, as well as offer (1) information on the law, (2) what a court might do in situations like yours, and (3) help you develop solutions? Or are you a 'facilitative' mediator — who typically won't offer this legal information and require you to get it from an outside lawyer? (for reference, I'm an evaluative mediator, because I've found that's what most clients want).
- What is your specific theory/approach on how to resolve disputes? How did you develop this?
- If we get stuck, what would your approach be?
- What does your typical mediation process entail? How do you typically organize the process and what are the specific steps in your process?
- How many meetings might it take if our case is very short and straightforward, and how many meetings might it take if things are more complicated? What specifically, in your opinion, causes a mediation to be shorter or longer and how did you learn this?
- What is your profession of origin: law, mental health, finance, other?
- Do you typically require clients to hire professionals in addition to yourself in mediation, such as outside attorneys, financial professionals, and parenting coordinators, or do you let clients choose whether or not they need them? Why?
- Do you offer a consultation meeting free of charge before we start mediation so that we can meet you, ask questions of you, be in your mediation room, and understand how you work?

Also, it's really important to use a mediator with whom you both feel comfortable, since mediation is such a personal service. This is sometimes called the 'click.' You can usually find this out during a consultation meeting, before the mediation itself begins.

end.