

Mediation Information Sheet

What is mediation?

Mediation is an opportunity for people to talk together and make their own decisions on what to do next, with the help of a neutral mediator. Mediation is private and confidential. In mediation, you can tell the other person what is important to you about the situation and how it has affected you. You can tell them what you want them to understand. You can ask questions. You can hear what they have to say. Sometimes mediation is the only chance people have to talk directly to each other, to talk things through, to be heard. Most of the time, people hear new information in mediation. Often, people feel heard for the first time. There is no agreement in mediation unless you both agree to it. Most people are sure that mediation won't work for them, yet over 70% of the people who mediate reach an agreement. When people do reach agreement, they save money and time and they make their own decisions. Even when people do not reach an agreement in mediation, they often find that they are clearer on what to do next and better able to move on.

When is mediation required?

The Code of Iowa allows the court to order parties to participate in mediation of domestic relations cases. (Iowa Code Sec. 598.7)

What are the advantages of mediation?

- 1) Decision-making remains with the parents. When the parents have created the agreement, they are more likely to cooperate with its terms;
- 2) The parents work together to solve disputes regarding their children;
- 3) It is informal, quicker, private and less costly; and
- 4) The children's emotional well-being is greatly improved when parents cooperate and maintain a relationship with their children.

What does the mediator do?

The mediator provides a safe and impartial setting for parents to discuss issues and facilitates the discussion on co-parenting your children. The mediator begins with the premise that children need a relationship with each parent and the care of each parent.

What does mediation cost?

Each mediator has a set hourly rate for mediation. The cost of mediation is typically split equally between the parents and paid at the time of each session.

What issues may be mediated?

Practically any issue disputed between parents can be mediated including how much time the child spends in each home, vacations, out-of-state travel, church attendance, activity participation, medical/dental issues, education, etc. The confidentiality of mediation is protected by a contract between the parties and the mediator. The mediator can be made to testify only

under extraordinary circumstances. A mediator is prohibited from communicating information to any third party about the parents' behavior or statements unless child abuse is involved or a credible threat of harm to a party or third party. The mediator may report whether the parent appeared for the scheduled mediation session and whether the mediation was successful or not.

How long does mediation last?

In most cases, the mediation sessions last one to two hours and continue so long as the parents agree and progress is made. When a parent lives elsewhere, sometimes longer mediation sessions are held for the convenience of the parties. The number of sessions needed to complete an agreement is influenced by the parents' cooperation and the difficulty of the issues.

What role do attorneys play in the mediation process?

Your attorney can prepare you for the mediation process and answer questions during the process. The mediator will prepare the parenting agreement. You will then have an opportunity to take the agreement to your attorney for review before signing. You may also consult with your attorney by phone during the mediation session. Parties may also have their attorney participate in the mediation session with them. Parties can decide what issues beyond the parenting agreement they want to mediate, including property settlement. Parties may also request the mediator to prepare the agreement of terms to be submitted to the court for consideration for a stipulated decree. The Iowa Supreme Court Rules governs how much child support shall be paid by each party.

What are the chances of mediation being successful?

Mediation succeeds when the parents cooperate on behalf of their children, rather than compete for them. Parenting plans work best when both parents participate and agree to the co-parenting arrangement. Mediation has been very successful in minimizing the trauma of divorce on the parents and the children. In addition, mediation can help to review many other property division issues and identify options that may be available to resolve property disputes.

What happens after the mediation agreement is signed?

Each parent will receive a signed copy of the mediation agreement. Parties are encouraged to consult with their attorney and agree on having one of the attorneys submit it to the court for approval. If there are no attorneys, the parties may request the mediator to prepare agreed upon terms of settlement.

What if mediation fails?

The court will make decisions about what will happen after a trial is conducted.

Information provided by:

Third Judicial District Court –Office of the District Court Administrator
Woodbury County Courthouse – Room 210
620 Douglas Street, Sioux City, Iowa 51101
712-279-6608

HOW TO PREPARE FOR MEDIATION

This is a private worksheet that will help you organize your thoughts and get the information you need to make good decisions.

1. **If you are afraid to be with your partner or won't be able to speak up or disagree with him/her in mediation; tell your attorney and your mediator. Mediation may not be appropriate in your case.**
2. **Make a list of all the issues you would like to discuss or decide in mediation.**
 - A. **Include any concerns, large and small. Leave an inch between each item, where you will answer the following questions:**
 - 1) **What is important about this (from your point of view)?**
 - 2) **What do you want the other person to understand about this (from your point of view)?**
 - 3) **What are your concerns about this? What are you worried about?**
 - B. **Making this list and answering these questions can be useful:**
 - 1) It can help you clarify what's important to you and why.
 - 2) In mediation, it is helpful to start by focusing on what's important to you – not the final decision you think you want. Answering these questions will help you do that.
 - 3) If you tell the other party your answers to these questions, it is easier for them to listen to you than if you say "I want this because you are ... (so irresponsible, such a jerk, etc.)"
3. **Consult with your attorney about your list.**
 - A. **Ask your attorney what additional issues you need to discuss and add those to your list.** (Your attorney can tell you if there are additional issues you need to consider based on what the law says needs to be decided in cases like yours.)
 - B. **Then, for each issue on your list, ask your attorney:**
 - 1) **Are there any legal, financial, tax or other long-term ramifications of this issue?** For example, the parenting schedule affects how the child support is calculated. Legally, some issues are related to others, and you need to know about them.
 - 2) **What is the range of what the court might decide and why?** If you can't decide on the issues, the court will. It is useful to know the range of what might happen if you two can't make the decisions.
 - C. **Also ask your attorney:**
 - 1) **If we go to court, how soon will we be able to go to court and about how much will it cost?** This helps you understand your options.
 - 2) **Can you suggest a range of possible solutions?** Add these to your own list.
4. **Make a record of your monthly budget (your income and expenses.) Gather information on your assets, debts, personal property, etc. Bring this to mediation.**
5. **Be sure you understand and have copies of any other information you may want to discuss in mediation.** You can bring your notes and any work sheets, correspondence, or any documents you think might be useful.
6. **You already understand the personal aspects of your situation. It can be very useful to understand the legal aspects of your case as well. To use your time and money effectively in mediation, it's best to talk with your attorney before and in between mediation sessions, so you are fully informed as you talk and make decisions in mediation. Your attorney can be an important resource.**
7. **If you reach a tentative agreement in mediation, you will not sign it there. Take a copy home, think it over, discuss it with family, friends, and your attorney. It is common for people to have new ideas and return to mediation to continue to talk things out. Mediation usually takes more than one session.**

Most people doubt that they will be able to make decisions in mediation.

Yet over 70% of them reach agreement on some or all issues.

It is important to know as much as possible about your options so you can make the best informed decisions about your future.

LIST OF POSSIBLE MEDIATION ISSUES

Here is a list of issues which many people address in mediation. It is certainly not a complete list. Further, some of these will not apply to your situation. The list may help remind you of issues you may want to discuss in mediation.

I. PARENTING ISSUES

1. Time Sharing
 - A. Day-to-day schedule: during school and summer
 - B. Vacations
 - C. Holidays
 - D. Birthdays
 - E. Transportation between parents
 - F. Time with extended family members
 - G. Making changes in the time sharing schedule
 - H. How specific does a schedule need to be
2. Decision Making
 - A. Health
 - B. Education
 - C. Religion
 - D. Extra-curricular activities
3. Education
 - A. Parent/teacher conferences, school activities, etc.
 - B. School related expenses - who pays
 - C. What about college
4. Child Support
 - A. Child Support Guidelines: who pays and how much
 - B. How long will child support last
 - C. Specific plan for child support payment
 - D. When to review and modify child support
5. Medical and Dental
 - A. Who provides insurance coverage
 - B. Payment of non-covered medical expenses
 - C. Notification of major medical emergencies
 - D. Decision making during emergencies
6. Communication Between Parents
 - A. Decision making process between parents
 - B. What to do when parents disagree
 - C. Updating the parenting agreement

II. FINANCIAL ISSUES

1. Real Estate: family home and other real property
 - A. To sell or not to sell
 - B. How to value
 - C. When to sell
 - D. Sharing selling expenses
 - E. Division of Equity
 - F. Tax implications
2. Division of Other Assets
 - A. Furniture, household, and personal property
 - B. Motor vehicles

- C. Checking and savings accounts
 - D. Stocks and Bonds
 - E. Retirement accounts
 - F. Profit sharing plans
 - G. Life insurance
 - H. Business and other miscellaneous property
3. Division of Liabilities and Debts
- A.. Credit cards
 - B. Personal Loans
4. Spousal Support
- A. On-going or time limited
 - B. Method of payment
 - C. Tax implications
5. Taxes
- A. Current year filing and refunds
 - B. Who will take deductions
 - (1) Dependent
 - (2) Child care
 - C. Overall tax implications of your agreement

III. OTHER ISSUES

- 1. Resolving future disputes
- 2. Updating your agreement
- 3. _____
- 4. _____