Transcending Troubles Consulting & Mediation
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Understanding Mediation — The Process, In Plain Terms

Conflict is normal. It shows up in families, in marriages, at work, between neighbors — anywhere people have to deal with each other. The problem usually isn't that a conflict exists. It's that the conversation about it never happens, or happens badly.

Mediation is that conversation, done on purpose. It's a structured discussion, led by a neutral person whose only job is to help both sides be heard and work toward an outcome they can both live with. This sheet explains how it works, what the words mean, and what it costs — so you can decide, with clear eyes, whether it's right for your situation.

What mediation is

- A **voluntary** process. Nobody is ordered to be there, and nobody has to agree to anything.
- A **private** process. What is said in mediation stays in mediation.
- A process where **the parties decide**. Any outcome is one both sides chose — not one imposed on them.

What mediation is not

- **Not court.** No judge, no jury, no ruling, no one declared the winner.
- **Not therapy.** This isn't counseling, and we won't spend our time diagnosing anyone. The focus is the issue in front of us and what happens next.
- **Not a decision by the mediator.** The mediator does not pick a side, declare who is right, or hand down an outcome.
- **Not legal advice.** The mediator is not your lawyer and cannot tell you what the law requires of you. For that, you need your own attorney — and you may consult one at any point.

The one thing to understand first

Mediation takes two willing people. It is voluntary for everyone in it — including the other party.

> **Mediation can't be forced. We can't drag other people into something they don't want to attend.**

If the other party says no — or won't respond at all — the mediation cannot happen. The mediator cannot make them come. She cannot decide the matter with only one side in the room, and she cannot "mediate" a conversation that only one person is having.

What she *can* do, if the other party hasn't agreed yet, is explain the process to them and extend the invitation — at your request. Sometimes hearing how it works, directly from a neutral person, is what brings someone to the

table. Sometimes it isn't, and that is their right.

If the other side refuses, mediation is not available to you — but your other options remain yours, including consulting an attorney about your rights or taking the matter to court. Those are decisions to make with your own lawyer's advice, not a mediator's.

Who your mediator is

Your mediator is **Nicol M. Brown**, a Certified Mediator who has mediated conflict professionally for 25 years. She is **neutral**: she does not take sides, does not favor one party's outcome over the other's, and does not decide anything for you. Her role is to keep the conversation fair, focused, and honest — and to protect a process in which the two of you keep control of the result.

How the process works, step by step

Step 1 — The consultation call (optional, free). A phone call of up to 30 minutes to describe your situation, hear how mediation works, and ask questions. There is no charge. And plainly: **if this sheet answers your questions, we can skip the call and go straight to booking.**

Step 2 — A private intake session with each party, separately. Before anyone sits down together, the mediator meets with each of you alone. She hears your side, learns what matters most to you, and goes over how sessions will run. Intakes are held by phone or by Zoom, whichever is easier for you. This step also lets her make sure the process is safe and workable for everyone — that no one is being pressured, and that both of you can speak freely. Intake sessions are billed at the same rate as joint sessions (see "What it costs" below).

Step 3 — Joint sessions. Both parties and the mediator meet together — either in a **private, neutral meeting space in Harrisburg**, rented for the session and never in anyone's home, including the mediator's, **or by Zoom**, if that is easier for both parties. If we meet by Zoom, each person joins from a private place where they cannot be overheard, and every rule in this sheet applies exactly the same — including no recording of any kind. Each person gets uninterrupted time to speak. The issues get named plainly, and we work through them toward options the two of you choose. Sessions usually run 90 minutes to 2 hours.

Step 4 — Caucuses, when needed. At any point, the mediator may pause the joint session and meet privately with each party for a few minutes. This is called a *caucus*, and it is a normal part of the process — a chance to think, ask questions, or say something you're not ready to say out loud in the room. On Zoom, a caucus happens in a private breakout room. What you tell the mediator in a caucus stays with the mediator unless you give her permission to share it.

Step 5 — Working toward agreement. Step by step, the conversation moves from positions to options, and from options to terms both sides can accept. Nothing is agreed until both of you say it is.

Step 6 — If you reach agreement. The terms are put into a **written summary of the agreement**, which both parties review and sign. Nothing discussed in mediation is binding on anyone. For most matters, a written agreement that both parties sign, intending it to be binding, can be binding between them as a contract. You are encouraged to have your own attorney review it before you sign. **Custody and parenting cases are different — see the special note below.**

Step 7 — If you need more time, or don't agree. More sessions can be scheduled if both parties want to

continue. And if you cannot reach agreement, nothing is forced on you — mediation is voluntary from start to finish, and you are free to stop and pursue your other options, including an attorney or the court.

A special note for custody and parenting cases

If your matter involves child custody, parenting time, or other decisions about a child, a signed agreement works differently:

- A signed parenting agreement is **the parents' agreement with each other. It is not a court order.**
- It is **not enforceable as a custody order** until it is submitted to the court and entered as a consent order signed by a judge.
- A judge is **not bound** by what the parents agreed to. The court must decide based on the child's best interest, and it may approve, change, or not approve the parents' terms.
- Until a judge signs it as an order, schools, medical providers, police, and other courts may not treat a private parenting plan the way they treat a court order, and a parent who does not follow the private plan cannot be held in contempt of court for violating an order that does not exist yet.
- If you reach a custody agreement in mediation, you are encouraged to have your own attorneys help you turn it into a proposed consent order and file it with the court. That filing — not the mediation itself — is what makes a custody agreement enforceable as an order.
- If you do **not** reach a custody agreement, nothing has been decided for you, and you may still pursue custody through the court or any other legal venue available to you.

Words we use, in plain terms

- **Mediation** — a structured conversation in which a neutral mediator helps two parties in conflict talk through their disagreement and decide for themselves how to resolve it.
- **Mediator** — the neutral person who leads the process. She guides the conversation, keeps it fair, and does not take sides or make decisions.
- **Party** — each person (or side) in the conflict. In most mediations there are two parties.
- **Intake session** — the private first meeting between the mediator and one party, held separately with each party before any joint session.
- **Joint session** — a session with both parties and the mediator in the room together.
- **Caucus** — a short, private check-in between the mediator and one party during a joint session. What is said in caucus is not shared with the other party without permission.
- **Confidentiality** — the rule that what is said in mediation stays in mediation. The mediator does not share it, does not testify about it, and does not turn over her notes, subject to the limits set out in the Agreement to Mediate.
- **Good faith** — coming to the table honestly: telling the truth, listening, and making a real effort to resolve the matter.
- **Agreement to Mediate** — the written agreement both parties and the mediator sign before mediation begins, setting out these rules — neutrality, confidentiality, and the rest — so everyone starts on the same understanding.

• **Written summary of agreement** — the document that records the terms the parties agreed to. For most matters, once both parties sign it intending it to be binding, it can be binding between them as a contract. In custody and parenting cases, it is not a court order and is not enforceable as a custody order until a judge enters it as a consent order (see the special note above).

• **Consent order (custody)** — a custody agreement that has been submitted to the court and signed by a judge as an order. This is the enforceable court version of a parenting agreement.

• **Impasse** — the point at which, for now, the parties cannot reach agreement. Reaching an impasse doesn't mean anyone failed; it means this process, at this time, has gone as far as it can.

What it costs

Plain numbers, no surprises:

• **Rate: $150 per hour**, split evenly between the two parties — **$75 per hour each**.

• **Sessions** usually run **90 minutes to 2 hours**. Private intake sessions are billed at the same hourly rate.

• **Consultation call:** up to 30 minutes, **free**.

• **Payment** is due **at each session**.

Rules of Engagement

Five commitments everyone in the room makes:

1. **One person speaks at a time.** No interrupting. Your turn will come — and you will get all of it.

2. **Listen to understand, not to reload.** Listening is not agreement. It is how anything gets solved.

3. **Take the other person's perspective.** You don't have to agree with how they see it. You do have to let it be fully said, and consider that from where they sit, it may look different than it does from where you sit.

4. **Speak about the behavior, not the person.** No name-calling. No character attacks. The problem is the problem.

5. **What's said here stays here.** Honesty, good faith, confidentiality — what is said in this room does not leave this room.

Two practical notes: phones stay away during the session, and you may ask for a break at any time.

Questions people ask

Do I need a lawyer? No. You do not need a lawyer to mediate, and many people don't have one. You are free to consult your own attorney at any time — before, during, or after — and you're encouraged to have one review any written agreement before signing. What the mediator cannot do is give you legal advice; she is not acting as a lawyer for either party.

Can the mediator decide for us? No. The mediator has no power to decide anything. Every outcome in mediation is one both parties agreed to, or there is no outcome.

What if the other person won't participate? Then there is no mediation. Mediation can't be forced — we can't drag other people into something they don't want to attend. If they haven't agreed yet, the mediator can, at your request, explain the process to them and extend the invitation. If they still say no, your other options —

including an attorney or the court — remain yours.

What if we don't reach agreement? Then you stop, and nothing has been decided for you. Reaching an impasse costs you the session time and nothing else; everything you said stays confidential, and your other options, including court, remain fully available.

Is our agreement binding if it is about custody? Not as a court order, not by signing alone. A signed custody or parenting agreement is an agreement between the parents. To be enforceable as a custody order, it must be submitted to the court and entered as a consent order signed by a judge, who must find it is in the child's best interest. Until then, it is not an order anyone can be held in contempt for violating. Your attorneys can help you with that filing after mediation.

Is what I say private? Yes. Mediation is confidential, including what you say in private sessions and caucuses. The limits on that confidentiality are spelled out in the Agreement to Mediate, which you will read and sign before we begin.

Can I bring someone with me? Ask first. Anyone who attends a session — a support person, a family member, an attorney — must be agreed to in advance and must agree to the same confidentiality rules as everyone else in the room.

Can we meet by Zoom instead of in person? Yes. Sessions can be held by Zoom, at the same rate and on the same terms, if both parties and the mediator agree. For many people it's simply easier — no travel, and no childcare to arrange. You will need a private, quiet place to join from, where no one can overhear you, and the no-recording rule applies on Zoom just as it does in the room.

What should I bring? Anything that helps explain the situation clearly: dates, documents, agreements, statements, notes — whatever bears on the issue. And bring your calendar, so next steps can be scheduled before you leave.

The conversation you've been avoiding is the one that changes things. When you're ready:

Have the conversation.

— Nicol M. Brown, Certified Mediator Transcending Troubles Consulting & Mediation