

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

HAVE YOU CONSIDERED MEDIATION?

WHAT IS MEDIATION?

Mediation is an informal process where the parties try to resolve a dispute without the hostility that is sometimes associated with going to court. In mediation, the parties meet in a private, confidential setting to work out a solution to their problem with the help of a neutral third person, the mediator. A mediator does not decide who is right or wrong. The mediator does not force the disputing parties to reach agreement or to accept particular settlement terms. The mediator helps each side to better understand their situation. The mediator fosters a problem-solving atmosphere and lessens the temptation to engage in unproductive behavior.

The mediator ensures that each of the parties to the dispute has an opportunity to be heard and understood. The mediator encourages the parties to create a solution that meets their individual needs.

HOW DOES MEDIATION WORK?

Dealing with domestic disputes is often painful. Courts are often not in the best position to make decisions about family matters. Mediation eases the difficulty of the court process. It gives parties a chance to talk together about how to resolve the matters in a way that addresses both present and future needs in a manner that is acceptable to everyone involved. It can reduce stress and uncertainty.

WHAT ARE THE BENEFITS OF MEDIATION?

At mediation you have a chance to present your ideas in an informal, private setting with the support and advice of your attorney, if you have one. It is a time for you to be heard and to listen to others.

In mediation you have a better opportunity to control the outcome of your dispute.

The mediator is impartial and trained to help you and the other party talk about your needs and differences so that you can work things out together.

Mediation may help you reach agreements that will let you get on with your life and possibly keep you out of court in the future.

By discussing your options in mediation you may discover choices you did not know you had.

Mediation may help improve communications and permit the parties to find better ways to deal with this conflict.

Costs associated with mediation may be lower than those experienced for prolonged litigation.

WHEN IS MEDIATION SCHEDULED?

Mediation will be scheduled as soon as possible after the First Appearance. However, if you would like to schedule mediation sooner than the First Appearance, please contact the court.

HOW DO I PREPARE FOR MEDIATION?

Mediation deals not only with the legal issues but also deals with underlying relational issues that are important to you. If you have an attorney, it is important to discuss what your reasonable expectations for an outcome would be should your case go to court. You can, therefore, compare your options at mediation with what would be available through litigation.

It is important to come to the mediation session with an open mind, ready to consider new options that may not have been raised previously. It is also important to be willing to share information with the other parties and to work together towards reaching an understanding that would be acceptable to each of you.

WHO ARE THE MEDIATORS?

The mediators are individuals who have been court contracted by the Circuit Court and are certified by the NH Family Mediator Certification Board based on their training and mediation experience.

WHAT HAPPENS DURING MEDIATION?

At the start of a mediation session, the mediator will explain how mediation works and will answer your questions.

The mediator will ask each of you to state your views, express your feelings, and describe what you would like to have happen in your case. The mediator will then help you explore ways to resolve the matter in a way that is acceptable to each of you.

The mediator may ask to meet with you alone (and with your lawyer if you have one) so you can talk more comfortably. If you do have an attorney, you may take a break and talk to your attorney privately at any time.

If an agreement is reached, it will be put in writing and signed by all parties. Later, the agreement will be presented to the judge who will review it and then issue a court order approving the agreement.

If an agreement cannot be reached between the parties, or if one or more of the parties fails to follow through with the mediation session, the court will hear the case in a regular court hearing. Our experience is that, even when a case is not resolved through mediation, often the parties have a better understanding of the underlying issues following a mediation session, and settlement may follow outside of the mediation session.

WHO PAYS FOR MEDIATION?

Mediation services are paid by the parties. However, if one or more of the parties is indigent, there is a fund that will pay the mediator in the first instance. The indigent party or parties will be directed by the court to contact the Office of Cost Containment to set up a repayment plan. There may also be federal or state grant monies available to provide funding for mediation to parties in a case.