

## Family Mediation: Making the Most of a Difficult Situation

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If you are going through a separation or divorce, you will inevitably need to resolve and agree on a number of issues with your partner or spouse that can range from child and spousal or partner support, to custody and parenting arrangements, to property division. While some splits are more amicable than others, family mediation can be a faster, more efficient and more affordable way to help you reach an agreement than the litigation path.

At a family mediation meeting an independent mediator helps you reach a solution that works for all parties in a non-adversarial environment. You do not need to have a lawyer present at mediation (although you can if both parties agree it will assist) and the entire process is “without prejudice” which means that the information shared or concessions made cannot be used against either party should the matter proceed to court.

### ***Why choose mediation?***

- Mediation can be less stressful as the setting is less formal than a courtroom atmosphere.
- You are able to participate in the creation of solutions rather than having decisions imposed on you.
- You can agree to split the mediator’s fees.
- Often times you can schedule mediation faster than you can obtain a court date.
- Mediation can be less expensive than pursuing a decision at a hearing or trial.

Family mediators are trained to deal with conflict. They understand the dynamics of solving problems and how the background or context of the relationship between the parties affects their ability to agree.

### ***Your role in a productive mediation***

Your mediator will try to establish an atmosphere where you can resolve your issues, but you play a key role as well. Here are a few things you can do to increase your chances of a successful mediation:

- Be prepared to give the process an honest effort.
- Consult and/or retain a lawyer ahead of time so you are aware of your rights and obligations under the law and are educated about the legal process.
- Gather your financial disclosure in advance (for example, bank account and credit card statements).
- Identify what you are hoping to achieve at mediation (i.e., resolve a single issue such as

- property division, or agree on all aspects of your separation or divorce?).
- Before you arrive and during the process, take the time to calmly consider the validity of the other side's point of view, even if you don't agree with it.
  - Try not to develop a 'bottom line' before you enter the room; stay involved and listen closely.
  - Have an open mind and contribute ideas for how the issue in question can be resolved.

At the end of a successful mediation process, a memorandum of agreement will be drafted by the mediator for you to take to your lawyer for review, drafting of a separation agreement and independent legal advice. A lawyer must draft the separation agreement and both parties require independent legal advice to ensure its enforceability.

While a relationship breakdown is never a pleasant experience, with the help of a qualified mediator both parties can attempt to come to an agreement that helps everyone involved move forward to a brighter future.

[Diane Ferrante](#) has been trained as a family mediator.