

What is Divorce Mediation?

Divorce mediation is about you and your soon to be ex-spouse deciding your own divorce and what is best for the both of you and most importantly, your children. In mediation, you and your spouse meet with a neutral third party, the mediator, and with their help, you work through the issues you need to resolve so the two of you can end your marriage as amicably and cost effective as possible. The issues covered include but are not limited to the following:

1. Distribution of Property (Assets/Liabilities)
2. Child Custody and Parenting Time
3. Child Support/Maintenance
4. Retirement
5. Taxes

In mediation, the couple, with the help of the mediator, works out agreements on the above issues. Sometimes agreements come easy, sometimes they take time and a lot of work. When agreements are hard to reach, that is when the mediator intervenes. It is the mediator's job to keep the lines of communication open, brainstorm ideas, reality test the couple, teach empathy and assist the couple in their decision making process. Mediators help keep the couple focused on the issues at hand, trying not to get them off track. When divorcing couples get off track and away from the above issues during mediation, arguing, name-calling and bad prior memories are brought up.

Mediation is flexible and confidential. It gives you and your spouse a way to settle the conflict between you in a way that helps you to work together as parents. This is extremely important if you have children and must interact with your ex-spouse after you are divorced. Mediation brings about communication between the couple, which can then be used when they must discuss issues pertaining to the children. Lack of communication may have been one of the main reasons for their divorce. Mediation has the ability to help the couple learn to communicate again, if only for the sake of the children, and make their post-divorce relationship better than their married one.

A divorce mediator is neutral and doesn't "work" for either parent. That means the mediator can not give advice to either party. They must remain neutral no matter what the situation.

What the mediator can do, though, is assist the divorcing couple in formulating ideas that can eventually lead to agreements that will stand the test of time. That open and free exchange of information frees up both spouses to negotiate with each other in confidence. Because both spouses are working with the same base of information, it usually takes far less time to negotiate a resolution that makes sense to both spouses.

Mediation is voluntary. It continues only for so long as all three of you - you, your spouse, and the mediator -- want it to. Mediations can be conducted weekly, every two weeks, monthly or how ever often the couple wants them to be. This is their mediation and they decide everything in the process.

How long does divorce mediation take and what are the costs?

The length of mediation depends on what issues have been agreed to prior to mediation and those issues that need to be addressed during mediation. Also, the amount of time spent in mediation is contingent upon you and your spouse's willingness to come to agreements that are equitable for the both of you and your willingness to do what is in the best interests of your children.

The time spent in mediation can be reduced if you and your spouse are able to come to agreements prior to mediation, or at the least, narrow down your options to a few workable ones. However, if you and your spouse are not able to discuss your divorce outside of mediation, it is strongly recommended that you avoid it at all costs. When couples try to work out issues on their own and it leads to arguments and "drawing lines in the sand", it makes mediation more difficult and time consuming.

On average, pre-decree divorce mediation can be completed in 4-10 sessions. Again, how long it takes really depends on what if any communication there is between the divorcing couples and their level of animosity for each other. If either one of the spouses is unwilling to budge from their certain position on a divorce issues, mediation may not be an option for them and they may have to litigate in court. Once this happens, communication is shut down and the fight begins.

In 2005, the average mediated case cost \$3000 and was settled in 90 days. In turn, the average litigated case in the courts cost \$15,000 and took 18 months to settle. Keep in mind, the litigated cases led to more spite and frustration between the divorcing couples, usually leading to a lose/lose situation for both. Not many people walk away from a litigated divorce feeling satisfied. On the other hand, couples who went through mediation felt satisfied with the agreements they had reached and both walked away feeling that they had gotten what they had wanted. Who would you rather have decide what happens with your children and assets after a divorce, you during mediation or attorneys and judges during a divorce in the courts? Who knows more about you, attorneys, judges or you? Why have people who know nothing about you tell you how you are going to live the rest of your life.

Also, divorce in the court system is public domain. Anybody can sit in court and hear the specifics of your divorce. On the other hand, mediation is confidential, private and conducted behind closed doors. In mediation, there are no attorneys putting up walls between you and your spouse. Mediation is about working together, doing things in the best interests of your children and focusing on being able to be parents for your children for years to come. Unfortunately, divorce in the court system is designed to put up that wall and limit communication, which inevitably leads to many post divorce problems and many more hours and thousands of dollars in court.

Brian James is a Divorce Mediator with offices in Northern Illinois and Southern Wisconsin. He is the founder and owner of C.E.L. & Associates, a private mediation firm that focuses on pre and post decree divorce issues. His background consists of 10.5 years working with domestic violence and divorcing families in the Criminal Justice System. He is a member of numerous mediation organizations and local chambers of commerce. His goal is to assist his clients in their time of need and help them work out agreements that are best for them and their children. At the same time, he tries to save his divorcing couples time and money that is otherwise wasted in the court system. What would you rather do with your money during a divorce, pay it to an attorney or invest it in your child's college education?