



# Is Mediation for YOU?

**Divorce mediation allows you to make your own decisions about the future.**

**THE** mediation process requires two individuals willing to look past their emotions and, in a spirit of cooperation, find the best solution for their unique situation. Mediation isn't a magic pill — it can't turn a terrible situation into a good one — but it can create a future everyone can live with.

For mediation to succeed, there must be some communication between you and your spouse, or at least a willingness to focus on the issues rather than on your emotions. You both must be willing to make concessions, and at times compromise, in order to find a workable solution.

Both parties must understand that everything discussed at the mediation table is to be in the best interests of the family. If both of you are committed to resolving your conflicts, the rewards can outweigh the effort required to talk and compromise.

Studies have shown that mediation is the way of the future. While statistics vary, couples are generally more willing to comply with a solution they have drawn up themselves, and mediation can also provide a sense of closure to a relationship gone sour.

Mediation gives people an opportunity to deal with their emotions; it allows them to talk about their feelings and feel validated. You can't get this type of interaction in the court system: it's not a therapeutic process. All it does is put you on the stand to give evidence. Judges are interested only in facts — not in your personal feelings.

In addition, divorce mediation is an opportunity to get closure for the relationship. It can be a time to express remorse and say your goodbyes.

## Separating Emotions from Issues

During mediation, your emotions have to take a backseat to the tangible issues. Which spouse will stay in the family home? Who will be paying the bills? And who will support whom, and for how long? If one or both of you isn't sufficiently in control of your anger or your sadness, maintaining focus on the issues may be too difficult. For some, keeping emotional issues off the mediation table is impossible.

At the beginning, it's very critical for a couple to meet face-to-face with the mediator, in order to establish each party's issues. This helps a mediator ascertain what stage you and your spouse are at in your relationship and your emotions. It also helps you decide if you're ready for mediation, or if you need marriage counseling or therapy first. Many people who undergo mediation are in denial about their relationship ending, since emotional issues can get in the way.

For most people, emotion is part of the mediation process, and if they're in denial that their relationship is ending, mediation can be difficult. Many people are angry about their situation and become emotional during the mediation process. But if the anger is easy to manage and identify, then mediation may be possible.

## “You vs. Me”

The process of divorce is one of the most difficult times in life, and finding the energy to work towards a mutually cooperative agreement is sometimes impossible. A legal solution, worked out between a judge and lawyers, may seem easier.

Mediation avoids the “you vs. me” polarization of the court system because the divorce agreement is worked out and mutually agreed upon by both spouses, who are working from the same side of the table. Mediation focuses more on solutions and the future.

Mediation is not intended to bring you and your spouse back together. The process of mediation helps draw up a blueprint for living apart; the mediator's job is to help each of you get on with your lives as separate individuals.

In many cases, one spouse is dominant and the other passive. A good mediator will be aware of power imbalances and can compensate for them, evening out the weight of power on each side and promoting discussion. It's essential for a good mediator to handle clients' emotions at their worst without getting intimidated themselves.

Mediation is generally not an option in cases where there's a history of child or spousal abuse. The abusive spouse may have intimidated his or her spouse into mediation, and the abused spouse may fear recriminations or reprisal after the process ends. A mediator should ask: “Are you here on your own free will?”

or “Has there been hitting or hurting in your marriage?”

A joint interview is very difficult when abuse is involved, because the abused spouse obviously can’t speak freely. That’s why one-on-one sessions offer more freedom and more information than joint interviews. But there are cases where “shuttle mediation” can be useful: the mediator could work with both spouses at different times, or they could sit in two different rooms at the mediator’s office, and the mediator could walk back and forth, communicating with each spouse individually.

## Benefits of Mediation

Mediation can have a number of unforeseen positive benefits, including:

- It costs less than going through a lengthy divorce trial.
- Because the mediated agreement has been created to suit your family’s needs, you may find it easier to accept and respect than one that has been dictated to you by a judge.
- Mediation often teaches couples new communication techniques that can help them avoid future difficulties.
- As time goes by, your situation may change. Should you need to change the contract, you already have an established framework for communication in place.
- More can come from mediation than just a divorce agreement.
- Creative solutions are much easier to achieve because there’s more freedom. Statute laws limit court decisions.

With mediation, the rewards — monetary, emotional, and psychological — can often outweigh the time, effort, and concessions necessary to make an agreement possible. If your hope is to find a peaceful future with your soon-to-be-ex spouse, the trick is finding a mediation solution that works for you.

## Finding a Mediator

Don’t look for a mediator in the Yellow Pages if you can possibly avoid

it. Since it’s an unregulated field of expertise, people who call themselves “mediators” can have widely different levels of formal training, experience, and expertise.

A good place to begin your search is the Association for Conflict Resolution (ACR). The ACR is a professional organization dedicated to enhancing the practice of conflict resolution, including mediation.

Another place to look is the family court system: many courts provide mediation services to help families resolve custody and visitation disputes. Mediators also work in private practice. Your lawyer may be able to recommend a mediator, as can friends, family, or co-workers who have used mediation. But remember that mediation skills may be a separate thing from a person’s education may have. Look for someone who’s a good listener as well as adaptable. Avoid someone who’s rigid.

Before you settle on a mediator, be prepared to ask questions, such as:

- Does the mediator belong to any professional organizations for mediators?
- What kind of training has the person had in mediation? A skilled mediator should have a good working knowledge of family law, psychology, and negotiation techniques.
- How long has the person been a mediator?
- What kinds of mediation does he or she handle?
- How much will it cost?
- How long will it take?

## Are You a Good Candidate?

You may be an ideal candidate for mediation. Here’s a short checklist to find out.

### Positive signs:

- Are you in control of your emotions?
- Are you and your spouse on speaking terms?
- Are you willing to take responsibility for creating and honoring your agreement?

### Negative signs:

- Is there a history of physical or mental abuse to yourself or your children?
- Is there a significant power or financial imbalance in your marriage?
- Are you interested in a fair and peaceful solution, or would you rather just nail that rotten so-and-so to the wall?

## When Mediation Works

Beth and John separated after four years of marriage. John had no idea the marriage was in trouble and was still in “separation shock” at their first appointment with the mediator. Because she had been thinking about divorce for some time, Beth was much more prepared to deal with the issues of the separation agreement than John. His emotional state was like a ship lost at sea — from depression to hostility, anxiety to denial — while Beth was ready to face mediation and move on with her life.

When the mediation process began, the two were very much in opposing corners. Through the mediation process, and with the help of an outside therapist, John came to realize his marriage was over and nothing he could say or do would bring Beth back to him. Initially, John felt betrayed: he thought he had fulfilled his role as a husband, and mediation gave him a chance to voice these views. This chance to “work through” his thoughts and feelings about his separation from Beth — to speak his mind and express some of his emotions — was very therapeutic. Beth realized John had tried to be a good father and husband, but this realization wasn’t enough to save their marriage. In the end, he and Beth parted on amicable terms.

Mediation was effective for Beth and John because it offered each of them the opportunity to understand the other’s perspective. Counseling could not salvage their marriage, but mediation has shown them how to live peaceful lives apart. ■

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