

# A Guide To DOMESTIC MEDIATION



## ❖ What is mediation?

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Mediation is not counseling. It is a way for parties to work together to find mutually agreeable solutions to the new issues of separation, divorce, and other family disputes.

The mediator is a neutral, trusted third party who, rather than make the decisions like a judge, meets with both parties to facilitate negotiations. The goal is to reach an agreement that is acceptable to both parties. The mediator, along with the parties, can create a document outlining the parties' agreements and help work out the details of concerns like custody, property settlement, and other financial issues.

## ❖ Why should I try mediation?

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When using a judge or “outsider,” to solve family issues, the results can often be less satisfying for one or both parties. In mediation, both parties have greater opportunity to express themselves, their requests, and difficulties with the other side's requests.

Moreover, mediation is less damaging to long-term and ongoing relationships than a court case with a judge. The mediation process is confidential, unlike court proceedings, which are public.

Also, parties using mediation do not give up any of their legal rights and can always choose to continue with a regular trial.

## ❖ How do I get involved in mediation and how is it scheduled?

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Parties may be ordered by a judge to try mediation or they may chose to do so on their own. Parties will be given a list of court-approved mediators at an early stage in their case. A pretrial will be scheduled at which time a Domestic Scheduling Order will be completed which will include the name of a mutually agreeable mediator. If a mediator is not agreed upon by the parties, the Case Management Office will appoint one.

The mediator will contact parties to schedule mediation in accordance with the court. Also, the mediator will review the need for limited discovery, the issues involved and any domestic violence issues in scheduling mediation.

If at any time during this process the case is found to be unsuitable, such as the presence of domestic violence, the mediation can be stopped and removed from the program.

### ❖ **How is the case screened for domestic violence?**

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For all cases, a domestic violence screening questionnaire and answer key will be made available for each party.

In cases where the Friend of the Court is involved, such as a divorce with minor children, screening will be conducted at a meeting with the Referee or Family Counselor.

If domestic violence is found to be an issue, a hearing must be held to determine if mediation is appropriate.

### ❖ **Is a fee involved in mediation?**

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Yes, the mediator sets an hourly fee. Payment arrangements are made between the parties and the mediator. If a party cannot afford a mediator, they may petition the court for appointment of a mediator at no cost to the petitioner, and if the judge finds that the party is unable to pay, a mediator will be appointed for free or at a low cost.

### ❖ **How do I select a Mediator?**

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*Parties are free to choose whomever they agree on to mediate their case* and are encouraged to agree to the selection of their own mediator. However, the court maintains a roster of approved mediators to help in the selection process. If the parties do not agree on the selection of a mediator in the time given by the court, the court will appoint a mediator using the blind draw method from the approved Domestic Relations Mediator list..

### ❖ **Where is the mediation held?**

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The parties and the mediator choose the meeting place, as well as the dates and times of the meeting.

### ❖ **What happens during mediation?**

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The mediator will explain mediation process, discuss any facts and issues involved with the parties and establish some ground rules. A mediation will continue until (a) a settlement is reached; (b) the mediator determines that a settlement is not likely to be reached; (c) the end of the first mediation session; (d) until a time agreed on by the parties.

❖ **What happens at the end of mediation?**

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Within 14 days after mediation, the Mediator will submit a Mediation Status Report to the court. If the matter is settled through mediation, the attorneys will prepare and submit the proper paperwork within 21 days of the settlement. However, if the matter is not settled, the parties must follow the court dates set by the scheduling order or subsequent orders.

❖ **What are the qualifications to serve as an approved mediator?**

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Approved mediators must complete an extensive training program approved by the State Court Administrator, as well as observe and conduct mediation sessions. In addition, mediators must fulfill continuing 8 hours of advanced mediation training every two years to remain on the court's list of approved mediators.

❖ **Are there standards of conduct for mediators?**

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Yes. Mediators must promote honesty and integrity, which are emphasized during the mediation education and training process. A mediator may be disqualified for demonstrating incompetence or bias, consistently being unavailable to serve as a mediator, or any other justifiable reasons.

**Additional Information**

❖ **What if I have additional questions?**

Mediation Staff are happy to help. Call the Case Management Office.

**Phone: (248) 858-5830**

**Website:**

<https://www.oakgov.com/courts/circuit/civil-criminal/cmo/Pages/mediation.aspx>

**"Let us not negotiate out of fear, but let us never fear to negotiate."**

John F. Kennedy (1961)