



Family Mediation Fact Sheet

Introduction

Any situation regarding issues of child custody and visitation schedules means significant changes for everyone, especially if there is a divorce or separation. Emotional times like these can require difficult decision-making.

Traditionally, people have relied on the courts to resolve these family issues. However, a potential courtroom battle increases stress on every family member, particularly the children. Simultaneously, parents may feel a loss of control over personal aspects of their lives.

Mediation

Mediation is another way to work through the problems and address the core issues brought forth by separation and divorce. Mediation is based on principles of problem solving that focus on the interests of the participants, fairness, privacy, self-resolution, and the best interests of all family members. Mediation is a family-centered conflict resolution process in which an impartial third party assists the participants to negotiate a consensual and informed settlement.

The goal of mediation is to create a parenting plan that allows both parents to have a continuing relationship with the children. The focus of the agreement is on the children's needs and the rights and responsibilities of the parents. In mediation, whether private or public, decision-making authority rests with the parties.

Benefits for Parents

Remain in Control

In mediation, parents working cooperatively make decisions based on what is best for the children. Decisions are not made for the parents.

Reduce Stress and Anxiety

The focus on cooperative problem solving in mediation helps reduce the stress normally experienced by parents and children in a court battle.

Improve Parenting Plans

Parents who invest their time and energy creating a parenting plan for their children are more likely to respect and honor the plan.

Limitations

Mediation may not be appropriate for families with substance abuse, alcoholism, or any domestic abuse. When these behaviors are present, the decision to mediate is made on a case by case basis.

Mediators

A mediator is a trained professional who facilitates a difficult, confidential discussion between the parents, helping the parents listen to one another and be open with one another. The role of the mediator includes reducing the obstacles to communication, maximizing the exploration of alternatives, and addressing the needs of those involved or affected. The mediator has no authority to make decisions for the parents.

Facilitate Discussions

Mediators encourage parents to discuss their needs and hopes for the future.

Focus on the Future

Mediators cannot change the past or erase the hurt that may already exist. However, mediators can help parents design a plan for present custody and future access and visitation.

Act as Neutral Parties

The mediator is a neutral party who does not make decisions for the parents. They encourage cooperation and fairness. They also assist parents in reaching an understanding of the visitation problems, listing possible solutions, evaluating choices, and putting the plan in writing.

Access and Visitation Mediation Program

The Access and Visitation Mediation Program is a federally-funded pilot program designed to mediate only issues of access, custody, and visitation.

Program Costs

There are no costs to participants within this program for the mediation itself. If an agreement is reached, parents are advised and encouraged to have the agreement reviewed by their individual attorneys and submitted to the court for final approval.



Voluntary (“Court Suggested”) Mediation

The Arkansas Access and Visitation Mediation Program can be voluntary in that the program may be suggested to parents by judges, attorneys, or by self-referral.

In voluntary mediation, the parents contact the Director of the Access and Visitation Mediation Program directly. The Director then provides the parties with the Access and Visitation Mediator Roster for their selection. Once the parties make their mediator selection, they notify the Director of the Access and Visitation Mediation Program. The Director contacts the mediator directly for availability and formally assigns the case. The mediator, in turn, contacts the parties to set up the mediation.

This is an opportunity for parents to work out an agreement themselves. Parents are asked to work cooperatively and try to resolve the issues of access, visitation, and in some cases custody. While attorneys may be present at the mediation, it is not required.

Parents are asked to have any agreements reviewed by their individual attorneys prior to signing the formal agreement. After the agreement is signed, it must be submitted to the court for approval. Once approved, the parenting plan may become an enforceable legal order.

If parents are unable to reach an agreement through mediation, they are still free to return to court. Mediation is a voluntary process and you are not required to reach an agreement. The mediation process is also completely confidential. The discussions in mediation are private and will not be revealed by the mediator to any other persons, including the judge or attorneys.

Mandatory (“Court Ordered”) Mediation

The Arkansas Access and Visitation Mediation Program can be mandatory in that many Arkansas Judges are now ordering parents into mediation with the program serving as one option to work through the issues.

In mandatory mediation, the Court or attorneys in the case provide a copy of the court order to the Director of the Arkansas Access and Visitation Mediation Program. The attorneys, in conjunction with their clients, select a mediator from the Access and Visitation Mediation Roster. The attorneys then notify the Director of the Access and Visitation Mediation Program with their mediator choices. The Director contacts the mediator directly for availability and formally assigns the case. The mediator, in turn, contacts the attorneys or the parties to set up the mediation.

Referral Process

Judges may order divorcing parents into mediation. Attorneys, counselors, etc. may suggest the program to parents or parents may refer themselves. If you would like to know more about this program, please call:

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This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1-800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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