



## THE LAW SHOP

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### Frequently Asked Questions About Family Law Mediation

The following information is provided to help guide you through the mediation process. Mediation in family law cases is now required in many Iowa counties. If you have any questions or concerns after reading this information please contact your attorney.

**What is a Mediator?** A mediator is a neutral third party who helps facilitate discussion between two or more parties in an effort to find a mutually agreeable resolution of matters in dispute. Our firm uses mediators who are trained and certified specifically in domestic relations issues. A mediator is not a judge and does not have authority to make decisions about your case. Although the mediator is often a licensed attorney who practices in the area of family law, the mediator does not represent either of the parties and is not a therapist or a counselor.

**What is Mediation?** The goal of mediation is to find solutions to issues in dispute, not to lay blame on either of the parties. The mediator will first meet either together or separately with each of the parties, and his or her attorney if represented, to discuss the mediation process and to learn about the parties' issues and wants. From then on the mediator will work with the parties to determine whether the issues in dispute between them can be resolved by mutual agreement. The mediator helps clarify the issues and may offer new ideas and solutions that the parties may not have thought about previously. The mediator provides a safe environment for all involved and draws up any agreement that has been reached at the end of the mediation process.

**Is Mediation Confidential?** Yes, statements made in mediation are made for purposes of compromise and are not admissible in court. Except to the extent required by law or the court, all information given to the mediator is confidential and the mediator may not be compelled to testify except for the purpose of testifying as to the existence of an agreement reached through mediation (if the parties both consent to such disclosure).

**What Information Should I Disclose to the Mediator?** You should always inform the mediator at the beginning of the mediation if there is any history of domestic abuse between you and the other party, particularly if such abuse may affect your ability to participate comfortably in the mediation process. In addition, you should share honestly your thoughts and concerns in relation to your case as such information will assist the mediator in understanding the reason(s) for your position on various issues in dispute. Having a good understanding of the basis for your concerns allows the mediator to guide discussions in a manner most likely to result in satisfactory dispute resolution.

**How Much Does Mediation Cost?** Most mediators charge a regular hourly rate, which must be paid in full at the conclusion of the mediation. In addition, there may be an administrative fee charged by the entity responsible for coordinating mediations within the county or judicial district. Typically the parties are expected to each pay one half of the total cost of a mediation and you need to be prepared with funds to pay that day for the mediation to take place. If you are represented by an attorney, you are responsible for any fees related to your attorney's participation in your mediation.

**What Issues Does Mediation Cover?** All aspects of your case may be discussed and settled through mediation. These include but are not necessarily limited to issues such as child custody matters, co-parenting arrangements, child and/or spousal support, medical support, division of assets and liabilities and so forth.

**May I Speak With My Attorney During Mediation?** There is no limitation on your right to seek legal advice during the mediation process. Your lawyer may be present at the mediation and you have the right to speak with your attorney either privately or with the mediator present at any time. If you have an attorney but your attorney

is not present for the mediation, let the mediator know right away if you wish to consult with your attorney by phone or otherwise before going further.

**How Long Does Mediation Last?** The length of a mediation depends on several factors including but not limited to the readiness of the parties to resolve the issues, commitment to the process of mediation, the level of conflict between the parties and the complexity of the issues in dispute. We advise our clients to anticipate that a mediation will take at least three (3) hours, but it can be much shorter or longer depending on how quickly things progress through the process. Sometimes parties may not reach a full agreement in the first mediation session, but they have made enough progress to agree on scheduling another mediation session at a later date to continue working through the remaining issues in dispute.

**How Do I Prepare for Mediation?** You can increase your chance of reaching an agreement through mediation if you spend some time preparing for your mediation in advance. You can best prepare by creating a list of the issues you feel need to be addressed in your case. If you are represented by an attorney, it may be a good idea to meet with your attorney sometime prior to your mediation so the two of you can discuss the issues in dispute and determine areas where compromise may be possible. At a minimum, we recommend you and/or your attorney arrive at your mediation with the following, depending upon the issue(s) involved in your case:

- Child custody matters - summary of your concerns relating to such matters
- Financial matters - financial affidavit and/or detailed information regarding your income, expenses, assets and liabilities
- Contempt - information and/or documentation relating to the contempt allegation(s)

**Is a Mediation Agreement Legally Binding?** Generally, yes, a mediation agreement signed by the parties is considered a legally enforceable contract, which is often later incorporated into a court order through the assistance of the parties' legal counsel. If either of the parties subsequently attempts to back out of the agreement, the other party may ask the court to enforce the agreement.

**What If We Cannot Reach an Agreement?** If you cannot resolve all issues in dispute through the mediation process, you may continue to negotiate further on your own or with the assistance of your attorney and you can still go to trial and have a judge decide the outcome of your case if needed.

**Does Mediation Really Work?** Recent studies in Iowa show that mediation results in settlement of all or part of the issues in dispute in about 75% of cases. Even in cases where mediation does not result in a full settlement agreement between the parties, the process typically helps parties narrow the issues and reduce the time and expense associated with going to trial if needed. Even if you are involved in a very high conflict case, we recommend you go to mediation with an open mind - people are often pleasantly surprised at what can be accomplished through the mediation process. In addition, studies show that parties are generally more satisfied with agreements reached through their own mutual efforts than with court orders entered by a judge after an emotional, time consuming and expensive trial.