

Eleventh Judicial District Court
State of New Mexico
William Birdsall, District Judge, Chief, Division I
Douglas Echols, District Judge, Division III
John R. Dean, Jr., District Judge, Div. IV
Thomas J. Hynes, District Judge, Division VI

Dear Parent:

The Court has referred you for mediation of conflicts regarding child custody or time sharing.

This pamphlet is designed to help you understand the mediation process including the goals and purposes of the meetings to be scheduled for you. It was prepared by attorneys, judges, and counselors with years of experience working with parents and their children, and with specific training in the issues arising from divorce and separation.

Where children are involved, divorce or separation is not the end of your family; it is a reorganization. Much will be gained by your working together as parents to help your children become caring, responsible adults.

The task of all parents, whether or not their marriage continues, is one with a high degree of responsibility. If you have a good relationship with your children and they feel the love and acceptance of both parents, they will thrive and grow.

What is Mediation?

Mediation is a way of settling your disagreements about the care of your children following separation and divorce without a courtroom battle. Families normally experience many problems during separation and divorce. Mediation requires both parents to think about and work on these problems. The rights and responsibility of each parent are identified, and the ways in which the

children's needs will continue to be met are discussed. The solutions to problems and responsibilities for the children are left where they have always been and will continue to be-- with the parents. The goal is to reorganize the family, not to "award" custody to one parent and make a "visitor" of the other.

With the assistance of trained counselors, parents meet together in an informal setting to decide on a parenting plan for the future which best meets their individual needs and the needs of their children. The counselors are neutral and objective; their role is to help parents work cooperatively in resolving their disputes so they can carry on with the task of parenting their children.

The mediation meetings are normally one to three sessions, usually beginning within thirty days of the date the Court referred the family to mediation. A meeting may be scheduled just for the children if the parents and mediator feel that their participation would be helpful.

Parents are encouraged to discuss their own desires and plans, as well as the present and future needs of their children, in an open and positive way. The focus is on the future rather than the past.

Mediation meetings are confidential and no information from the sessions, except points of agreement, will be revealed by the mediators to any other person, including the judge.

Why is Mediation Helpful?

The mediation program was developed to provide people with a choice, leaving the responsibility for making decisions where it belongs - with the family. While every family may not resolve all of the disputes regarding the future care of the children, most have found mediation useful in

reaching acceptable agreements which define their ongoing relationships and responsibilities to each other as well as to the children.

There are many reasons why people have found mediation helpful and beneficial:

1. **Mediation is a humane approach to conflict resolutions.** Conflict is natural and normal, and issues concerning parenting are personal rather than legal issues. Mediation is a method of conflict resolution which can deal effectively with complex human relationships.
2. **Mediation emphasizes that divorce is not the end of the family;** a way of continuing to be parents in a reorganized family is possible for most sets of parents.
3. **The stress and anxiety associated with separation and divorce, particularly for children, can be reduced.** Participation in mediation assists parents in affirming their affection and concern for the children, and can reduce the normal fears and anxieties of children concerned with the "loss" of one parent and a previous way of life. Mediation recognizes the principle that divorce should not mean that the child loses a parent.
4. **Self-determination and direct involvement in the decision-making process** are effective in promoting positive and lasting results for the parents and children. Parents who invest time and energy putting together a plan for their children are more likely to follow the plan, and are less likely to undermine it than those parents whose decision has been made for them.
5. **Mediation directs the focus away from the issues which could not be resolved during the marriage** and toward the issues which must be resolved in the post-divorce family.

6. **Mediation helps resolve other issues.**

Many attorneys have found that mediation of custody and visitation disputes improves the ability of couples to work successfully through their attorneys to negotiate a settlement of the financial and property issues accompanying separation and divorce.

7. **It emphasizes the emotional well-being of the children.**

Research indicates that the successful adjustment of children following separation and divorce is directly related to the level of cooperation between parents and the continued involvement of both parents in the lives of their children. Mediation encourages participants to see themselves and each other as capable parents with a continuing responsibility to plan together for the future of their children.

8. **Mediation is a way to begin making joint custody work.**

New Mexico law now states "There shall be a presumption that joint custody is in the best interest of a child in an initial custody determination." Joint custody implies that both parents have responsibilities for their children and both will be involved in decision making for them. Mediation is a good way to begin the process of exercising joint-custody in a responsible way.

What Happens after Mediation?

Following completion of mediation, a report prepared by the mediators is sent to the attorneys. This report is an outline of the agreements reached by the parents, and contains no personal information concerning family members or the marital situation. Following an opportunity for each parent to review and discuss the agreement with their attorneys, it may be submitted to the Court for review. If the agreement is approved by the Court, it will be entered as an enforceable order of the Court.

In the Event that parents are unable to reach an agreement, the attorneys and Judge are notified that issues remain in dispute and a brief or extensive assessment will be conducted. The fact that some parents are unable to reach an agreement is not viewed as "failure." Mediation is hard work, and parents completing the process demonstrate commitment and concern for the well-being of their children.

Most post-divorce child care arrangements will require periodic revision and adjustment due to changes in the situation and life-styles of the parents and the changing needs of the children as they mature. It is hoped that parents will continue to work together to resolve any new disputes and to modify the original agreement where necessary to meet the changing needs of their family. A return to mediation by parental agreement is possible, when necessary, to help with such changes.

**COURT CHILD CUSTODY
MEDIATION PROGRAM**



**PARENTS MAKING THEIR
OWN DECISIONS ABOUT
THEIR CHILDREN
FOLLOWING SEPARATION
AND DIVORCE**