

Domestic Mediation

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WHAT IS MEDIATION?

Mediation is a confidential and informal dispute resolution process in which a neutral third person, a mediator, facilitates settlement discussions between the disputing parties. Unlike a judge in a trial, the mediator does not impose a decision upon the parties but rather allows parties to explore their concerns, identify areas that must reach resolution and creatively explore a variety of ways to resolve the dispute to their satisfaction. Mediation in domestic relations cases allows families to remain in control of their lives through a decision making process that encourages mutually acceptable solutions that the parties can fall back on should future problems arise. Settlement agreements from mediation are enforceable in the same manner as any other written contract. **WHO PAYS FOR MEDIATION?** Through the Office of Alternative Dispute Resolution, parties are offered two 4-hour domestic mediation sessions at no cost. Domestic Mediations held at the time of a Status Conference hearing are also at no cost to the parties. **HOW LONG DOES MEDIATION TAKE?** The time required for mediation depends on the nature and complexity of the dispute and the number of parties involved. A mediation could last 1-4 hours and often times even longer. **HOW ARE CASES REFERRED TO MEDIATION?** In Fulton County, parties may be ordered to mediation or parties may request mediation through the judge or through the Office of Alternative Dispute Resolution. Either may be done at any stage of the case.

In the Family Division, when parties cannot reach an agreement, parties routinely participate in mediation on the day they report for their 30, 60, or 120-day status conference. If an agreement is reached through mediation at that time, the judge or judicial officer will review the agreement and if approved, it shall be entered as an order of the court.

Regardless of how a case is referred to mediation, reaching and signing an agreement is strictly voluntary and if the parties do not reach a settlement agreement, they do not lose their right to a trial. **ARE ALL CASES APPROPRIATE FOR MEDIATION?**

The successful use of mediation depends on both parties being able to make decisions on their own. Therefore, mediation may not be appropriate when:

- There is a lack of knowledge or resources to gain information by one party creating a significant imbalance of power.
- A party's physical or mental condition prohibits that party from protecting his or her own interests or in carefully considering their options.
- There is ongoing domestic abuse or previous interactions between the parties resulting in one party controlling or abusing the other party to such an extent that the less dominant party cannot exercise independent judgment.

WHAT ARE THE BENEFITS OF MEDIATION?

- Mediation offers parties more settlement options and enables them to develop more creative outcomes.
- Mediation can set the stage for future communication and cooperation between the parties which is especially important when relationships and children are involved.
- Mediation can lower the intensity or level of conflict enabling the parties to vent in a safe environment.
- Mediation gives parties the power to reach their own decisions versus having outcomes determined by others, such as a judge.
- Mediation recognizes that both parties' needs are important.
- Mediation offers privacy.

- Mediation is typically less time consuming, less expensive and allows for greater privacy than going to court. **IS MEDIATION CONFIDENTIAL?**

Mediation is a confidential process by law and by agreement. However, if parties reach a settlement agreement, the written and executed agreement or memorandum of agreement is not subject to confidentiality, unless all parties to the proceeding agree so in writing.

Confidentiality does not include:

- Mediators and program staff reporting whether or not the parties appear for mediation;
- Threats of pending violence to self or to others; or
- If the mediator believes that a child is abused or that the safety of any party or third party is in danger.

If you have a Domestic Relations case and you think that it may not be appropriate for mediation, you are encouraged to speak with a Court ADR Specialist in the Office of Alternative Dispute Resolution. You may reach someone at 404-612-4549.