

What is Mediation?

North Carolina law requires that the parties to a custody lawsuit attend mediation before the case goes to a judge. “Mediation” is a meeting where the people involved in the custody lawsuit (a parent, grandparent, or other legal guardian) sit in together with a mediator. Each person takes turns telling the mediator and the other side what they each want for the child’s custody and visitation plan. The goal of mediation is for the parties to agree on a plan for custody and visitation. The topics discussed are usually: where the child will live, a visitation schedule for weekends, midweek visits, telephone calls, holidays, summer breaks, and school breaks. Child support is NOT discussed or decided in the mediation.

Who is the Mediator? The mediator is a person who does not take any person's side in the mediation. The mediator is a “neutral,” trained professional whose only job is to help the parties reach an agreement. The mediator will not decide who is right and wrong or force anyone to agree to anything. The mediator is appointed and paid for by the Court.

How much will it cost? Mediation is free.

Where is the Mediation held? The mediation is held at the courthouse or another location typically in the county where the lawsuit has been filed.

Will attorneys be there? No.

What happens if you reach an agreement? The mediator will put the custody and visitation agreement in writing, and each party will sign it. This may be done by mail several days after the mediation has ended. This agreement is called a “Parenting Plan” or “Parenting Agreement.” After the parties sign the Parenting Plan, the family Court Judge signs it, making it a Court Order.

What if one side wants to change the Parenting Plan?

If one side wants to change the Parenting Plan, that person needs to file a motion to modify. The Court will send the parties to mediation again.



Mediation Overview

What if one side violates the Parenting Plan? If one party violates the Parenting Plan, then the other party can file a motion in court to ask the family Court Judge to require the other party to come to Court and explain why she or he violated the Parenting Plan. The Court can punish the other side for violating the Plan, or the Court can modify the Plan.

What if you do not reach an agreement at mediation? Your case will be heard in Court and decided by a Judge.

What are the benefits of reaching an agreement at mediation? Mediation is usually quicker than going to Court to get a decision. You can avoid the possibility that the Judge will rule against you. It is less of an emotional trauma than going to Court. You can save yourself and your witnesses the time, inconvenience, and embarrassment of testifying in open Court.

Tips for Successful Mediation

- 1. Know Your Rights:** Attend a custody clinic and/or read about North Carolina custody laws before you go to mediation. Consult with an attorney.
- 2. Compromise:** Be willing to be reasonable. You will not get everything you want or ask for. Be prepared to give in on one thing so that you can focus on getting something else that is more important to you.
- 3. Know Your "Bottom Line:"** Before you attend mediation, decide what are the most important things for you to get and where you are willing to compromise.
- 4. Be Prepared:** Before you attend mediation, think about what you want and write it down. Some things to think about are: number of nights each person will have the child sleep at his/her house; number of overnight stays can affect the amount of child support you can get; will the schedule change in any way during the summer months; what time and place will the child be picked up and dropped off for visitation changes; where will the child spend holidays; where will the child spend each parent's birthday, the child's birthday, Mother's Day and Father's Day; who will have the final right to make decisions concerning the child's medical treatment and education; will this person first have to discuss these decisions with the other parent before making a decision?
- 5. Focus Forward:** Control your emotions during the mediation. Look forward, not backwards. Do not get stuck on your past frustrations or anger during the mediation. Do not be distracted by the other person's bad behavior or insults. Stay focused on the future and be hopeful about reaching an agreement. This may take a lot of work. However, please let the mediator know if you are feeling intimidated.