



Family Court Services Mediation Orientation

Mediation Process Checklist

- You will receive a letter directing you to complete the online Mediation Orientation
- Review the power point orientation complete the online mediation quiz to confirm you reviewed the entire power point
- After both parties have completed the online orientation you will each receive a letter with your mediator's name and telephone number
- Both of you must call the mediator to schedule an appointment for the first session
- Gather any information that will help with scheduling (day-care hours, children's athletic schedules, school calendar)
- Attend the first mediation session, which may be held in person, via video conference or telephone conference call
- Schedule the next session, if needed
- When/if you reach a parenting agreement:
 - The mediator will send the Parenting Agreement to you for you to sign and return or you can sign it at the mediation session if held in person
 - Have your attorney review the Agreement before you sign it, if you have one
 - If needed, schedule another session with the mediator to review any changes and sign the Agreement
 - You will receive a copy of the signed Agreement (signed by both parties and the mediator)
 - The signed Parenting Agreement will be e-filed with the court by the mediator along with a Response to Court indicating an agreement was reached
 - *Except in pending divorce cases, the mediator will draft a Mediation Agreement and Order form for your signatures and file it with the court. In a pending divorce, a hearing will be held approving your agreement.*
- If you reach a partial agreement:
 - The Partial Agreement will be e-filed; the process is the same as above
 - Remaining issues will be decided by the Court process
- If you do NOT reach an agreement:
 - A Response to the Court will be filed advising that an agreement was not reached; *but*
 - It is your responsibility to start the next Court process after mediation has been unsuccessful
 - The Court process will not automatically begin until you start it
 - A volunteer at the Family Law Assistance Program or clerk at the Clerk of Courts can help you get the correct forms for this process (ie. Motion, Order to Show Cause)

The previous slide outlines the mediation process. It can be confusing for parties who are representing themselves, and even those who have counsel. This presentation will elaborate on the process of mediation, issues involved, cost of litigation and the benefits of mediation.

It is recommended that you print the prior slide for your future reference

Legal Custody & Physical Placement Disputes



This presentation will explain what Family Court Services mediation through the court system can address and what it cannot. It will also help you with the definition of terms.



Court or Mediation

- Wisconsin law requires you to attempt to resolve your parenting issues in mediation prior to litigating these issues (going to court). If you resolve your issues in mediation, there is no need for future litigation (court).

What does going to court mean?

- If you cannot reach an agreement resolving your parenting issues by yourselves, the law says the court has to make a determination as to what is in your child/children's best interest. This occurs as a result of a court hearing. Let's discuss what court & mediation look like.

If you go to court:

- GAL deposit: \$3,000.00 at \$100.00/hour
- Legal custody/physical placement study:
Study \$1,700 + \$69/hour for the written report
- Psychological Evaluations: \$\$\$\$?
- Fees for any/all of these costs may be ordered divided between the parties even if you did not request any of these

- Vs. Mediation: \$300.00 (for a total of 6 hours)

What litigation looks like?

- So, if you decide to litigate, the previous slide outlines the initial costs. If the court has to make a determination as to what is in your child's best interest, the court often appoints a guardian ad litem, which is an attorney who is appointed and conducts an investigation and makes a recommendation to the court as to what s/he thinks is in your child's best interest.

Further litigation issues:

- The court can, on its own and/or based upon the guardian ad litem's recommendation, order a Family Court Services study to conduct a very detailed investigation as to your home and the other parent's home, as well as talking to other people who may have information as to your child's best interest and parenting issues.

Additional litigation:

- If either party raises the other party's mental health as an issue, the court can order psychological evaluations of either party, both and/or the child/ren. This step in litigation is very expensive. Several thousands of dollars for the interviews, testing, report writing and possible testimony.



Or The Court Decides

After these investigations are concluded and if the case does not settle, the court conducts a Trial. Both of you will testify and the court listens to your testimony as to why the court should order what you want. And if a guardian ad litem is involved, listens to his/her reasoning & recommendation. If there is a custody study, the court listens to the social worker. If there is a psychologist, the court listens to this testimony & reads any report. After this hearing, the court decides what is in your child's best interest.

▸ mediation



Provides an opportunity to
resolve issues without
court involvement

Mediation defined:

- A cooperative process involving the parties & the mediator, the purpose of which is to help the parties, by applying communication & dispute resolution skills, define & resolve their own disagreements, with the best interest of the child as the paramount consideration.
- 767.405(1)(a) this is how the law defines mediation.

The Law

- The previous slide defines what mediation is as an alternative to litigation.

Children,
let's settle this
like adults.



Put Your Child First

Mediate

Focus on Your Child & Your Role as Parent

“The art of being wise is the art of knowing what to overlook.”

— William James



I ♥
my
parents



Two important rules :




Mediation is a chance for a new start

- To focus on your child, not past issues
- To make a clear parenting plan and set guidelines
- To do what is best for your child/ren
 - Do not quiz them about the other parent
 - Do not use them as messengers
 - To be civil: your ex is still a parent
 - Texting is NOT co-parenting
 - A productive (mediation) vs. destructive (litigation) process



Why Start Now?





About 24,000,000 results (0.62 seconds)

Search Results

1. [Liz Coopersmith: Your Divorced Parents vs. Your Wedding ...](#)

www.huffingtonpost.com/.../your-divorced-parents-...

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- o

The Huffington Post

Jan 3, 2013 - Your **wedding** involves the same things their **divorce** did: your mom, ... I know it's not going to be easy, but here is what I've seen work for **my** couples: ... That means no tantrums: don't scream that they are **ruining** your **wedding** ...

2. [My Mom Ruined My Wedding Day - Huffington Post](#)

www.huffingtonpost.com/.../mom-ruined-wedding_...

- o
- o

The Huffington Post

Jun 22, 2013 - We got **married** on a tropical island. The venue was elegant, glamorous and incredibly costly. **My** **parents** bent over backwards to book it ...

3. [How do i keep my divorced parents from ruining my wedding?](#)

www.reddit.com/.../how_do_i_keep_my_divorced_parents_from_...

- o

Reddit

Jan 30, 2014 - TL;DR **My** **divorced** **parents** can't stand each other, how do I prevent **my** **wedding** from be

A Google search of divorce resulted, within 62 seconds, 24 million hits on the negative impact divorces and/or placement battles had on their children's lives, even into adulthood.



What Mediation Covers:

- Legal Custody
- Physical Placement
- Other parenting issues you would like to discuss in a neutral setting



Legal Custody Defined

➤ The Right and Responsibility to make major decisions:

- Choice of school
- Choice of religion
- Non-emergency health care
- Driver's license
- Marriage license
- Military service



➤ Sole or joint

➤ Court Can Decide

Sole vs. Joint

- Any or all of these major decisions can be assigned to one parent (sole) or both parents (joint).
- You can decide who can make these decisions, or the court will.

Physical Placement



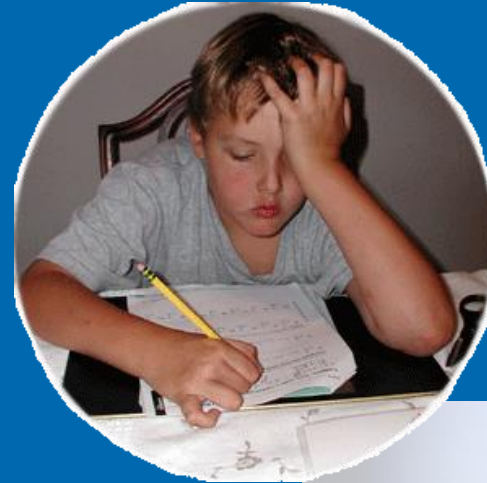
- Time your child spends in each household
- Includes routine care and daily decision making
- **Or the Court Can Decide**

This is often referred to as visitation, but the language has been changed as parents do not “visit” their children. Physical placement can be what you decide it to be. Primary physical placement is when one parent has > than 92 overnights/year. Shared physical placement is when each parent has periods of physical placement > than 92 overnights.



Other Parenting Issues:

- Homework
- Telephones for kids
- TV and Video Games
- Extracurricular Schedules



What Is Not Covered in Family Court Services Mediation

- Financial issues
 - Child support
 - Maintenance
 - * Tax exemption
- Property division



Expectations

We will expect from you

- Good faith attempt to:
 - Listen to other party
 - Try to understand other parent's position
 - Timely scheduling
- Call your mediator
 - Be available for phone calls
 - Active phone number & voicemail set up & able to receive calls
- Keep appointments
- Notify us of changes of contact information.

You can expect from us


- Professional, impartial mediator
- Time to consider before signing Parenting Agreement
- Timely response to questions and concerns

Family Court Services Mediation in Washington County

- Not the same as in other counties
- Online descriptions of mediation in other counties and states can be misleading
- Not the same as before if you have been to mediation before this time
 - Same mediator?
 - Same results?



Washington County Mediation

- If you have looked at mediation in other counties, Washington County's process is different; we have this Orientation process
 - And different financial arrangements
 - If you have had mediation before, keep an open mind. How successful mediation is, is up to you!
- 

Judge Judy

- The following slides show how litigation goes with a fictional Judge and contrasts it to how mediation happens



Mediation: The Opposite of “Judge Judy”

**In court, the Judge has all
of the power & control**



**In mediation, you have
the power & control**





**Parties are instructed to address
only the Judge, not each other**




**With the assistance of the mediator,
the parties speak to each other in an
informal problem solving
conversation**

Evidence



- In Court, the Judge will have you show the court the evidence (proof); receipts, contracts, written agreement, texts, emails, Our Family Wizard
- Mediation is **Not evidence based**

On television, these issues are resolved in an hour or so. If you proceed with court, your case will take approximately a year or more before it is resolved.



About Our Mediators

Our Mediators:

- Help parents communicate
- Are trained in child custody, physical placement and parenting issues
- Do not make decisions for either parent
- Do not judge your positions
- Cannot testify in court
- Offer options/alternatives to your proposal



Mediation

- Mediation is settlement discussions, which are confidential.
- What is said in mediation is inadmissible such that you cannot say what was said in mediation, as an option, and have it used against you in court.
- You can talk to your lawyers about what was discussed, but you cannot testify as to what the other parent offered to resolve the case.

What is Confidential?

➤ Blue information sheets

- Who sees them: Only the mediation department staff & mediators; not the court or the other party
- Your response to Domestic Violence preferences is confidential & not shared

➤ Separate mediation file from court file: although your case was referred to mediation from the court, our file is separate from the court file.

Exceptions to confidentiality

If you allege child abuse or harm allegations;

Parenting Agreement; if you reach an Agreement the mediator will file this with the court

Why Mediate?

- Litigation is **expensive**
- Litigation is **stressful**
- The law requires it
- Mediation is **successful**



The red tape on this case was monumental.

- It's in children's best interests


If you go to court:

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and court time
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did not request any of these
- Vs. Mediation: \$300.00



**When two elephants fight,
it is the grass that gets trampled**

Mediation Session Questions

- Who is there?
 - What should you bring?
 - Where is it held?
 - How long is the session?
 - What will the Mediator ask?
 - When do I sign?
 - Cancellation policy
- 

Mediation

Answers:

1. Mom, Dad, Mediator
2. Schedules, calendaring information
3. It can be at the Justice Center, or telephone conference or video call
4. You can expect an hour to 2 hours
5. If you reach a Parenting Agreement; sign it and return to the mediator; they will sign it and e-file it with your court case.

Possible Outcomes

- Full Parenting Agreement
- Partial Parenting Agreement
(not all issues are resolved)
- No Agreement -
doesn't have to lead to court;
you decide if you want to
proceed with litigation



When an Agreement is reached

IN PENDING (OPEN) DIVORCE CASES, A HEARING WILL BE HELD TO INCORPORATE YOUR PARENTING AGREEMENT INTO THE MARITAL SETTLEMENT AGREEMENT AND FINAL DIVORCE JUDGMENT.

IN NON PENDING (OPEN) DIVORCE CASES AND POST JUDGMENT CASES, THE MEDIATOR WILL DRAFT A MEDIATION AGREEMENT AND ORDER, SIGNED BY BOTH PARTIES AND THE MEDIATOR, AND WILL FILE IT ALONG WITH THE PARENTING AGREEMENT WITH THE COURT.

OR

Back to Court :

- GAL deposit \$3,000, \$100/hour
- Legal custody Study \$1,700.00
- Psychological Evaluations \$\$\$\$?
- Fees split between parties?
- Or the Court Decides
- **Remember, you will still be dealing with each other at the conclusion of the case**

Mediation helps

- To eliminate conflict for your children's benefit
- To model for your children how to handle a disagreement
- To focus on your children
- To change how you are used to dealing with each other
- To learn to Co-Parent
- To let kids be kids



What Won't Happen in Mediation

- Legal advice from the mediator
- Testimony in Court by the mediator
- Child support or spousal support
- Division of Property
- Discussion with Judge or attorneys
- Other people at session
- Pressure to sign an agreement



**When two elephants fight,
it is the grass that gets trampled**



Remember Who This Is About

- Find a way to love your children more than you dislike your ex (your children's mother/father)!

You are almost done!

Click on the below link and Answer 6 questions about this presentation and submit It.



- <https://forms.office.com/g/mhwniVyj9D>
- Any questions, please call 262-365-5135

Don't Have An Attorney?

Get help with court forms and procedures for:

- ✘ Divorce or Separation
- ✘ Paternity
- ✘ Child support
- ✘ Child custody
- ✘ Child placement
- ✘ Visitation



FAMILY LAW ASSISTANCE PROGRAM

Every Tuesday* 12:00 noon to 1:00 PM

**Except during holiday weeks*

Sign up that day at the Security Desk

Meet with a Volunteer Attorney to
Discuss Procedures & Forms At No Cost

*Legal Advice CANNOT be provided
We CANNOT give an opinion about your
case*





WASHINGTON COUNTY
WISCONSIN

