

TIPS TO PREPARE FOR CHILD CUSTODY MEDIATION

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Since the early 1980's, parents have increasingly used the process of divorce mediation to help them resolve their differences and reduce the scars of battle. Child custody mediation is a process in which parents work together to develop a plan for parenting their children after divorce with the help of a neutral third party. While mediation can be done privately, the use of court-connected mediation has rapidly grown over the last ten years. In many states, the use of such mediation is mandatory before parents can litigate custody issues.

The mediation process is one in which parents work together to devise a parenting plan that is mutually acceptable to both parents. This parenting plan may be quite structured, specifying the day-to-day time-share of the children, as well as plans for holidays, vacations, and other special issues of the family. By working together in mediation to develop a parenting plan, parents can avoid the battles that are so damaging in an adversarial process, and can include their children in the decision-making in a way that empowers them in a healthy way.

When parents use mediation and develop a parenting plan on their own, their children will be able to avoid loyalty conflicts and are less likely to feel the stress of battling parents. When children are included in the decision-making process, they benefit because they can express their feelings and know that their parents are listening to them. Mediation gives children a much greater sense that they have a say in their lives and a freedom to contribute to the decisions that affect their lives.

Courts that offer mediation services do their clients a big service. Research shows that mediation can reduce litigation over custody. When parents participate in mediation, they are likely to reach a settlement 60 to 70 % of the time. Parents are usually much more satisfied with mediation than with litigation. Most important, however, if parents use mediation, they will have control over the parenting plan, whereas in adversarial litigation, the judge determines how parents will spend time with their children. With the improved satisfaction, the increased mutual decision-making, and the decreased hostility, mediation is clearly a healthier alternative than litigation. For those parents who live in an area where court-connected mediation is not available, private mediation services are usually available and are typically well worth the investment, especially in comparison to the alternative of litigation. Parents will probably save money and have more control over the outcome if they use mediation.

Approaching Mediation

- First, approach mediation with an open mind, willing to listen. Parents who are open and listen to the mediator and their ex-spouse are the ones who are able to reach a settlement and develop a mutually satisfactory parenting plan. Those who believe there is only one solution to custody and visitation issues are usually fairly stubborn and generally refuse to compromise. If parents come prepared to be open, they can brainstorm options until they find a solution that works for everyone, especially their children.
- Next, parents should come prepared with several options. Do homework before mediation. Think about and write out proposals so that they can be referred to in the mediation session. A parent will not want to forget to discuss something that is important in the mediation. Parents need to make sure they understand their child's needs and stay focused on their child and his needs. Parents need to be aware of the impact of conflict on their child.

- Third, mediation is not the place to focus on the other parent. Mediation usually breaks down when parents argue about the "he said - she said" issues between them. This is not a place to rehash marital problems but a place to solve parenting problems after divorce. Parents need to communicate about their child and their perception of her needs. If a parent is concerned about the other parent's anger, he should talk about their child's need for peace. If a parent is concerned about the fact that the other parent lets his daughter stay up too late, talk about her need for routine and structure. Parents need to be open to what they might need to change for their child's benefit. Parents should always avoid character assassinations.
- Finally, parents need to bring a sense of balance and humor. At times during mediation, things get tense. Parents need to maintain a perspective that balances their desires, the other parent's desires, and their child's needs. While this is the goal, it may not be easy. If things get tense, parents need to remember that they are there for the children, not themselves. Parents do not have to like their ex-spouse to make an agreement on behalf of their children; they just have to love the children more than they hate the ex-spouse. Take a brief time-out from the mediation session if necessary. Some parents need several mediation sessions to reach a satisfactory settlement.

Listen to the mediator's advice and consider it. He/she will most likely have the child's best interests in mind, even if the parents cannot agree on what that is. Parents need to recognize that the mediator's job is to try and balance the child's needs and each parent's desires. The mediator does this while encouraging parents to reach a parenting solution. If nothing else works, sometimes a humorous, but not rude, comment can break this tension, and help everyone get back to work. While any parent will want to hold firm to their major beliefs and values, there may be many ways to satisfy these beliefs.

Parents should be open to different ideas, keep working to satisfy their goals, and be willing to compromise to reach a peaceful solution on behalf of their children.

Do's and Don'ts for Mediation:

- Do focus on the child's needs.
- Do not focus on parental needs.
- Do think of custody as a separate issue relating only to what is best for the child.
- Do not discuss child support or property when trying to resolve a parenting plan.
- Do acknowledge a child's special needs according to her age, temperament, and development.
- Do not assume there is a standard plan that fits the needs of all children.
- Do acknowledge the other parent's strengths and bring up only valid concerns about the other parent's ability to care for the child.
- Do not bad-mouth the other parent.
- Do acknowledge that a child needs time with both parents, in a safe environment, developed by a parenting plan.
- Do not punish the other parent by withholding children.
- Do go to mediation prepared with:
 1. A proposal for custody and a time-sharing plan
 2. A calendar which identifies school holidays, work schedules, the schedule for the child's activities
 3. A flexible and business-like attitude
- Do not go to mediation unprepared.