

## **MEDIATION PROCESS**

1. Mediation is one model for family members to resolve their own disputes during and after separation. The Mediator is an impartial and neutral party who does not have decision-making power. The Mediator's role is to help the participants clearly define the issues in dispute and to shape the communication process so that a rational discussion can take place allowing the parties to voluntarily reach their own mutually acceptable settlement of the issues.
2. Mediation is a cooperative problem solving process where a neutral professional assists the parties to a dispute in clearly defining the issues in dispute and reaching agreements that account for everyone's needs and interests.
3. The mediation process works as follows:
  - (a) The separating couple meets with the Mediator in an informal office environment;
  - (b) Nearly all meetings will involve both spouses, but separate meetings may, if necessary, be called between the Mediator and one of the spouses;
  - (c) The Mediator explains the mediation process to the spouses and once the process is understood and agreed upon, the Mediator collects the information necessary to understand the issues;
  - (d) The Mediator guides the communication process so that everyone has an opportunity to be heard. The Mediator will define an Agenda and the issues will be discussed one at a time and various solutions will be explored so that the best possible agreement can be reached. The Mediator cannot give legal advice to the parties but may provide the parties with legal information respecting the state of the law in the area in dispute. The Mediator may offer suggestions and help parties develop options to resolve the issues;
  - (e) Mediation sessions typically occur weekly or every 2 to 3 weeks, with each session being for a period of approximately an hour and one half to 2 hours in duration. The mediation process often takes between three to four sessions; sometimes fewer sessions and occasionally more sessions;

- (f) Certain simple rules apply during the mediation process. These rules provide that each party will be free to speak without interruption by the other and there will be no personal criticism or raised voices during the session; and
  - (g) All communication, correspondence and information exchanged by the parties is confidential and privileged. It follows that should the mediation process fail, nothing said or done in any of the mediation sessions may be used in evidence in a Court proceeding.
- 4. The goal of the mediation process is to reach a final agreement of all outstanding issues. When the final agreement is reached, the Mediator may reduce the agreement to writing (the "Agreement"). The parties will each be provided with a copy of the Agreement and will review the Agreement with an independent legal advisor before signing it. In this way, the parties are better assured that any Agreement reached is fully consistent with their independent legal rights and obligations.
- 5. The mediation process can be applied to the resolution of almost any form of dispute. Typically, upon separation the issues to be resolved will include parenting arrangements, division of family property and debt and child and spousal support. An Agreement reached in mediation, drafted by a lawyer-mediator and signed before independent lawyers, is fully binding on the parties and enforceable as an Agreement reached in any other fashion.
- 6. Typically, the cost of mediation is shared equally between the spouses. Where this is not possible other arrangements can, in some circumstances, be made.