

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<https://www.courts.nh.gov>

Mediation Date: _____

Mediation Time: _____

Mediation Place: _____

MEDIATION IN A DIVORCE/PARENTING CASE

WHAT IS MEDIATION?

In mediation, you, and the other party meet, either in person or virtually, in a confidential setting to discuss all issues in your case, with the help of a neutral third person, the mediator. The mediator is impartial and trained to help you talk about your needs and differences. A mediator does not decide who is right or wrong. The mediator does not advise you, nor force you to reach an agreement or to accept particular settlement terms. The mediator ensures that you both have an opportunity to be heard and understood. The mediator encourages you to create solutions that meet your individual needs. If you come to an agreement with the other party at the end of mediation, that agreement can be filed with the court. If you do not, you can request a trial and nothing from mediation can be shared with the judge.

HOW IS MEDIATION DIFFERENT THAN A HEARING WITH THE JUDGE?

In court, you have limited time in front of a judge. You have to follow formal rules to present your case correctly. Whatever the judge decides is the outcome with which you must live. In contrast, mediation is informal. You have a few hours - up to four - to present your concerns and ideas, with the support and advice of your attorney if you have one. The mediator can help you communicate with the other person so you can discuss options and discover choices you did not think of before mediation. You decide whether you want to come to an agreement with the other party, and what that agreement will be. Mediation may not be appropriate if you have concerns about negotiating with the other side because of past violence, coercion, or abuse; going in front of a judge is likely better for you.

WHO ARE THE MEDIATORS?

The mediators are professionals certified by New Hampshire's Family Mediator Certification Board based on their training and experience. They contract with the Circuit Court to provide mediation.

WHEN IS MEDIATION SCHEDULED?

You will be assigned a mediator after your First Appearance session. Mediation should be scheduled within 45 days of referral from First Appearance. Your first session is two (2) hours. You may schedule a second two-hour session after the first. See your Notice of Appointment for Mediation for the first mediation date. Mediation may occur either over video or in-person at the courthouse.

If you would like to reschedule the mediation, you must first contact the other party to obtain their consent and dates of availability. Then at least two business days before the scheduled session, you must provide the mediator with dates and times in which both you and the other party are available.

If you would like to cancel the first ordered mediation session, you must file a motion with the court and wait for the court's order.

HOW DO I PREPARE FOR MEDIATION?

Complete a financial affidavit and a parenting plan (if you have children under 18) before mediation. You can find these on the court's website. The parenting plan is a guide for you to consider the issues that must be decided to complete your case. Use it to help you think through what is most important to you in this situation, and what is less important to you.

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For instance, you may care very much about seeing your children every week, but you may not have strong opinions about which days you see them. If you have an attorney, discuss reasonable expectations for an outcome should your case go to court. You can, therefore, compare your options at mediation with what may be available if you go to trial.

It is important to come to the mediation session with an open mind, ready to consider new options that may not have been raised previously. It is also important to be willing to share information with the other party so you can evaluate whether an agreement or a trial is better for you. Your attorney, if you have one, can help you prepare and may attend the mediation with you.

WHAT HAPPENS DURING MEDIATION?

At the date and time of the mediation, meet the mediator and, if appropriate, the other side. If the mediation is in person, the mediator will guide you to a mediation room or, sometimes, two rooms. At the start of a mediation session, the mediator will explain how mediation works and answer your questions. The mediator will ask each of you to share your views and describe what you would like to have happen in your case. The mediator will then help you explore how to resolve issues in a way that is acceptable to each of you.

The mediator may ask to meet with you (and your attorney if you have one) without the other person. If you do have an attorney, you may take a break and talk to your attorney privately at any time.

If an agreement is reached, it will be put in writing. You are encouraged to consult with an attorney before signing. Once signed, the agreement will be presented to the judge who will review it and, most likely, approve it.

If an agreement cannot be reached, or if one or more of the parties fails to attend the mediation session, you may be scheduled for a second two-hour session, or the court will hear the case in a regular court hearing. Even when a case is not resolved through mediation, often the parties have a better understanding of underlying issues and may settle outside of mediation.

WHAT IS THE COST OF MEDIATION?

The court will determine what you owe for up to four hours of mediation after you complete the Mediation Payment Worksheet. The court will indicate how much you owe, and how it is to be paid, on the Notice of Appointment for Mediation. Here are the possibilities:

- **Grant:** If you receive public assistance, have a minor child in common with the other party, and do not have a paid attorney, the AV Grant pays the mediator for your mediation services.
- **Fund:** If you earn under a certain amount, the ADR Fund pays for your mediation services.
- **Private Pay:** If you earn above a certain amount, you are required to pay the mediator directly. Please see the Notice of Appointment for Mediation for the amount you should bring to the first mediation session.

You may request that the mediator provide mediation beyond four hours. If this request is approved, you will owe the mediator a per-hour sliding scale fee based on your income. The mediator will share this sliding scale with you.

Note: If your case is ordered to mediation and you do not appear, you will owe the mediator a failure to appear fee.

WHAT HAPPENS IF WE DO NOT COME TO AGREEMENT IN MEDIATION?

You still have the right to request a trial, where a judge will decide the remaining issues. Everything said at mediation is confidential and cannot be shared with the Judge in your case. You may also choose to request Neutral Case Evaluation (NCE), a process in which you sit down with an Evaluator (who is a judge or retired judge), explain the issues that remain, and hear from the Evaluator her or his opinion about what might happen if your case goes to trial.