



EDWARDS &
ASSOCIATES
FAMILY LAW ATTORNEYS

PREPARING FOR MEDIATION

This following information is provided to help parties prepare for mediation

A Typical Mediation Process

Although the process will vary from case to case, a typical mediation will include the following steps:

- The mediator will make an opening statement, outline the process, and lead a discussion on the parameters of the mediation.
- The mediator will invite the parties to summarize the issues and develop an agenda for the discussion.
- The mediator will encourage the parties to express all relevant views and concerns through an open, balanced and constructive communication process.
- While one person expresses his or her views, other participants are encouraged to listen and to seek to understand that person's perspective.
- The mediator will help to advance the discussion by summarizing the views of each party and exploring important points.
- At any time, the mediator may ask to meet privately (in a "caucus") with each party and his or her advisor. Whatever is said in caucus is kept confidential unless the parties agree otherwise.
- After all participants have had an opportunity to fully explain their views and concerns and to fully understand the views and concerns of others, the mediator will invite them to discuss options for resolution.
- The mediator will help the parties formulate proposals and negotiate a final agreement.
- If a final agreement is not reached, the mediator may facilitate a discussion of what next steps can be taken to move towards resolution of the outstanding issues.

The Mediator

The mediator's primary function in the mediation process is to promote constructive discussion between the disputing parties. To do that the mediator will:

1. Address any procedural concerns and create an environment where all participants are comfortable with the mediation process.
2. Structure the discussion in a way that all parties can understand and participate in the process.
3. Try to establish rapport and improve communications between the parties.
4. Help identify each party's issues and concerns and break the big problem into smaller, digestible pieces.

5. Ensure that issues are addressed and that information is exchanged in a fair and balanced way.
6. Help broaden the discussion to find innovative and productive ways to resolve the dispute.
7. Act as a facilitator, not a judge, to enable the parties to determine the outcome that is best for them.

Guidelines to Assist Parties in Preparing for Mediation

As a party in mediation, remember that a primary purpose of mediation is to empower you to solve your problem. You will have every opportunity to express your issues and concerns and to fully participate in the discussion. You will be asked to listen to what others are saying and try to understand their views and concerns - especially those you disagree with. The more you understand them, the better you will be at negotiating a resolution that is in your best interests. You will be expected to provide whatever information is needed to deal with the problem.

Good preparation will enable you to participate effectively in mediation. If you have a lawyer, he or she will be a valuable resource in this preparation. Some of the main steps in effective preparation are:

- Review your goals and interests - and those of other parties. Look for win-win potential.
- Clearly identify and summarize all of the main issues in the dispute.
- Determine what information you will need to deal with the issues in dispute. Collect and organize the information available to you and advise other parties what you need from them. If possible, exchange all required information with the other party and provide a copy to the mediator.
- Put yourself in the shoes of the other side, and imagine what might be important to them. Prepare to listen carefully so as to gain understanding of their views.
- Identify the likely results, costs and risks (money, time, goodwill, reputation, morale, productivity and other impacts) of going to court or arbitration if an agreement cannot be reached. Identify your best alternatives to a negotiated agreement - that is what is your best alternative away from the mediation table. Your lawyer will be able to give you an estimate of the monetary costs of going to litigation but, of course, there are many non-monetary costs as well.
- List any specific questions or concerns that you may wish to raise with the mediator before the mediation.
- Approach the mediation process optimistically and with a positive attitude - this is the best way to achieve a positive result!
- Work closely with your attorney and prepare to take an active role in the mediation and to directly express your thoughts and feelings about the issues in dispute.