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MEDIATION

Mediation is a process where participants select a neutral professional whose role is to assist them to negotiate an agreement with respect to the outstanding issues. We at Family Solutions are mental health professionals, who have expertise in separation/divorce and conflict resolution.

The goal of mediation is to settle the dispute, and to resolve it in such a way that the participants are satisfied that although not perfect, the agreement is in the best interests of the children and “good enough” for both sides to live with.

Those seeking mediation choose the level of confidentiality in the mediation. In this respect, mediation can be either “closed” or “open”. Where closed mediation is chosen, the mediator will not voluntarily disclose information obtained during the mediation without the consent of all parties. In addition, the mediator cannot testify in court (except in rare circumstances) and the information obtained is not admissible in court. Where open mediation is chosen, the mediation can disclose information obtained during the mediation. The mediator may also be called upon to testify.

Increasingly, mediation has gained in popularity as an alternative to an adversarial process. It is frequently faster, less expensive, certainly not as formal, and often results in less of an adversarial atmosphere. Of course, not every conflict can be successfully resolved in mediation. In these instances the parties may then turn to arbitration or choose to go to court. If the parties do reach an agreement on some or all of the issues, the mediator will prepare a draft Memorandum of Understanding (parenting plan) with respect to those issues agreed upon. In our experience, participants who resolve their differences in mediation tend to leave the process with a better co-parenting relationship than those who engage in a traditional court proceeding.