

Rules and Guidelines for Family Mediation

PURPOSE OF RULES AND GUIDELINES

These rules will assist you in reaching a settlement of the issues that you bring to mediation. They are necessary to protect the integrity and confidentiality of the mediation process. The guidelines will assist you in examining relevant factors necessary for a full discussion of the issues.

1. Conflict is healthy, but unresolved conflict is dangerous.

Conflict can be frightening, but it is also a signal that challenges lie ahead. Mediation is a way to resolve conflict in a manner that gets you what you want.

2. Conflict over issues is resolvable in mediation; conflict over behavior is resolvable in therapy.

3. Almost everyone wants to settle.

People usually come into mediation wanting to settle but not knowing how to settle. The only time mediation is likely to fail is when one of you or both of you have chosen to use mediation as a way to continue the conflict rather than resolve it, or when one of you really believes you will get a better deal outside of mediation.

4. Successful negotiations are more likely when you require an ongoing relationship, like that of two parents, than when no future relationship is expected.

5. The outcome of this mediation is your responsibility.

What you agree to is up to you. The mediator will help you agree by being in charge of how you will mediate.

The hows of mediation are as follows:

- a. There will be full disclosure of all relevant facts.
- b. The outcome will be fair and designed to meet the individual needs of each of you as well as your joint needs.
- c. There will be no victims as a result of your agreements.
- d. The channels of communication between you will be open and direct.
- e. You will each be empowered to make decisions in mediation and continue the decision making process in the future.

6. Each person brings her/his own inner wisdom to mediation. We all have common sense and know what is good for us.

AGREEMENT TO MEDIATE

These rules will be part of the Agreement to Mediation that you signed during our first meeting.

MEDIATOR'S BEHAVIOR

What the mediator does is determined by the situation. I will conduct the mediation in whatever manner will permit full discussion and resolution of each issue. I am authorized to negotiate between you and to encourage you to settle each issue.

Sometimes I will carefully explain what I am doing, sometimes I will not. Sometimes I am an educator, sometimes I am testing reality. In a few cases, I tell people what to do. At all times, I will be neutral and see that fairness takes place.

I may not concur with every one of your agreements. If that is so, I will make a note of my non concurrence in your settlement document. My comments usually regard the standard of fairness I see or issues relating to the needs of the children.

CONFIDENTIALITY OF MEDIATION

Louisiana law provides for privileged or confidential communication in court ordered mediation. We ask that each couple contract with each other and with the mediator to keep the mediation discussions confidential. By signing the Agreement to Mediate, which incorporates these rules and guidelines, you agree as follows:

1. Mediation is a procedure for reaching settlement of a dispute either in litigation or likely to be in litigation between you.
2. Through the adoption of these rules, you agree that neither of you may call the mediator or any officer or agent of the mediator as a witness in any litigation of any description in which they are called upon to testify as to any matter regarding the mediation proceeding and, in addition both of you will be prevented from requiring the mediation to produce any records or documents or any other notes or papers made by the mediator.
3. Mediation conducted by a professional mediator shall come within the purview of the professional privilege as established by the Academy of Family Mediators and any other statutory protection enacted after the date of these rules.
4. In court ordered mediation, each parent agrees that the mediator can report to the court failure to reach an agreement. Such a report will note only a failure to settle the dispute. No details as to the nature of the mediation will be offered to the court.

PARTICIPATION OF CHILDREN AND OTHERS

Children or other persons having a direct interest in the mediation may participate in those sessions related to their which consent of the parents and the mediator.

DRAFTING OF THE MEDIATION SETTLEMENT

At the conclusion of the mediation, I will draft a detailed document settling forth the decision agreed upon by you in mediation. The settlement will contain background information about you and will set forth the factual information you relied on in reaching the settlement. The document will be submitted by each of you to your attorneys who will review it. Any new or omitted issues raised by your attorneys will be returned to mediation if they cannot be quickly and cooperatively resolved. The final settlement will be filed with the court.

LEGAL REPRESENTATION

You understand that the mediator does not represent either or both of you. Effective legal representation is required, and you each agree to retain counsel of your own choice to represent you no later than at the conclusion of the mediation process.

The mediator recommends that you retain legal representation at the time you commence the mediation process. This recommendation is based upon the fact that the role of the attorneys in reviewing and implementing your decisions is an important role that can allow for an expedited completion of the process if you have selected your attorney during the mediation process. This also eliminates confusion about legal rights as the mediator does not discuss legal issues nor your legal rights. Each of you retains the right to confer with your attorney any time during the mediation process.

Should either of your attorneys offer a different opinion about the decisions you have made, **you will be expected to use your standard of fairness to reach your decisions about what is best for you and your children.**

AMENDMENT OF RULES

The amendment of these rules will occur at such a time as to not interfere with the mediation process. The mediator reserves the right to amend these rules at any time.