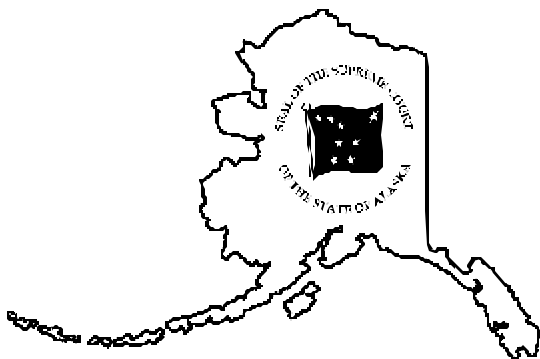


# WHAT IS MEDIATION?

Answers to Some Common Questions



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## WHAT IS MEDIATION?

Mediation is a process in which a neutral and independent third person helps parties involved in a conflict to reach a voluntary and mutually acceptable settlement of their differences. In mediation, the parties discuss the disputed issues with the mediator who through active listening techniques attempts to help the parties reconcile their differences and reach an agreement that defines their future actions.

## WHAT IS A MEDIATOR?

A mediator is a facilitator who directs the discussion of the issues. The mediator is not a judge and does not decide who is right or wrong. Using communication and listening skills, the mediator guides the parties to an understanding of the issues involved in the dispute and helps them find agreeable solutions to the problem. A mediator does not have to be an individual. A community could organize a mediation board to help resolve conflicts in a neighborhood or village.

## WHAT KINDS OF DISPUTES CAN BE MEDIATED?

Any dispute can be mediated if both parties are open to the idea of settling the conflict. Mediation is particularly effective when the parties have a relationship that will continue after the dispute is resolved, for example, family members, landlord/ tenant, employer/ employee, or neighbors.

## WHAT ARE THE BENEFITS OF MEDIATION?

- ? Parties who have voluntarily come to a solution regarding their dispute have a greater sense of control over their situation and a vested interest in seeing the agreement work
- ? Because mediation involves a frank discussion of each party's needs and interest, disputants are often able to get past the actual conflict and discover the underlying causes of the dispute.
- ? Parties who go through the mediation process can learn new approaches to resolve conflicts based on techniques used in mediation: active listening, conflict management, team work and agreement drafting.
- ? Divorcing parents who mediate successfully tend to have more friendly relationships after the divorce, which can be beneficial to the children and their relationship with both parents.
- ? Mediation may be less expensive and more rapid than the judicial process.

## WHAT HAPPENS IN MEDIATION?

A mediator usually begins by describing the mediation process. The mediator then gives each person an opportunity to tell his or her side of the story. The mediator helps determine the issues, suggests a negotiation process and helps the parties look at all possible options for agreement. When a final agreement has been reached, the mediator helps the parties put it in writing. Some mediators require that clients sign an agreement that the mediator will not be called to testify in court and that what occurs in mediation will not be used as evidence in a trial.

## **WHO PAYS FOR MEDIATION?**

The parties are responsible for payment and must agree between themselves how to handle the cost of mediation.

## **IS IT NECESSARY TO HAVE A LAWYER?**

Lawyers need not participate in mediation. The parties determine their own agreement. That agreement may not be what a court would decide. Since it is important for each party to know what his or her legal rights are, each party may want to consult an attorney to discuss the merits of mediation or the merits of any tentative agreement reached in mediation.

## **WHAT HAPPENS IF MEDIATION DOES NOT WORK?**

If mediation is unsuccessful, the parties can still take the matter to court.

## **HOW DO I LOCATE A MEDIATOR?**

In some communities, mediators are listed in the Yellow Pages under the heading "Mediation" or "Mediation Services."

The Better Business Bureau has mediators available to mediate trade disputes between a consumer and a business or between two businesses.

The Alaska Court System Custody Investigator's Offices in Anchorage and Fairbanks keep a current listing of people available to do mediation in their areas. This information is available to the public upon request by calling the Anchorage office at (907) 264-0428 or the Fairbanks office at (907) 452-9360.

The Alaska Judicial Council produces two publications that provide mediation information. Both publications "Mediation, Alternative Dispute Resolution (ADR) and the Alaska Court System" and "A Consumer Guide to Selecting a Mediator" are available upon request from the Alaska Judicial Council, 1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501, (907) 279-2526.

If you have a child custody dispute, the court has a subsidized mediation program that might be available to you. Ask the local clerk of court's office for Publication No. 26 "Child Custody and Visitation Mediation Program" for more information.