

SUPREME COURT, CIVIL BRANCH QUEENS COUNTY

MATRIMONIAL MEDIATION PROGRAM

Frequently Asked Questions

Queens County Supreme Court's Matrimonial Mediation Program offers a free, 90-minute initial session with a mediator to divorcing parties who already have cases pending in Queens County Supreme Court. Program mediators have significant training and experience in family mediation and in opening paths of communication that emphasize common ground and encourage cooperation. They help parties to resolve key issues that affect their relationships with their children and the financial well-being of all family members. Parties are free to choose at the end of the free 90-minute session whether they wish to continue in mediation.

What is Mediation?

Mediation is a confidential, informal dispute resolution process in which a neutral third person – the mediator – helps divorcing parties to communicate and reach individually-tailored solutions to parenting and economic disputes. Mediation allows the parties to expand the discussion beyond disputed legal issues and to address the feelings, needs, and values underlying the conflict. Mediation often results in a written agreement that can be incorporated into an Order or Judgement of Divorce.

Mediators do not decide who was right or wrong in the past or impose solutions. They do not evaluate the strengths and weaknesses of either party's case, assess the likely court outcome, or offer legal advice. Instead, mediators help parties focus on their restructured future and empower the parties to make their own decisions that meet their unique needs and interests. Please note that mediation is not appropriate where there is domestic violence or any severe power imbalance that impacts an individual's ability to express what is in his or her own best interest.

The presence of separate counsel for each party during mediation sessions is expected and strongly encouraged. Whether appearing in the mediation alongside their clients or advising clients outside of the mediation process, attorneys play a crucial role in informing parties of their legal rights and responsibilities and the consequences of proposed solutions.

What are the Benefits of Mediation?

Research shows that mediation settles a large percentage of cases otherwise headed for litigation, speeds settlement, saves money, and increases compliance, and satisfaction, with agreements. Most importantly, mediation leads to improved relationships between parents and their children,

as well as between divorced parents, even years after the settlement.¹ Finally, mediation leaves parties no worse off: parties are still free to go to trial if they cannot settle.

What Happens in Mediation?

Both parties have the opportunity to raise issues of concern and to explain the facts of the dispute as each person sees them. The mediator then asks questions to identify those parenting and economic issues that require discussion. Once the mediator and parties have identified the issues for discussion, the mediator helps the parties work collaboratively to explore and choose options that meet the parties' needs.

Although most information is exchanged with everyone at the table, there may come a time when either party, the party's counsel or the mediator suggests a caucus. During the caucus, the mediator meets individually with each party to explore how the parties view the dispute and the impact of any proposed solutions. The mediator does not share any information discussed in caucus without the disclosing party's permission.

If the parties agree to a parenting plan that resolves the issues of child custody, visitation or financial issues, that agreement will be returned to the referring Justice for review. If approved, the agreement may be incorporated in the court's Order or Judgment of Divorce. If the parties are unable to reach agreement on some or all of the issues, they return to court.

Who are the Mediators?

The mediators on the Court's Roster of Neutrals have successfully completed a minimum of sixty (60) hours of family mediation training, have at least 4 years of family mediation experience, including 250 hours of face-to-face mediation with clients, and have mediated a minimum of 25 cases involving issues of custody and visitation.

Do I Pay for Mediation?

Queens County Supreme Court's Matrimonial Mediation Program offers a free, 90-minute initial session with a mediator. If the parties schedule additional sessions, the mediator is entitled to a fee. The fee is negotiated between the parties and mediator, but shall be no more than \$250 per hour.

How is a Mediation Scheduled?

Ask to be referred to the Matrimonial Mediation Program at any time that you appear in court. Once the court sends the parties to mediation, the Program will provide the parties and their counsel the contact information for the mediator. For more information, please contact the Program Coordinator at mbradley@nycourts.gov or call 718-298-1100.

¹Robert Emery, et. al, Divorce Mediation: Research and Reflections, Family Court Review, Vol. 43 No. 1 (January 2005) pp. 22-37.

Queens County Matrimonial Mediation Program - Fact Sheet

The following provides basic information and is not meant to substitute for the full Statement of Procedures.

- You must have a divorce case pending in Queens Supreme Court.
- The Program provides a mediation services for parenting and economic issues in contested matrimonial or post-judgment cases..
- Cases can be referred either by the Court or on request of the parties.
- There is only one attendance requirement: Parties must participate in an initial 90-minute mediation session. There is no fee to the mediator for this first session.
- If parties choose to continue with mediation after the first 90-minute session, the mediator shall be entitled to compensation. In no case shall the fee exceed \$250 per hour. The Program itself imposes no fee.
- The mediator is generally selected by the Program office. Parties, however, are free to substitute a mediator of their choice within the guidelines set down in the Procedures
- The presence of counsel for each party is expected and strongly encouraged. However, by agreement of the parties, mediation may proceed in the absence of counsel unless otherwise ordered by the court.
- Experience shows that party participation, as opposed to participation by counsel only, both increases the likelihood of an agreement and enhances the parties' satisfaction with it. Therefore, parties will participate unless exempted by the mediator for good cause shown.
- All communications in the mediation process are confidential (with certain appropriate exceptions defined in the Statement of Procedures [e.g., allegations of child abuse or neglect]). If mediation results in a written agreement signed by all parties, it will be submitted to the court for review.
- Firm deadlines govern the Program. Mediators are selected within five business days of referral of a matter to the Program. Initial sessions must be conducted within 20 days of confirmation of the mediator. All sessions must be concluded within 75 days. Other deadlines are noted in the Statement of Procedures.
- For additional information, please call the ADR Coordinator, Maria Bradley, Esq., at (718) 298-1100, or send e-mail mbradley@nycourts.gov.