

Preparing to mediate your divorce or family law case

In order for your mediation to be a success, you need to spend some time beforehand figuring out

- What the issues are (i.e., what needs to be mediated);
- What your ideal resolution would be for each issue; and
- What you are possibly willing to compromise on.

Depending on the issue, you should also think about what you would want to happen if something goes wrong in the future. (For example: You may agree that one party gets the house and has to refinance it within 3 years. But what should happen if they don't do the refinance within the agreed-upon timeframe?)

The following is intended to get you thinking about issues you may need to address in your mediation; it is not intended to cover everything, it is simply a starting point.

Property

Real Estate

- Appraised value? Assessed value?
- Mortgage:
 - Who's going to pay the mortgage?
 - Will there be a refinance or assumption? When?
 - What happens if the person who's supposed to refi doesn't do it?
 - If the house is going to be sold, how are the mortgage and related expenses going to be paid until the house sells?

Accounts

- Bank accounts (any online accounts)
- Investment accounts

Pensions, retirement accounts, IRAs

- 401(k)s
- Pensions
- Is there the possibility of survivorship benefits on a retirement?
- Are there any loans outstanding against any retirement accounts?

Personal property

- Cars, trucks (is there a loan, or is it paid off?)
- Boats, RVs, other vehicles (again—is there a loan, or is it paid off?)
- Furniture (are there any items that were inherited, or gifts? Are there any items of particularly sentimental value to either party?)

- Family photos (are they digital, and easily copied?)
- Jewelry
- Collectibles
- Tools

Debts, liabilities

- Mortgage:
 - Who's going to pay the mortgage?
 - Will there be a refinance or assumption? When?
 - What happens if the person who's supposed to refi doesn't do it?
 - If the house is going to be sold, how are the mortgage and related expenses going to be paid until the house sells?
- Car loans
- Credit cards
- Student loans
- Other debt (Are there any private loans? Other debts?)

Parenting of Children

Residential schedule/parenting plan

- Fill out the state pattern form and think about everything it asks
- Then think about what else you might need to address that isn't in the form
 - Travel out of state (or out of the country)?
 - Exposure to cigarette smoke?
 - What happens if you need to change the schedule?

Child support

- Again, go through the state pattern form and the worksheets and fill them out
- Then think about what else you might need to include that isn't in the form
 - Do you have expenses for private school, tutors, special expenses?
 - What about sports?
 - Driver's education?
 - How soon after an expense is incurred should the bill be sent to the other parent? And how long does that parent then have to pay their share?
 - Do you want to think about college/post-secondary education expenses now?