

Divorce Mediation

by Sophia Tutorial



WHAT'S COVERED

In this lesson, we'll discuss divorce mediation as a specific application of conflict resolution. The particular areas of focus include:

1. Participation Agreements in Divorce Mediation
2. Advantages of Divorce Mediation

1. Participation Agreements in Divorce Mediation

Divorce mediation is a conflict resolution process that occurs when a divorcing couple agrees to sit down with a mediator to divide up property and finances, as well as to decide on child care or custody.

When couples decide to do divorce mediation, they first need to sign a **participation agreement**, or an agreement that initiates the divorce, in order to begin the process.

When couples meet with the mediator, they get to design whatever solution they want; however, each member of a couple will typically hire an attorney as a consultant to review the solution to ensure that it's legally enforceable. This is because the mediator is not there as a legal expert; the mediator is simply there to help the couples talk about their interests and come to some agreements on the issues they've identified.

Once each party's lawyer reviews the solution, it will be taken to a judge to be approved as a legally enforceable document.

It's important to note that the parties' attorneys will also sign a participation agreement stating that they will not represent either party in any future legal issue. In other words, if one party later wants to take the other party to court over a family matter, the attorneys used in the mediation cannot represent either party in this new case.

This is typically because in reviewing the mediated settlement, the attorneys have learned too much about both parties to be able to fairly represent one of them in a case against the other.



TERMS TO KNOW

Divorce Mediation

Mediation to divide property and finances, and/or decide child custody, as raised by divorce.

Participation Agreement

2. Advantages of Divorce Mediation

Divorce mediation has been so successful and popular among people that many states now require couples to go for at least one session to try it out before going to court.

If some couples decide after the one session that they don't want to go the mediation route, that's, of course, their choice, and states can't force them to.

However, the reason divorce mediation has become such a popular alternative to court is because of several advantages:

- **Time/cost:** Divorce mediation provides a dramatic reduction in time and cost to couples. The process is less expensive than formal litigation, and it doesn't take nearly as long.
- **Outcomes/Parenting plan:** The parties get to develop their own outcomes, which will typically be more mutually satisfying because they (rather than a judge) are deciding on a solution and plan for moving forward.

If the parties have children, part of this solution will likely be a **parenting plan**, which outlines how the parties want to collaborate on child care, or whether they want to collaborate at all.

The parties will work with the mediator to design this plan, which will give them more ownership over the solution than if a judge were to create the plan for them.

- **Post-marriage relationship:** All of this will improve a **post-marriage relationship**, or the relationship between parties going forward as affected by the divorce. Particularly if there are children involved, divorced couples may need to have ongoing contact and an amicable post-marriage relationship.

Using mediation can reduce the tension and animosity that can come with divorce proceedings, whereas a costly and prolonged court case is more likely to increase that tension.



TERMS TO KNOW

Parenting Plan

The plan of divorced parties to collaborate (or not) in child care and rearing activities.

Post-Marriage Relationship

The relationship between two partners as affected/changed by a divorce.



SUMMARY

In this lesson, you learned that **divorce mediation** is a specific type of conflict resolution that couples can use as an alternative to the court system. When beginning this process, couples need to sign a **participation agreement**, which initiates the divorce. With the help of the mediator, the couples can draft their own solution; after the solution has been reviewed by attorneys, a judge will sign off on it as a legally enforceable document.

You now understand that more and more couples are going this route because there are several

advantages of divorce mediation, such as a reduction in **time/cost**, the ability for couples to design their own **outcomes/parenting plan**, and an improvement in the quality of the **post-marriage relationship** between the parties. Good luck!

Source: Adapted from Sophia tutorial by Marlene Johnson.



TERMS TO KNOW

Divorce Mediation

Mediation to divide property and finances, and/or decide child custody, as raised by divorce.

Parenting Plan

The plan of divorced parties to collaborate (or not) in child care and rearing activities.

Participation Agreement

An agreement by a divorcing or separating couple required to initiate divorce mediation.

Post-Marriage Relationship

The relationship between two partners as affected/changed by a divorce.