

Low Risk, High Reward: The Benefits and Risks of Family and Divorce Mediation

By Lawrence F. King, J.D., Attorney-Mediator

You've decided you need to separate your lives, and you've heard of an alternative to the ordinary adversarial or litigated approach to divorce: **family or divorce mediation**.



What are the benefits of this process of mediation, and what are the risks?

Benefits of Mediation

Advantageous Style

In mediation, discussions with spouses and the mediator as well as other advisors are held in a private, comfortable and informal setting, using an efficient process.

Cost-Effectiveness

Mediation relies on direct communication between spouses, rather than a series of phone calls and meetings with separate attorneys, settlement conferences, and preparation for and court hearings. The mediator maintains a focused, constructive dialogue that accelerates the resolution of divorce or parenting disputes. Almost always, this affords very, very substantial costs savings.

Preserving Control

In mediation, spouses or co-parents make the choices about their family's future (crafting a parenting plan, arranging for support needs, and dividing property and assigning debts). The participants determine these matters directly without control by others, and without the uncertainty of a Judge's Orders.

Satisfying Solutions

Cooperative face-to-face problem solving often allows for much more detailed planning and for more creative and satisfactory outcomes. In the collaborative work of family mediation, it is much easier to discuss separate visions of after-divorce needs and circumstances, and to structure agreements to achieve significant tax savings.

Child-Focused Parenting

Mediation's style and approach promotes a focus on children's needs and improving parenting relationships over time (with obvious benefits to children and to the parents' sense of personal peace). Research now confirms the astonishing and persistent benefits of mediation to families. (See last month's issue of *Divorce in Denver Magazine* for my article on the latest studies.)

Confidential

Colorado law protects all settlement discussions in mediation as absolutely confidential. Mediation grants parties safety to consider options without fear that statements, questions or concerns might be used later in court or elsewhere.

Risks of Mediation

As with all forms of dispute resolution (including litigation), divorce mediation involves some risk.

Access to Information

Good agreements require adequate and accurate information. Mediation's less formal process may be disfavored when there are substantial concerns about a participant's integrity or candor in financial disclosures.

Power Imbalances

Mediation may present special challenges or be inappropriate for parties with vast differences in their power (financial sophistication, bargaining savvy, history of medical or mental health or substance abuse issues, and most significantly, when there has been partner violence or abuse). A skilled mediator's evaluation of whether and how to mediate in such a case requires advance disclosure of these issues.

Impasse

And, of course, there is no guarantee that parties will reach a satisfactory resolution of your divorce or family issues in mediation.

Choosing an experienced family mediator is the best way to minimize these risks. And, many of these risks apply to adversarial divorce as well!

Overall

The benefits of divorce and family mediation (with its modest costs) powerfully outweigh the risks for most couples. Mediation empowers couples to retain control in a frequently out-of-control time, minimize costs, and to reach mutually satisfying, durable agreements positively shaping their personal and family's futures.

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For more information including FAQ's and Myths about mediation, see the author's website at:

www.ColoradoDivorceMediation.com

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