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FAQ's on divorce mediation

By Jane L. Schooler

What actually happens in divorce mediation?

Divorce mediation is a 2-part process. In the first part a series of meetings is held. The meetings are usually 2 hours in length and both parties are present. The meetings are held about every 2 weeks until resolution is reached on all issues. During the second part of the mediation process the mediator prepares all the documents necessary to be filed with the court to finalize the divorce.

How long does mediation take?

This is individual to each couple. It takes as long as the parties need or want it to. The time spent in mediation can depend on the complexity of the issues being resolved or the number of issues the parties need the help to the mediator to resolve.

How much does mediation cost?

This depends on then length of time that the parties want to discuss issues in the meetings. The documents for court are a flat fee.

What if my spouse just won't do mediation?

This depends if this is an informed decision. Some persons feel they don't want to mediate, but when they get more information about the process change their minds. So I would recommend that the reluctant spouse get more information from the mediator regarding the benefits of mediation before they make their final decision.

What information should I bring to the first mediation meeting?

The initial meeting is designed to be very low pressure for you. No major decisions will be made. The mediator will be doing most of the work at this meeting including indicating the information that you need to gather for your divorce. My recommendation to clients is that they just come in we will provide everything that you need for this meeting.

Do I still need a lawyer if we go to mediation?

I recommend that clients use lawyers outside of mediation to review and advise clients on the martial settlement agreement.

What training does a mediator have; are they licensed?

Many mediators are also attorneys. California does not license mediators. Potential clients should check to see that mediators are qualified.

Our decision to divorce is mutual (a friendly divorce); so we won't need mediation, right?

Mediation can be used just to process and file your court documents in a case that is entirely amicable and there are no issues regarding property, support, or children.

We are in full agreement on child custody but miles apart on finances can we mediate just that part of our divorce?

Yes, this is a typical situation in mediation.

My spouse is very unpredictable and may not stick with any decisions or mediation agreement. Is there a binding contract that covers what we agreed on in mediation?

Yes, the marital settlement agreement becomes a binding contract between the parties and also an order of the court when the judge signs the judgement.

Can anything I say in mediation be used against me in court at our divorce?

No, with certain limited exceptions, the California Evidence Code makes statements made in the course of mediation confidential.