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Mediation

A Better Way for Children

IN DIVORCE MEDIATION, PARENTS MEET TOGETHER WITH A NEUTRAL MEDIATOR IN ORDER TO REACH AN AGREEMENT ON ALL THE ISSUES THAT NEED TO BE RESOLVED.

WHEN A PARENT HAS made the difficult decision to divorce, that parent usually wants to minimize the impact on the children. Parents agonize about how to tell their children that the parents are getting a divorce. Many divorcing couples say that soon after their children learn about the divorce, the children have trouble sleeping, become fearful, do poorly in school or begin acting out. Child psychology experts say that the trauma to children can be reduced if parents remember that children need two parents in their lives, that the children's needs must be met rationally and emotionally, and that children must not be made into pawns in a battle between two adults. Children do better when the parents believe the needs of the children are more important than the results of the divorce. We often hear parents state that their spouse is an awful partner but a great parent. All too often, the traditional, adversarial divorce leads to escalating fear and anger in husband and wife, with the divorce becoming a war between the spouses.

ILLUSTRATION BY CAROLIE BLECK



es. This leaves the husband and wife with their self-esteem, their financial stability and their children, as victims of the conflict.

Divorce mediation is a different approach to divorce. In divorce mediation, parents meet together with a neutral mediator in order to reach an agreement on all the issues that need to be resolved in a divorce: division of family assets and liabilities, child support, spousal support, and parenting arrangements. Each spouse can consult an attorney during the mediation whenever legal advice is desired, much as spouses might consult accountants or other experts. When the couple has reached an agreement in mediation, the attorney mediator drafts the decisions into a legal agreement which the parties then take to Court for approval. Mediation provides a non-threatening forum in which a trained professional facilitates discussions so that parents can work together to achieve their goals of providing a good life for their children and themselves. Mediation encourages parents to separate their roles as mother and father from their roles as husband and wife.

The traditional, adversarial divorce process encourages parents to talk to each other through lawyers. But, what happens when the divorce is over and the lawyers leave the scene? How do the parents communicate with each other about parenting their children? During a mediation, parents communicate directly with each other about the needs of their children, as they must do after the divorce. The mediator, who has specialized training that lawyers often do not, can assist the couple in learning to communicate more effectively and in solving problems. Although the children are not present in the mediation sessions, their needs are always kept on the agenda by the mediator. Some mediators ask parents to bring in photographs of their children to keep at full view of everyone at the mediation table, to insure that the children's needs are never forgotten. The skills the couple learns and uses during mediation are put to good use after the divorce when the parents must work collaboratively to handle the challenges that arise at new stages in their children's development.

A mediation option is co-mediation, in which an attorney mediator and a therapist/mediator assist the couple in resolving the issues in their

divorce. Co-mediation not only provides couples with mediators who have insights from different professional backgrounds, but also an opportunity to have gender balance, the ability to see the mediators demonstrate healthy disagreement, and the benefit of having mediators who can be attuned to the mediation topic being discussed and the emotions associated with that topic.

Research on post-divorce adjustment shows that dissatisfaction with parenting plans is the major cause of divorced couples returning to Court. Couples who have mediated their divorces are much less likely than couples who used the adversarial process, to return to Court to have the terms of the divorce modified. This saves money and allows parents and children to move on with their lives. As a recent report by Governor Rowland's Commission on Children, Custody, and Divorce noted, a lengthy divorce

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process is not good for children. In Connecticut, not only are mediated divorces less likely to be reopened, but they also are completed significantly more quickly than traditional divorces.

A major benefit of mediation is that couples work together to devise a parenting plan which takes into account the current and future needs of the children. That helps reduce future stress for both parents and makes children feel more secure. The parenting plan details who will parent the children during the week, weekend, holidays and vacations, what arrangements will be made if the scheduled parent is unexpectedly unavailable and who will cover the cost, what the children's religious instruction will be, and plans for the children's education including college. Parents sometimes disagree on what parenting arrangements are best for their children. During the mediation, experts (a child psychologist and other) are often used to advise the parents if the parents disagree or are unsure what parenting arrangements are in the best interests of their children. When both parents hear the expert's advice at the same time, conflict is less likely to

continue than when each parent hires an expert and the duel of the experts begins.

Divorce mediation is not for everyone. Couples with an ongoing pattern of domestic violence and those in whom the level of hurt and anger is so high that revenge is the major goal of the divorce process are not good candidates for mediation.

Some parents worry that if they choose mediation, they will not get all to which they are entitled. The only statistical study of the outcomes of divorce in Connecticut, which we conducted and which was published in *Mediation Quarterly* in the Winter, 1999 issue, shows that the financial and child custody results in mediated and adversarial divorces are virtually identical. Couples also worry that if they have high incomes, mediation will leave one spouse worse off than if they follow the adversarial route. Our study

showed this to be an unnecessary worry, because in both mediated and adversarial cases, the percentages of family incomes and the percentages of family assets received at divorce, by husbands and wives in the Stamford judicial district, the most affluent area of Connecticut, were similar to those for husbands and wives statewide.

Divorce is now a fact of life. More than 12,000 divorces are granted in Connecticut each year. It is likely that you or someone you know will be faced with a divorce. If you cannot have a good marriage, using mediation can allow you to have a good divorce. The welfare of our children and the long term health of our families require that divorcing parents make the right choice. *W*

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