

# IS MEDIATION RIGHT FOR YOU?

## What is Mediation?

Mediation is a process which allows you and another party to work out your disputes outside of the regular court process. You and the other party will try and resolve your own problems. A trained mediator works with you and the other party to resolve the issues in your case. The mediator is neutral and does not say who is right or wrong, unless asked, and does not try to solve your problems for you.

## What are the Benefits of Mediation?

Mediation can be quicker and can save money compared to the regular court process. You can choose mediation or a judge can order you to try to mediate. Mediation can allow you to express opinions about issues and results in a more informal setting. Mediation can produce an outcome that both parties agree is fair.

## When is Mediation is NOT Appropriate?

- √ when one party uses fear, force, threats, violence or intimidation to get what they want;
- √ when the other party does not respect or listen to your opinions and interests; or
- √ when the other party makes you afraid to openly express needs and concerns.

## Is Mediation Confidential?

Mediation is confidential unless you and the other party agree in writing before mediation starts that information may be disclosed. Also, if you or the other party discloses child abuse or neglect, or the threat or harm to another person, and the mediator has a legal responsibility to report child abuse or neglect, the mediator may report the abuse.

**If you are a victim of Domestic Violence**

**For Legal Assistance with a Temporary Protective Order contact:**

**Georgia Legal Services (404) 206-5177 (outside metro Atlanta)**

**or Atlanta Legal Aid (404) 524-5811 (within metro Atlanta)**

**[www.georgiaadvocates.org](http://www.georgiaadvocates.org)**

**For Safety Planning and Shelter Assistance Contact: 1(800) 33HAVEN**

**[www.gcadv.org](http://www.gcadv.org)**

## Can I Withdraw from Mediation?

Yes. Anytime you want to withdraw from mediation you have the right to withdraw. Reaching an agreement is entirely voluntary.

## What Happens If We Cannot Reach an Agreement?

If you are unable to resolve all of the issues, you can ask a mediator to provide recommendations for settlement. If an agreement is not reached in mediation, your case will continue in the court process. A mediator cannot disclose which party discontinued the mediation.

## What Cases Should Never Be Mediated?<sup>1</sup>

- No case involving issues of domestic violence should be sent to mediation without the consent of the victim given after a thorough explanation of the process of mediation.
- Issues related to protection from violent behavior are not an appropriate subject of mediation or negotiation.
- Criminal cases that involve domestic violence should never be referred to mediation from any court.
- Cases arising solely under the Family Violence Act should not be referred to mediation from any court.

**“The Georgia Commission on Family Violence and the Georgia Coalition Against Domestic Violence take the position that mediation in family violence cases can increase the danger for the victim and children. Families in which violence is present have significant power imbalances which should be decided by the court. Batterers can use the mediation process to continue to victimize survivors.”**

## **What is Domestic Violence?**

Domestic violence is a pattern of abusive behavior that is used by one partner to keep power and control over an intimate partner.

Domestic violence can be physical, sexual, emotional economic, or psychological actions or threats to influence another person.

**Physical Abuse:** Hitting, slapping, shoving, grabbing, pinching, biting, hair-pulling, or biting.

**Sexual Abuse:** Coercing or attempting to coerce any sexual contact or behavior without consent. Sexual abuse includes, but is not limited to marital rape, attacks on sexual parts of the body, forcing sex after physical violence has occurred, or treating one in a sexually demeaning manner.

**Emotional Abuse:** Undermining an individual's sense of self-worth and/or self-esteem. This includes constant criticism, diminishing one's abilities, name-calling, or damaging one's relationship with his or her children, or abusing one's pets.

**Economic Abuse:** Making or attempting to make a person financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or employment.

From ABA Commission on DV:  
[http://www.abanet.org/domviol/grantees\\_orientation.html](http://www.abanet.org/domviol/grantees_orientation.html)

<sup>1</sup><http://www.godr.org/pdfs/Guidelines.pdf>