

## The Six Stages of Mediation

In mediation, two or more people come together to try to work out a solution to their problem. A neutral third person, called the mediator, is there to help them along. Most mediators have some training in conflict resolution, although the extent of their training varies greatly. Unlike a judge or an arbitrator, the mediator does not take sides or make decisions. The mediator's job is to help the disputants evaluate their goals and options and find their own mutually satisfactory solution.

Mediation is forward-looking; the goal is for all parties to work out a solution they can live with and trust. It focuses on solving problems, not uncovering the truth or imposing legal rules. This, of course, is a far different approach than courts take. In court, a judge or jury looks back to determine who was right and who was wrong, then imposes a penalty or award based on its decision.

Because the mediator has no authority to impose a decision, nothing will be decided unless both parties agree to it. Knowing that no result can be imposed from above greatly reduces the tension of all parties - - and it also reduces the likelihood that someone will cling to an extreme position. Also, if mediation does not produce an agreement, either side is free to sue.

Typically, neighbor-to-neighbor or other personal issues are resolved in a few hours. Negotiations between divorcing couples or small businesses often involve several half-day sessions, spread out over a month or two.

Many people think that mediation is an informal process, in which a friendly mediator chats with the disputants until they suddenly drop their hostilities and work together for the common good. In fact, mediation is a multi-stage process designed to get results. It is less formal than a trial or arbitration, but there are distinct stages to the mediation process. Most mediations proceed as follows:

**Stage 1:** Mediator's opening statement. After the disputants are seated at a table, the mediator introduces everyone, explains the goals and rules of the mediation, and encourages each side to work cooperatively toward a settlement.

**Stage 2:** Disputants' Opening Statements. Each party is invited to describe, in his or her own words, what the dispute is about and how he or she has been affected by it, and to present some general ideas about resolving it. While one person is speaking, the other is not allowed to interrupt.

**Stage 3:** Joint Discussion. The mediator may try to get the parties talking directly about what was said in the opening statements. This is the time to determine what issues need to be addressed.

**Stage 4:** Private Caucuses. The private caucus is a chance for each party to meet privately with the mediator (usually in a nearby room) to discuss the strengths and weaknesses of his or her position and new ideas for settlement. The mediator may caucus with each side just once, or several times, as needed. These private meetings are considered the guts of mediation.



**Stage 5:** Joint Negotiation. After caucuses, the mediator may bring the parties back together to negotiate directly.

**Stage 6:** Closure. This is the end of the mediation. If an agreement has been reached, the mediator may put its main provisions in writing as the parties listen. The mediator may ask each side to sign the written summary of agreement or suggest they take it to lawyers for review. If the parties want to, they can write up and sign a legally binding contract. If no agreement was reached, the mediator will review whatever progress has been made and advise everyone of their options, such as meeting again later, going to arbitration, or going to court.