

What if mediation fails?

The main goal of mediation is to help parties come to a mutual solution through open communication. Even if a final solution isn't reached, it doesn't mean mediation has failed, since many intermediate issues and problems may have been solved along the way. If two parties cannot come to a final agreement through mediation, the case can still go to court to be reviewed and decided by a judge. If this is the case, it would be wise to speak with a lawyer. Working with an experienced lawyer can help you understand your rights and help you deal with the complicated court system.

Additional mediation facts

- » Mediation usually lasts a shorter time than a trial and can take anywhere from half-a-day to several weeks.
- » Mediation is confidential and nothing said in mediation can be used in court if the process fails.
- » Mediation is usually expeditious and cost-effective.
- » Mediation is extremely useful in dealing with cases of a sensitive and personal nature, in which it is essential that trust and cooperation exist throughout the process.

Additional information may be found at:

LawHelp.org/SC

South Carolina's guide to free legal resources

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Printed May 2019



**South Carolina
Legal Services**

Balancing the Scales of Justice

MEDIATION



Our Mission

South Carolina Legal Services is a statewide law firm that provides civil legal services to protect the rights and represent the interests of low-income South Carolinians.

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What is Mediation?

MEDIATION is the process by which a neutral THIRD PARTY intervenes between two conflicting parties to promote reconciliation, settlement, or compromise. Mediation is an effective tool for resolving almost all CIVIL (non-criminal) disputes. Mediation provides disputing parties with the opportunity to identify and cope with divisive interpersonal issues not originally thought to be part of the dispute.

Mediation vs. Arbitration?

A MEDIATOR normally has no authority to render a binding decision. It is up to the parties themselves, with the mediator's help, to work informally toward a mutually satisfying agreement. In contrast, an ARBITRATOR, acting as a judge, conducts a hearing between the parties and renders a legally binding decision. ARBITRATION resembles a court hearing with witnesses called and evidence taken. Mediation lacks many of the formalities that arbitration or a court setting requires.

What types of cases can be mediated?

Typical mediation cases often involve:

- » Divorce settlements
- » Child custody agreements
- » Child support agreements
- » Spousal Support/Alimony agreements
- » Contractual disputes
- » Landlord and tenant conflicts
- » Employment disputes

Do I need an attorney to participate in mediation?

In most instances, mediations are conducted by lawyers experienced in the area of law in which you need help. Lawyers also often represent the individual parties in the mediation process, especially if the case involves substantial property or legal rights. Even if you do not intend to be represented by an attorney, it might also be wise to consult one prior to engaging in mediation so you understand the issues in your case.

Is using mediation cheaper than going to court?

Using mediation for things like divorces can be much less costly than going to court. Mediation generally takes much less time than litigation. This decrease in time means less in hourly fees to be paid to attorneys. This will save you money.



In what circumstances will courts order mediation?

Mediation is now commonly required by family courts to resolve any contested issue such as custody, visitation, child support, alimony, property division, and debt division. In most family courts the judge will not decide a contested issue if you have not mediated your case.



How can I find a mediator?

If a court has ordered mediation for your case, you can select your mediator from a list of approved mediators kept by the court or the judge may assign a mediator to your case. If you are seeking mediation on your own, you can select a mediator either from a referral service or from the lists kept by the court. There are also community mediation centers that may be more cost effective than using a traditional attorney mediator.