

***BURLINGTON COUNTY SUPERIOR COURT  
COMPREHENSIVE JUSTICE CENTER***

***CUSTODY & VISITATION  
MEDIATION***

## ***INTRODUCTION***

The Child Custody and Visitation Mediation Program utilizes trained volunteers from the community to mediate custody and visitation disputes. Mediation has been found to be a preferred option for families involved in custody and visitation disputes because it focusses not only on solving the problem at hand but it also looks at ways to ensure that the same type of problems do not re-occur in the future.

## ***WHAT IS MEDIATION?***

Mediation is a structured and confidential form of negotiation that allows the parties to meet with a court appointed neutral to try and resolve a given dispute. In Mediation, the parties have control over the outcome of their case. This is especially significant in family cases because clearly those closest to the situation are in the best position to decide what is in the best interest of the children involved.

If you go before a judge, he/she will hear all pertinent facts and will then render a decision regarding what is believed to be in the best interest of the children. In court, you are not given an opportunity to negotiate the outcome, but rather the judge makes the decision and you are required to abide by it. Mediation, however, allows you and the other party to define what is the best solution to the problem.

## ***YOUR ROLE IN MEDIATION***

You are an active participant in the mediation process. You and the other party begin by meeting with a trained mediator who is neutral and will listen impartially to each side. The mediator does not take sides and does not make judgements about who is right or wrong. The mediator is there to help everyone discuss possible options for solving the problem.

## ***THE GROUND RULES***

In order to have a productive exchange of information, it is essential that each party agree to the following ground rules:

- Each person must agree to listen carefully while the other is speaking,
- Only one person may speak at a time,
- Everything discussed in mediation is confidential,
- There is no shouting or derogatory language to be used in mediation,
- No agreement will be reached unless both parties mutually agree to the terms and conditions discussed,
- If an agreement is reached in mediation, the parties must agree to honor all terms contained within.

Cases not appropriate for mediation are those in which there has been a history of: Domestic Violence, substance or alcohol abuse, child physical or sexual abuse or serious psychological or emotional impairment..

## ***THE AGREEMENT***

Once all parties involved in the dispute have reached agreement, the mediator writes down all terms on a Mediation Agreement form. The agreement is then presented to the judge for his/her review and signature. Each person will receive a copy of the agreement for their own records. The agreement, once signed, becomes a legally binding document.

## ***IF THERE IS NO AGREEMENT***

If you are unable to reach agreement in mediation, your case will be returned to court and a decision will be made by the judge on how to proceed. The judge may decide to: 1) hear the case, 2) refer it to the Custody Neutral Assessment Program or 3) refer it for Psychological or Psychiatric Testing. There is a cost associated with both the CNA and the Formal Testing process which must be paid by the parties.

## ***IF AGREEMENT IS BROKEN***

If an agreement is reached and is later broken, you should contact either the Family Division or the CJC for further information on how to proceed. If the agreement that you have previously reached, needs to be adjusted and both parties agree, you can contact the CJC who can arrange for you to meet with a mediator. This will avoid the need to go back to court.

***COST:*** There is no cost associated with mediation.