

# 4<sup>th</sup> Judicial District Mediation Office

## El Paso and Teller Counties

### Frequently Asked Questions

#### **Our mediation will only last an hour. Do we have to pay for the entire two hours?**

*Mediation sessions are scheduled for a minimum of two hours to ensure that parties have enough time to mediate the issues and reach an agreement. The mediator may, at their discretion, adjust the length of the session.*

#### **Do I have to be in the same room?**

*Mediation sessions are conducted by video or phone and do not require parties to be in the same physical location. The mediator will speak to each party individually throughout the appointment while they attempt to bring parties to a resolution. Direct discussion between the parties throughout the session is not required.*

#### **How does mediation work? What do I have to do?**

*Mediation is an informal process in which a trained, neutral third party helps people in conflict to negotiate a mutually acceptable agreement. A mediator has no authority to impose a solution. Each party will have the opportunity to express their point of view, and the mediator assists by helping the parties to communicate, to identify issues needing to be resolved, to develop options for resolving the issues, and to come to agreement on resolution if possible.*

#### **Do I have to have a lawyer to mediate?**

*Mediation sessions can be held with or without attorneys present. The decision whether to have an attorney present during mediation is entirely up to each individual participant. It is important to note that the mediators will not give legal advice to any party throughout the session.*

#### **What if I don't have an attorney and my ex does? Does his/her attorney get to be in the mediation even if I don't want them to?**

*Any participant, at their discretion, may bring an attorney to a mediation session.*

#### **Can my new spouse come be with me? Can my children participate in mediation?**

*Mediation sessions are conducted with the direct parties to the case and the mediator. Non-parties and children are not permitted to participate or listen to mediation sessions.*

## **What kinds of disputes are appropriate for mediation?**

*Mediation has been used successfully in a wide range of civil disputes, whether or not a court case has been filed. It works best in cases in which the parties want to work out a solution. It is particularly helpful in disputes in which the underlying issues will not be resolved by a court order, or in which there will be a continuing relationship between the parties. ODR mediates domestic relations, juvenile, dependency and neglect, county court civil, district court civil, and probate cases, as well as disputes which have not been filed in court such as real estate earnest money and employment disputes.*

## **The other party doesn't want to work out a solution. Why do we have to mediate?**

*Courts have authority to order parties to mediate. Frequently, once parties are engaged in the mediation process, they find it helpful and are able to work out a mutually acceptable agreement. Even if there is no agreement as a result of the mediation, the parties can benefit from the opportunity to discuss their points of view and can learn more about the other party's point of view. In ODR's cases, approximately 85% of parties participating in mediation either reach full or partial agreement or leave with a proposed solution and a deadline to respond to the proposal.*

## **What do I have to bring to the mediation?**

*If you are participating in a District Court Civil mediation, you will be asked to send the mediator a confidential settlement statement, complaint or answer, and Rule 26 disclosures 10 days before the first session. If your mediation concerns domestic relations or juvenile matters, a current Sworn Financial Statement should be brought to the first session if child support, maintenance or property division is at issue. Also suggested are a complete copy of state and federal income taxes for the most recent three years, pay stubs for the most recent three months, and any available information relating to pension, retirement, or profit-sharing plans. In addition to the above requirements, for post-decree cases, it's suggested that parties provide a copy of the Separation Agreement and, if there are children of the relationship, the Parenting Plan. For all mediations, it is very helpful to have met with your attorney prior to the first session, so that you know what to expect, and what the law says about your issues.*

## **What happens if we come to an agreement?**

*Upon a full or partial agreement in mediation, the mediator will prepare a Memorandum of Understanding (MOU) which reflects the agreement of the parties. Both parties will have an opportunity to review and sign the MOU, which may then be submitted to the Court. The Judicial Officer assigned to your case has the authority to adopt the MOU as an Order of the Court.*

## **What happens if we can't come to an agreement?**

*If a full agreement is not reached in mediation, the remaining issues will be decided through formal court proceedings.*

## **Can my new spouse come be with me? Can my children participate in mediation?**

*Mediation sessions are conducted with the direct parties to the case and the mediator. Non-parties and children are not permitted to participate or listen to mediation sessions.*

## **How do I get my ex to agree to attend mediation? They seem to be avoiding it and I think it will really help.**

*Parties may be under a court order to attend mediation. Any attempt by either party to arrange and attend mediation will be documented in the court file, which may be viewed by the assigned Judicial Officer at any time. Any non-compliance with mediation will also be documented in the court file. The Judicial Officer will use their discretion to enforce a mediation order.*