

FAMILY MEDIATION

A non-adversarial process of
Resolving Family Disputes



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Jeremy W. Howe is an attorney and mediator practicing in Newport, Rhode Island. He has specialized in Family Law for more than 35 years. He is a graduate of Suffolk University School of Law and a member of the Rhode Island Family Law Inn of Court, the Rhode Island Bar Association, and the Association for Conflict Resolution. Jeremy has also instructed Rhode Island lawyers and mental health professionals in mediation and family law at Roger Williams University and frequently lectures on Military divorce and family law, pension and QDRO law, elderlaw mediation and Advanced mediation practice and procedures/

Nancy Johnson-Gallagher is a psychotherapist and mediator. She has had her own psychotherapy practice since 1993. She was awarded a Masters Degree in Social Work from the University of Houston. Nancy has completed mediation training through Mediation Arbitration Services and the A.A. White Dispute Resolution Center. She is a member of the National Association of Social Workers. She has conducted mediation workshops and training sessions for individuals and groups. Clients have included corporations, small businesses, government agencies, families and private parties in conflict. Areas of expertise include divorce and children of divorce, women's issues, gender issues, abuse and trauma.

What is Family Mediation?

Family mediation has been defined as a process in which a neutral third party assists a family in identifying negotiating, and resolving issues. The role of the mediator includes reducing the obstacles to communication, maximizing the exploration of alternatives, and addressing the needs of those involved or affected. Mediation is based on principles of problem-solving that focus on the needs and interests of all family members.

Family mediation involves the resolution of all family problems including:

- A. Marital mediation
- B. Problems between parents and children
- C. Custodial and financial care agreements for elderly and infirmed parents
- D. Pre-nuptial agreements
- E. Divorce and separation issues
- F. Post divorce modifications
- G. Step parenting and step family issues like sharing the cost of a child's college education
- H. Any other problems involving families and parties involved with the families

I. The Goals of Mediation

To assist parties in reaching an agreement that is fair and equitable to each.

Why Use mediation?

- A. To keep communication open.
- B. To contain conflict.
- C. To keep control and responsibility for decisions with parties.
- D. To enable parties to understand facts, issues, consequences, and decisions more fully.
- E. To reach agreement tailored to concerns and needs of clients not attorneys or courts.
- F. To keep focus on fairness and best interests of children, if any.
- G. To develop skills for future use.

II. Choosing a Mediator

In Rhode Island, there are mediators who work alone, and mediators who work in teams. They are normally attorneys and psychologists or social workers or other such professionals who have acquired special training in mediation. Teams are often composed of one psychologist and one attorney.

In order to be a court-approved mediator in Rhode Island, you must be appointed by the Admissions Committee. The appointment is made only after you have agreed to the standards of practice for mediation developed by the American Bar Association and the

Society of Professionals in Dispute Resolution. You must also carry mediation malpractice insurance and complete an intensive training program of at least forty hours.

You should choose your mediator as carefully as you would choose your divorce attorney or your family physician. Ask: What is the mediator's technical background, experience, training, and references? Was the mediator's training approved by the Academy of Family Mediators?

III. Mediation Is Not

- A. Arbitration in which a neutral third party is the fact finder or decision maker.
- A. Conciliation. When communication is facilitated, conciliation is possible, but it is not a goal of mediation.
- B. Therapy. Parties are referred out for therapy, if necessary.
- C. Representation. A mediator does not give legal advice or therapeutic advice.

IV. Compensation of Mediators

Mediators will charge an hourly rate for the sessions which are usually paid as you go. Sessions can run from one to three hours. You will establish this with the mediator at your first session. Typically, mediation costs are divided between the parties. This also will be determined at your first session. The mediator works on your case only during the mediation sessions and you would not ordinarily be asked to pay fees other than the session fees.

V. When is Mediation Inappropriate?

- A. When alcohol or drug abuse is present.
- B. When physical abuse has occurred.
- C. When one or both parties do not want the process to proceed.
- D. When extreme personality problems are present (e.g. sociopathic or manipulative behavior or dishonesty).

VI. What you should know about Partners in Mediation

- A. All mediations are facilitated by the impartial mediators Jeremy Howe, JD and Nancy Johnson-Gallagher, LICSW.
- B. Mediation sessions usually take place at 55 Memorial Blvd, in Newport, but arrangements can be made to meet in Providence, South County, or Warwick
- C. The cost of mediation is \$300 per hour and usually each mediation session lasts two hours.