

FREQUENTLY ASKED QUESTIONS

The Mediation/Child Custody Recommending Counselors (CCRC) Division is composed of professionals who serve families in need of assistance with creating a parenting plan for their children. California law states that when any child custody and/or visitation issues are contested the court shall order the parties to participate in and complete the local mediation program.

Can you tell me more about mediation?

Mediation is a form of conflict resolution, in which parents sit down with a neutral professional, the mediator/CCRC, and attempt to resolve their differences concerning the appropriate parenting plan for their children. The mediator's job is to provide a safe place for each person to speak and be heard. The mediator also provides information about the effects of parental separation, the developmental needs of their children, and how to effectively share parenting responsibilities so as to meet the needs of these children in the future.

Mediation provides parents with the unique opportunity to have self-determination in the decision making process regarding their children. Most of the time parents are able to see beyond their own immediate needs and, with the help of a mediator, work together to develop a parenting plan that serves the best interests of their children.

When mediation does not result in a mutually agreed-upon parenting plan, the mediator is required to file a written report and recommendation to the court. Both parents will receive a copy of this report and recommendation.

Please keep in mind, if the parents are unable to reach an agreement in mediation, it is the judge who will make the final decision as to what the appropriate parenting plan will be, not the mediator. The mediator's recommendation is only one of several factors the judge will consider in making the parenting plan decision. Each parent will be given an opportunity to present their position to the judge at the appropriate time.

What should I do to prepare for mediation?

The most important thing you can do is complete orientation. A link to Butte County Superior Court's online mediation orientation is available on the Family Court Services page of the court's website. It is also available on the computers at the Self-Help area in the North County Courthouse. The orientation provides information on how to prepare for your mediation session so your situation is clearly conveyed and you can move forward with your case.

Do I have to complete orientation before mediation?

Family Court Services provides an online orientation class for parents who have a mediation appointment. The parties are required by the court to complete the online orientation before their scheduled meeting with a mediator. This is a mandatory hour-long program. The parties will receive an information packet and instructions for completing the orientation before leaving court. If you do not have access to the internet, the orientation will also be available at the Self-Help area of the North County Courthouse. The judge will be notified if you do not complete orientation.

Do I have to be seen with the other parent?

In most cases, parents are best able to design a successful parenting plan for their children when working collaboratively. While it may be awkward or difficult to be in the same room with the other parent, it is important to be able to listen to each other's concerns about their children. Parents will be able to hear each other's point of view and begin to focus on the best interests of their children.

What if I have been a victim of domestic violence and am afraid to be in the same room with the other parent?

If you have been the victim of domestic violence you may request a separate mediation appointment after completing the online orientation. The mediation office will not tell the other parent the date and time of your appointment. If you choose to attend at the same time as the other person you will be permitted to bring a support person, not related to the case, with you to the session. That person may be in the room, but will not participate in any way in the mediation itself. We will also offer you a separate place to wait for your appointment. Information about your address, telephone number, employer and children's school will not be made available to the other parent. Please let the mediator know your wishes.

Who should attend the mediation appointment?

Both parents should attend. Do not, under any circumstances, bring your children to the appointment unless requested to do so by the mediator or ordered to do so by the judge. In some instances the mediator may find it necessary to interview the children. This will be arranged by the parents and the mediator after the parents have completed their mediation. If the mediator requests to interview the child(ren), the mediator will explain the process to the parents in detail. Relatives and attorneys are not usually permitted to be present at mediation.

What if I don't show up for mediation?

The parents were ordered by the judge to attend mediation. Failure to do so is a violation of a court order. If one of the parents does not arrive on time for the mediation

appointment after a 15 minute grace period, the appointment will be canceled. This court is a recommending court. If the parents do not reach a full agreement the mediator is required to make a recommendation to the judge. The mediator cannot make a recommendation if both parents are not present for the assigned appointment.

In the case of domestic violence a separate appointment is arranged in advance and a recommendation can be made even though the parents are seen separately.

The judge will be notified in writing if a parent cancels, does not show for the appointment, or is late.

What is confidential, and what isn't in mediation?

If there is a full agreement reached at mediation the notes of the mediator and the mediation file is confidential. If there is not an agreement and the mediator makes a recommendation to the court, the records are not confidential. If children or others are interviewed or other information is obtained, this additional information also may not be confidential. The mediator may be called to testify in your case in court.

Suppose we agree... then what?

When parents reach an agreement in mediation the plan is prepared as a legal document by the mediator. You will receive a copy. Parents who do not have an attorney will sign the agreement and it will be submitted to the judge at the assigned court date. If a parent has an attorney the parent will review the document with his/her attorney before the court date. The agreement is not a binding court order until signed by the judge.

When the judge ordered you to mediation you were given a date to come back to court to present the results of the mediation to the judge. On this date your agreement will be reviewed by the judge. If acceptable to him/her it will be signed and made an Order of the Court.

Suppose we don't agree... then what?

If the parents are unable to reach a full agreement in mediation the mediator is required to provide the court with a recommended parenting plan. In preparing the recommendation, the mediator may contact collateral sources such as teachers, day care providers, etc. to gather additional information.

At the time the judge ordered you to mediation you were given a date to come back to court to present the results of the mediation to the judge. Prior to this date both parents will receive their copy of the mediator's report and recommendation. At this next court hearing, the judge will discuss available options with the parents, one of which is setting the matter for trial on the issue of custody and visitation.

What is Supervised Visitation?

One of the private professional providers of supervised visits in our area has put forth one of the best definitions we have encountered:

"Supervised visitation provides a highly structured, safe and protected setting for parent-child contact when such contact presents risk due to high conflict surrounding parental separation, substance abuse, mental illness of a parent, parental alienation, child abuse or neglect, flight risk or child abduction, or after an extended interruption of contact.

The emphasis is on neutrality: the monitor is an observer, intervening only when the emotional or physical safety of the child is threatened, or when program guidelines are broken.

The monitor is the "eyes and ears of the court" and can provide objective information required by the court or mediator."

There are two types of supervision:

1. Professional supervision, where the visits are paid for with an hourly fee and a trained professional follows State Guidelines to supervise the visit.
2. Non-professional supervision, when a family member or friend is agreed upon or someone specific is ordered by the court to supervise the visits and to follow State Guidelines for non-professional visits.

What does the term "Legal Custody" mean?

Legal custody determines who (one or both parents) will make the decisions concerning the child's health, safety, education and welfare.

Joint Legal Custody

Joint legal custody means the parent who has the physical care of the child at any given time shall have the routine decision-making rights and responsibilities during those periods of time. However, all major decisions shall be made jointly by the parents after adequate consultation has occurred between them and a consensus has been reached. No prior consultation is required between the parents regarding emergency medical or dental treatment, routine check-ups or minor illnesses.

When there is joint legal custody the court will usually require the parents to confer in making decisions on the following matters:

- a. Enrollment in or leaving a particular private or public school or daycare center

- b. Participation in particular religious activities or institutions
- c. Beginning or ending psychiatric, psychological, or other mental health counseling or therapy
- d. Selection of a doctor, dentist, or other health professional (except in emergency situations)
- e. Participation in extracurricular activities
- f. Out-of-country or out-of-state travel

In all other matters when exercising joint legal custody, the parents may act alone, as long as the action does not conflict with any orders concerning the physical custody of the children.

Sole Legal Custody

Sole legal custody means that one parent shall have the right and the responsibility to make all of the decisions relating to the health, safety, education and welfare of the children.

What does the term "Physical Custody" mean?

Physical custody determines where the child(ren) will reside.

Joint Physical Custody

Joint physical custody means that each of the parents shall have significant periods of physical custody. Joint physical custody shall be shared by the parents in such a way so as to assure a child of frequent and continuing contact with both parents. There is often a 'primary' custodial parent assigned for tax and other purposes.

Sole Physical Custody

Sole physical custody means that a child shall reside with and under the supervision of one parent.