



Six Stages of Divorce Mediation...and an Optional Van Ride

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By Attorney & Mediator Stephen McDonough

So, you have been doing some research about the benefits of divorce mediation, but what are the stages of a typical divorce mediation?

Once you and your spouse select a divorce mediator, he or she should provide a framework and structure to the process. In my view, there are six main stages of a typical divorce mediation:

1. Introductory - Stage 1 lays the groundwork for the rest of your divorce mediation. Information regarding the mediation process and your client agreement will be explained. Actually this stage starts during your initial contact with the mediator, and some of these topics may be discussed during your initial consultation. House-keeping items such as scheduling, location of facilities and refreshments in the office (hopefully not located together), and

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any basic ground-rules for the mediation will be reviewed. The mediator will collect the basic information about your marriage, including what issues you and your spouse may have some agreement on, and what topics may be considered “hot buttons.” I also like to hear what people’s goals are for not only the divorce, but for the future.

2. Gathering Information - Although most of the information for your mediated divorce is obtained early on, there is oftentimes a need to update and supplement information. In order to facilitate what can be a daunting process for some clients, most mediators provide worksheets to help you collect and organize this information. If, for example, we need to know the market value of the family home, there will be a discussion about how to best obtain this information. By the time your mediation concludes, information may require updating.

Your cooperation in providing the requested info makes your mediation go much more smoothly, and who doesn’t appreciate a smooth mediation?

3. Framing (Identifying the Issues) – Your goals, needs, and interests are identified in more detail. But hey, it’s not all about you. All issues must be considered from not only your own perspective, but take into account your spouse’s interests, and how decisions will effect your children, if any. A top-secret technique of mediators is... *wait, I can’t tell you that. What was I thinking!* Ok, actually I will share with you that we mediators look for areas where client’s goals and interests overlap, and use this to promote conversation and compromise. If you want to learn more about “Interest-based Negotiations” you might consider the book *Getting to Yes* by Fisher,

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Ury, and Patton.

4. Structured Negotiations - By this point, some folks are chomping at the bit to start talking about some “real issues.”

Remember, divorce mediation is a process and it is critical to have a solid foundation before rushing into the construction phase of your final agreement. During this portion of your mediation, issues are explored in more detail and options are considered – perhaps some that you never thought of before. This is the problem-solving stage, accomplished in a supportive atmosphere where solutions that are fair to both and that each spouse can live with are explored and hopefully agreed to with the assistance of your neutral facilitator.

5. Concluding - This is the time when all of the hard work accomplished by you and your spouse is put into writing. Assuming your mediator is also a Massachusetts divorce lawyer, then he or she can draft the agreement that will later be submitted to the court. If you use a non-attorney mediator, he or she will not be allowed to draft the agreement, but can write a memorandum setting forth the terms of your agreement so a divorce attorney can complete it. If you are not from Massachusetts, then the rules in your state may be different. Once you have the agreement draft, you might have your own lawyer review it, but that is up to you. Most of our clients do not have it reviewed by their own lawyer. After reviewing the draft, it should be clear what areas require further discussion or if any information is missing (see step 2!). Once your agreement is complete, you may have a wrap-up session with your mediator to sign all of the documents and discuss the next steps, such as getting the agreement filed with the court.

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6. Follow-Up, or Getting Stuffed in a Van – In some mediations, this step may not exist. It is a stage that I think has a lot of value and that we include with some of our fixed-fee mediation plans intended to check-in with our mediation clients post-divorce. For example, what happens three months after the divorce if your parenting plan needs adjusting or your spouse still has not divided her retirement plan? During the follow-up phase, we contact our mediation clients and schedule a telephone conference, Skype meeting, or in-person meeting to see how things are going with the transition. Of course, we don't send an operative to stuff you in a black van late at night and race back to our office or a dark warehouse (*unless that sounds exciting to you*) if all is well, but you may have a few things to review post-divorce. Maybe communications between you and your ex are not going smoothly when transitioning the children, or a financial issues needs to be wrapped up. Whatever it is, better to iron out any bumps and get off on the right foot, especially for parents.

So, those are the six stages of divorce mediation. For more information about divorce mediation in Massachusetts, [please click here](#), or call The Divorce Collaborative LLC of Franklin and Bedford, MA at (508) 346-3805.

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