

HOW CAN I PREPARE FOR MEDIATION?

Successful mediation depends on each party's willingness to negotiate in good faith and work out a solution. It will help to collect relevant documents and to consider possible solutions that will work for everyone. It is a good idea to get legal or other professional advice about the law, your rights and obligations, and the likely outcome if you decide to let a judge or jury resolve your dispute.

WHAT CASES MAY NOT BE APPROPRIATE FOR MEDIATION?

- Matters where it is important to establish legal precedent.
- Cases where there has been physical or psychological abuse that would jeopardize a party's ability to negotiate safely, without fear or intimidation.
- Cases where there is an extreme inequality of knowledge or power.

DO I LIMIT MY OPTIONS IF I CHOOSE MEDIATION?

No. Mediation is voluntary. You can always choose not to participate, or end the process if it has already started. This does not affect your right to pursue your case in court.

HOW DO I CHOOSE A MEDIATOR?

If your court has a Mediation Coordinator, talk to that person, or speak directly to a mediator if one is present in the courtroom during your initial appearance.

You can also let the Clerk of Courts know you would like to be referred to a free orientation session. During an orientation session, a mediator will educate you about the process, and answer your questions so you can decide if mediation is right for you.

Or you can do some research on your own by visiting www.vacourts.gov. Look for Mediation under the Programs tab. There you will find more information about mediation, including Directories that contain lists of certified mediators and Mediation Coordinators, along with their contact information.

HOW IS A MEDIATOR DIFFERENT FROM A LAWYER?

Many mediators are professionals in other areas, including law. However, while lawyers provide legal advice and advocate on behalf of their clients, mediators are ethically-forbidden from doing either of those things. Mediators must remain neutral as they assist the parties in resolving their dispute. If you have a lawyer, it is always a good idea to have them review any mediated agreement before you sign it.

Mediation

A Guide for Virginia Court Users



For more information, contact:

The Office of the Executive Secretary
Dispute Resolution Services
804-786-6455
disputeresolution@vacourts.gov



AN ALTERNATIVE METHOD TO RESOLVE YOUR DISPUTE

If you are filing a case in court or already have a case, consider using mediation to resolve your dispute. Keep reading to find out the many reasons mediation is so effective and used by so many people, whether they have an attorney or not.

WHAT IS MEDIATION?

- An informal negotiation between parties in a dispute facilitated by a state-certified, third-party neutral.
- A chance to share what is important to you, listen to what is important to others, and agree on solutions that work for everyone.
- A voluntary and confidential process (with limited exceptions) conducted in a safe setting.
- A creative process that can result in a binding, court-approved agreement.

WHAT KINDS OF DISPUTES CAN BE MEDIATED?

Mediation can help resolve just about any kind of dispute: merchant/consumer; landlord/tenant; family issues of child custody, visitation, financial support, or property distribution; workplace; neighborhood; land use; etc.

WHY MEDIATE?

Mediation has a high success rate

In Virginia's courts, 60% or more of cases sent to mediation result in an agreement.

You save time and money

Mediation moves more quickly than the traditional court process, and in district court there is NO COST to you.

Mediation is empowering

A mediator guides the discussion but you make the decisions, and you can always walk away and resolve things in court.

Mediation allows for flexibility

Unlike in court, the parties can discuss the entire context of the dispute, not just the primary issue(s) in the original complaint.

Agreements tend to last longer

Since any solutions must be acceptable to everyone involved in the dispute, the agreement is more likely to endure.

You are in good hands

Mediators must meet rigorous training standards before they can become certified and accept referrals from the court. They must also abide by Virginia's Standards of Ethics and Professional Responsibility for Certified Mediators.



HOW DOES THE MEDIATION PROCESS WORK?

While no rigid rules govern mediation, there are common elements to the process.

Introduction

The mediator will describe the process and their role. The parties will receive an Agreement to Mediate form to sign which states that the mediator will not give legal advice, the parties should have an attorney review any agreement that is reached, and the process is voluntary and confidential.

Information Gathering

The parties are given uninterrupted time to share their stories and feelings, as well as their ideas for resolving the dispute, in a safe and respectful setting. The mediator may ask clarifying questions as needed.

Issue Identification

The mediator works with the parties to identify the main issues that, if addressed, would resolve the dispute.

Generating Solutions

Parties are encouraged to look objectively at the issues, collaborate as problem-solvers, and creatively brainstorm solutions.

Agreement

Once the parties have reached a full or partial agreement, the terms are put in writing. A judge may enter the signed agreement as an enforceable court order, so parties are encouraged to have an attorney or others review it before signing.