



Divorce Mediation Methodology

Research shows that the children who fare best are those whose parents can co-parent successfully. The mediation process helps parents transform their relationship from partners to co-parents, creating a more amicable divorce and better working relationships for the benefit of their children.

If separating parents turn to the children for emotional replenishment the child's separation and growth become difficult. A marriage that puts children at emotional developmental risk is one where the father or mother becomes angry and withdrawn. This conflict creates the environment where the children can develop internalizing disorders like anxiety, depression, and withdrawal from peers.

Children from high conflict homes may often fare worse than children of divorce. Put-downs by one parent about the other parent are damaging to the children.

Children of divorce are more likely to drop out of high School, become pregnant as teenagers, and have weekend relationships with fathers and mothers. They are likely to abuse drugs, have trouble with the law and ultimately risk failed relationships throughout their lives.

DEFINING THE ISSUES

When a mediator first asks the parties to define disputed issues, most parties do so by answering with their solution – or with their “final” position. E.g.: “Well, the dispute is about custody. I want custody and so does he/she”. Or: “I think I should have the house because ... and he/she thinks he/she should have the house because...”. This type of “positional bargaining” is typically polarizing; frequently this leads to a contest of wills to determine who can convince and/or wear down the other.

The mediator's task is now twofold:

- To move the parties from this positional posture to a discussion of their unmet needs and interests, and
- To bring to the surface any underlying conflicts that may inhibit the mediation process.

The task of the mediator is to assist the couple in cataloging the various kinds of conflicts that need to be addressed.

Kessler (1978) offered three categories:

- Topical issues
- Personal issues
- Relational issues

ISSUE CATEGORIES

- **Topical issues** may be described as the legal substantive of divorce, i.e. division of property, finances, and the time that the children will spend with each parent. These issues are often physical and observable, and they make up most divorce stipulations.
- **Personal issues** relate to how each party protects and thus limits him/herself in the context of their relationship.
- **Relational issues** have to do with the pattern of communication established between the parties.

The mediator typically does this through questions such as “What is it that makes you unhappy?” and “What is it that you are really looking for?” How can we construct the foundations of your post- divorce life? As this questioning process proceeds, the couple begins to deal with a number of other (often longstanding) issues that may be related to the marital relationship or may be individual and specific to each spouse. In this way, conflicts of both a relational and a personal nature are identified.

Finally, some loyalty issues common during divorce are expressed in the [Children’s Bill of Rights](#) (found [here](#) and elsewhere on this website.)