

## What are the benefits of Mediation?

Mediation reduces the adversarial nature of the dependency process, and allows the participants to create common goals for themselves and for the good of the children involved. It empowers the participants to develop child-specific plans that are in the best interest of the child, and which are more satisfactory, durable agreements than those ordered by the Court. Mediation preserves the dignity and involvement of family members, creating less alienation in the court process. Mediation allows parties to resolve their cases and achieve reunification with their children sooner than proceeding through the entire court process.



## What occurs during a mediation conference?

The mediator assists with the mediation process by encouraging the parties to discuss the issues in a peaceful, courteous manner. The parties attempt to persuade, negotiate, and compromise among each other in an attempt to reach an agreement acceptable to all. Sometimes, the mediator will meet with the parties alone in separate private sessions called caucuses, and sometimes parties will take a break to consult with their attorney in private. The mediator helps the parties focus on the issues involved in the case, and aids them in exploring alternatives than can be offered in the settlement process.



## What happens if an agreement is reached?

When an agreement is reached in mediation, a written agreement is prepared at the conclusion of the mediation session and the parties sign the agreement. Each party is given a copy of the signed agreement, and the original agreement is sent to the court file. The agreement is presented to the judge at the next scheduled court hearing in the case, or at a court hearing that is scheduled for this purpose, and the judge reviews the agreement. The judge either signs an order approving the agreement and making it a court order, or else the judge has some objection to the agreement and refuses to sign the order. In such event, the judge and the parties discuss the matter further and either amend the agreement, or else the judge may have to set a hearing date on the issues in dispute. The judge will rarely refuse to accept a mediated agreement.

## What happens if an agreement is not reached?

A majority of cases settle in mediation. However, if the parties are unable to reach an agreement in mediation, the mediator issues a report to the Court which simply states that the parties mediated but did not reach an agreement. The case then continues on in the normal manner.

## Can anything I say in Mediation be used against me?

Discussions in mediation are generally to be held confidential in accordance with the Florida Statutes, and cannot be used against a party in a later court hearing. There are certain exceptions to the confidentiality, however. Any new allegations of child abuse, neglect or abandonment which are not already alleged in the petition filed in the case, are an example of statements which may not be confidential.



Administrative Courts

# Dependency Mediation



## Thirteenth Judicial Circuit



Makes the Connection!

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# W hat is Dependency Mediation?



Mediation is a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement.

Dependency mediation is the mediation of disputes arising from allegations of abuse, abandonment, or neglect of a child. These disputes typically result in a court case brought by the Department of Children and Families under Chapter 39 of the Florida Statutes, although these types of cases can be brought by any person who has knowledge of the facts alleged or is informed of them and believes they are true.

## Is Mediation the same as going to Court?



Mediation is not a formal court process, and mediators are not judges. Mediation is an alternative to the court process where the parties are allowed to informally discuss their issues and work out an agreement in a cooperative manner.

## Who attends Dependency Mediation?

The order from the Court for the mediation specifies who is to attend the mediation. Every case is different and it depends on each individual situation as to who will be ordered to appear. The participants at the mediation might include:

- The parents of the child(ren)**
- The parents' attorney**
- The Department of Children and Families (DCS) and their attorney**
- The Guardian ad Litem and representatives from the Guardian ad Litem Program**
- Foster Parents**
- Family members**
- Social Services Providers**
- Anyone else who is involved in the case in some way**

Individuals who are not ordered by the Court to participate in the mediation may only attend the mediation if all parties agree to allow them to be present.

## How does Dependency Mediation get scheduled?

Dependency mediations are typically ordered to be held by the dependency judge. The judge can order the parties to a dependency case to participate in mediation at any stage of the dependency process. The order is often made during a court hearing, and the parties are given notice of the time, date, and place for the mediation at the same time. Otherwise, a notice of the mediation with the time, date, and place will be mailed to each party.



## What kinds of agreements can be reached in Dependency Mediation?

Parties can reach agreement in mediation on any issue related to the case. Typical areas of agreement include case plan tasks such as:

- Counseling**
- Parenting classes**
- Mental health evaluations**
- Mental health therapy**
- Domestic violence evaluations**
- Drug and alcohol evaluations**

Parties also may agree on whether an adjudication of dependency should be ordered by the Court, and on issues such as placement of the children and visitation. Parties even mediate the issue of termination of parental rights.

