

## MEDIATION

The Kent County Friend of the Court offers two kinds of mediation services. There is Statutory Mediation that is provided by the Friend of the Court under the law, and the parties can request this mediation for custody and parenting time concerns at any time. To use this mediation service, one of the parties must submit a written request to the Friend of the Court (FOC) Office. Since mediation is voluntary, the FOC will contact both parties in writing to see if they agree to participate. If they do, they are each instructed to sign and return the request for mediation. Once both request forms are received by the FOC, mediation will be scheduled. A notice will be sent to both parties indicating the date and time of the meeting.

The Kent County FOC also provides Court Rule mediation. The court must order individuals into Court Rule mediation. The scope of this process includes property division, debt allocation, custody, parenting time, child support and spousal support.

Both kinds of mediation involve a neutral third party who is trained to

assist parties in communicating about the issues. The mediator's objectives are to assist the parties in looking at alternatives, helping each person try to see the other person's position, focusing on the best interests of the child/ren, balancing the communication between the parties and empowering the parties to make their own decisions rather than relinquishing decision making to the court.

A mediator does not make decisions or issue recommendations to the court. There are employees at the FOC who do issue written recommendations to the court, but not the mediator. The mediator is not your case manager and he or she will not perform other duties of the FOC on your case.

Mediation is confidential as defined by law. If the issues or concerns cannot be mediated, then the case goes back to court, or an evaluation is ordered. The information obtained during mediation will not be shared with the court or the evaluator. The exceptions are if there is a court rule, statute or court order to do otherwise, or if there are allegations of child abuse or threats of physical harm to another person.

If an agreement is reached during mediation, either a stipulated order or a settlement agreement will be prepared for the signatures of the parties. At no time do you have to sign an agreement without obtaining the advice of your attorney. It is not the mediator's role to protect your legal rights. When you do sign, you must remember that it is an official document that will either be entered with the court, or it will be used to prepare an order for entry at a later date.

Participants in the mediation process must be able to consider compromises and to look at alternatives in order to reach a resolution to the dispute. The participants should not enter into the mediation process with an expectation of getting an agreement without compromise.

The mediator is not a judge or a referee; they are not a decision maker or a fact finder. If the situation requires an arena for a party to prove his or her position, then the courtroom is probably where this matter should be addressed. However, if the parties can come together in good faith to discuss the issues, and both sincerely intend to resolve their differences, then

mediation can be an appropriate and productive process.

### **How do I get mediation scheduled?**

Statutory Mediation is available for custody and parenting time issues only. If you want mediation for these issues, you would submit a written request to the Friend of the Court and the office would process that request. If you want Court Rule mediation and you and the other parent can agree, then you can stipulate to mediation. If you are not in agreement, you can file a motion and ask the court to order mediation. Once ordered, the parties can select their own mediator from the Court's "Approved List" or identify someone else. The approved list is available on line, from the Legal Assistance Center on the 5<sup>th</sup> floor of the Courthouse, or from the Alternative Dispute Resolution Clerk located on the 3<sup>rd</sup> Floor of the Courthouse. If you do not select your own mediator, the court will appoint one for you after 14 days. There is a cost associated with private mediators. You will only be able to use the Friend of the Court for this mediation process if approved by the Judge.

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