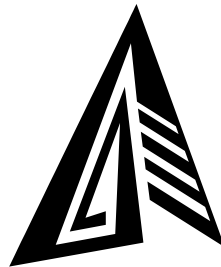


A Guide for Parents and Guardians  
About Participating in Mediation

## How is mediation used in child abuse/neglect cases?

Most District Courts in New Mexico offer **mediation** in child abuse-and neglect cases. The judge may require you to attend mediation, but the judge will not actually attend the session and it usually does not take place in the Courtroom.

In mediation, a trained mediator, someone who is not personally involved in your case, will meet with you, your attorney, the Children's Court Attorney, your CYFD Worker, your child's Guardian ad Litem (GAL) or Youth Attorney, and others. The mediator tries to help everyone identify areas of agreement and disagreement. Then the mediator tries to help everyone reach a decision that meets the needs and interests of the children, the parents, and the Children, Youth and Families Department.

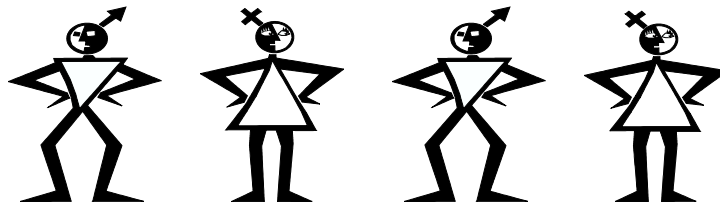


## Why should I go to mediation?

Mediation allows you to be directly involved in making decisions about your children and your family. In Court, the judge is required to tell the parties what they must do or not do. But in mediation, everyone works together to reach decisions. Everyone has a chance to talk, and everyone is asked to listen to each other. You know your children and family situation better than anyone else. Mediation is a chance for you to let others know what would work best for you and your family and to create a plan that really works for your family.

## Who is the mediator?

The mediator is a neutral professional who is trained to facilitate group decision making. He or she will not take sides. The mediator is not a judge and cannot make any decisions about your case. Mediators come from all walks of life. Some mediators are lawyers, some are counselors, and some are teachers. All of the mediators are very experienced and have special training mediating child abuse and neglect cases. They have good listening skills and will help to make sure that everyone's opinions and ideas are heard and understood. They know how to help people work together to plan what is best for the children and family involved in a child abuse and neglect case.



## Who else comes to mediation?

That depends on your case and your family's situation. If it seems appropriate, everyone involved in a case could be invited. In addition to the parents, this might include:

- the CYFD Worker and attorney,
- your attorney,
- your child's Guardian ad Litem or Youth Attorney,
- the Court-Appointed Special Advocate (CASA),
- foster parents,
- treatment and other service providers,
- other family members,
- and children, if they are 14 years or older, or when appropriate.

## What will happen at mediation?

The mediator may call you before the mediation or ask you to arrive a little early to the mediation. The mediator will explain the process to you and ask if there is anything that you would like to talk about during the mediation. This is a good time to tell the mediator what you want the other parties to know during the mediation and to ask the mediator any questions you might have about mediation.

Once everyone has arrived, the mediator will ask people to introduce themselves. The mediator will then work with the group to help them identify the issues that will be discussed during the mediation.

The mediator is there to help people listen to each other and understand one another. What actually is accomplished during mediation, however, is up to you and the other people involved in your case. For mediation to be successful, it is very important that you participate in the mediation.



## What do people talk about at mediation?

People talk about anything that can help them reach agreement about what is best for the child and family. For example, you might talk about legal issues, the best placement for your child while the case is going on, whether or not you will be able to visit your children and how often, or what should be included in your family's treatment plan.

Mediation is NOT the place to dwell on who is to blame for family problems or to vent personal issues that do not serve to move the decision-making process forward.

## What should I talk about at mediation?

Think about what others may need to know about you and your children that will help them to work with you. If you have an attorney, talk to your attorney about your case.

## Questions to answer before your mediation:

- What is the most important thing you want people to know about your family at the mediation?
- What services do your children need? Medical? Dental? Counseling? School? Other?
- What services would help you? Transportation? Medical? Drug or alcohol treatment? Grief counseling? Employment? Life skills? Other?
- How often can you visit with your children? Do you work? What is your current schedule?
- If your children can't live with you, who can they live with? Can you recommend any relatives or friends?
- Have you asked your attorney about the timing of hearings and other events required by the law?
- Have you talked with your attorney about reaching a plea agreement or going to trial?



## When does mediation happen in an abuse/neglect case?

Mediation may occur at several different stages in a child abuse/neglect case. It depends on the Court and on the case.



In most Courts, mediation takes place **before the Adjudicatory Hearing**. (That is the hearing where the judge decides whether abuse or neglect actually occurred.) The purpose of mediation at this point in the case is to talk about why your children were removed from your home. The other purpose of this meeting is to come up with a treatment plan for your child and your family that will help reunite your family, or do whatever is best for your children. That treatment plan will be presented to the Children's Court.

Mediation might also happen **before the Permanency Hearing**. (That's the hearing where the Judge decides whether or not your child will be returned home.) This mediation session would focus on what will be best for your child in the long term – whether the *permanency goal* recommended to the judge will be to return your child home or to begin making plans for some other permanency arrangement outside of your home.

Mediation may also take place **when the judge has decided that your children should not be returned home and there is a new plan for adoption**. This is a voluntary mediation. Your case may be referred to mediation only if you and the prospective adoptive parents are interested in discussing the possibility of an open adoption. The mediator will meet with both families to discuss possible terms for contact after the adoption. Your attorney will assist you in this mediation process. Any final agreement will become part of the adoption decree. Your attorney or CYFD worker can explain more about open adoptions.

In most Courts, mediation may occur **before the case even goes to Court**. At this point, the purpose is to come up with a plan that will keep your children safe and prevent their having to be removed from home.

## How can I prepare for mediation?



### Don't be nervous.

Even though you may be required to go to mediation, it is not like Court. It is more informal, and there are no rules of procedure or evidence. You and the other people attending the mediation will decide what it is that you all want to talk about.

Here are a few things you could think about before you go to mediation. They should help make the mediation go more smoothly.

- Be prepared.
- Be willing to listen carefully to others.
- Try not to interrupt.
- Be willing to talk and participate.
- Be willing to consider new ideas.
- Come with an open mind.



## What happens after the mediation is over?

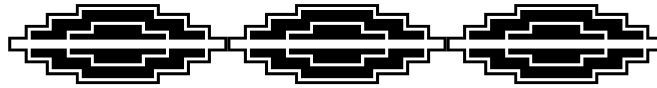
If the Court is involved in your case, the judge must approve any agreement you reach during mediation. The lawyers in the case will submit the agreement to the judge for approval.

It might be possible for you to go back to mediation if new issues come up that you would like to discuss. Let your CYFD Worker or your attorney know that you would like to return to mediation. They will help to arrange the mediation.

## What is mediation?

Mediation is a cooperative problem solving process. It is a confidential, private way to discuss issues and explore possible solutions. Mediation is used in all types of legal cases, including rent disputes, contract disputes, and divorces. In many Courts in New Mexico, mediation is used in child abuse and neglect cases. Mediation is used to help participants understand and resolve some of the issues ahead of time and save time in Court.

This booklet will tell you about mediation, what you can expect when you go to mediation, and what you can do to make your mediation session most productive for you and your family.



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