



Mediation Matters

*A Beginner's Guide to the
Massachusetts Mediation Process*

Mediation Checklist

No matter how you came across this resource,

We're glad you're here

It means that you may be staring down a significant change in your life. Divorce brings along with it some huge questions, so you are likely looking for a way to make sense of them.

This is exactly the first step you should be taking whenever you come to a major crossroad! So, first, we'd like to extend our congratulations to you for being **proactive** in trying to navigate this situation.

What This Resource Is (And Isn't)



In order to figure out your next steps, you need answers that help you find the best way forward for you. You can learn more about the Massachusetts divorce process in general by downloading our FREE Divorce E-Book at familylawma.com. This resource is designed to help you gain a basic understanding of the mediation process as well as highlight some things you may want to consider while preparing for the mediation process.

Because every case is unique, and the mediation process can look different for everyone who goes through it, this is not meant to function as any form of legal counsel. Reading this resource does not make you a client of our firm. In no way should you construe the contents of this book as legal advice that you can use to build a case strategy or on what you should or shouldn't do moving forward. Every person and family is so different. There is nothing about family law that is "one size fits all."

Without further ado, let's get into our content...

Mediation Checklist

What to Bring to Mediation

A Calm Mind

This may be easier said than done but take steps to make sure you're in the best possible headspace before entering mediation sessions. Remember, mediation only works if both parties are willing to negotiate and while you can't control your spouse's actions, you can decide whether you will react in a calm, assertive, and respectful manner.

You will want to make sure that you are mentally present during the mediation session which means ensuring that things like childcare during the sessions are covered, you are not on-call for work or other potential distractions (if possible), and you have arranged transportation to arrive at mediation sessions on time or a few minutes early.

You may also want to schedule some decompression time before or after your mediation session. Some helpful activities might include going for a walk in a safe nature spot, trying a new hobby, or spending time with friends and family.

Documents

Your mediator will likely give you a list of documents to gather including but not limited to:

- Court Documents
- Financial Statements
- Tax Returns and Pay Stubs
- Loan Statements (mortgage, car, and personal loans)

Mediation Checklist

What to Bring to Mediation

Clear Priorities

Make a list of the topics that you want to discuss during your sessions. Your own list should be tailored to your own needs but here are some of the topics that our mediators help clients navigate:

- Asset Division Including...
 - Your Primary Home
 - Secondary Properties and Residences
 - Retirement Accounts (401k, 403b, IRAs)
 - Debts (mortgage and other loans)
- Alimony (Spousal Support)
- Child Custody
- Holiday and Vacation Schedules
- Extracurricular Considerations (payment & scheduling)
- Child Support
- Insurance
- Next Steps

Mediation Timeline

How Long Will Mediation Take?

We would love to give you an exact date of when the mediation process will be complete but, unfortunately, there are many factors that can affect your mediation timeline, and not all of them are in your control. This timeline is meant to give you a general idea of what the mediation process might look like in Massachusetts and in no way offers legal advice. Your mediation might follow this process, or it might look very different depending on where you live, how willing your spouse is to work through the process, your mediator, and more.

Pre-Mediation

The first few steps in the mediation process are really up to you. They involve having a conversation with your spouse about the mediation process and choosing a mediator. Once you have gotten to a point where you can start the mediation process, you will be able to get a feel for how negotiations are going and a better idea of how long the process may take for you. The timeline outlined below is a sample timeline and as we mentioned above, your own mediation process could look very different.

Mediation Timeline

The Mediation Process

(1-3 Months)

1 Decide on Mediation

From what you've heard about mediation, you may be 100% on-board, and that's great! But, there are a few cases where another avenue might better suit your circumstances. The first step in any successful divorce mediation process is to determine whether mediation is the best path for you moving forward. Whether you read more about the topic or consult with a family law attorney, you will want to explore your options before jumping into the mediation process. In general, if you and your spouse are both willing to try mediation, then it may make sense to give it a go!

2 Find a Mediator

Once you have decided to go the mediation route, you will want to find a skilled mediator who can help you navigate this process smoothly. Finding a mediator with specialized training in divorce mediation and extensive experience in mediating is often ideal because it may mean that your mediator is more equipped to handle a variety of situations that may arise throughout the mediation process. Before signing any agreements, make sure that you know your mediator's background, fees, and how they generally handle the mediation process.

3 Prepare for Mediation

Once you have decided to go the mediation route, you will want to find a skilled mediator who can help you navigate this process smoothly. Finding a mediator with specialized training in divorce mediation and experience in mediating is ideal because it may mean that your mediator is more equipped to handle a variety of situations that may arise throughout the mediation process. Before signing any agreements, ask your mediator about their background, fees, and mediation process.

Mediation Timeline

The Mediation Process

(1-3 Months)

4 Attend Mediation Sessions

Mediation sessions are the heart of this process. Depending on your circumstances and the complexity of negotiations, you can expect to attend anywhere from three to ten sessions. Many mediators like to have sessions a week or two weeks apart to give each party time to consider the resolutions discussed and prepare for upcoming sessions but you may have more or less time between sessions depending on your own timeline and mediator's availability. Here is a simple breakdown of how we have seen some mediation processes finalize:

- Session 1: Laying the Groundwork**
 - Explain the Mediation Process
 - Answer any Questions
 - Set Rules and Expectations
 - Identify Issues to be Discussed
- Session 2: Child Custody and Parenting Plan**
 - Develop a parenting plan
 - Discuss where your children will live, who they will spend each holiday with, and how important decisions will be made for the children's well-being

Mediation Timeline

Mediation Sessions

(1-3 Months)

□ Session 3: Child Support and Alimony

- Decide whether it makes sense for child support and/or alimony (also known as spousal support) to be given or received
- Run calculations for child support and/or alimony amounts based on state guidelines
- Negotiate the length and amount of child support and/or alimony, if applicable
- Answer any Questions
- Set Rules and Expectations
- Identify Issues to be Discussed

Session 4: Asset Division

- Lay out all finances including assets, debts, and any relevant documents for consideration
- Discuss and offer solutions for equitable asset distribution according to state guidelines

Session 5: Tie Up Loose Ends

- Finalize any remaining points of consideration
- Review and confirm agreements

Mediation Timeline

Agreement Finalization (2-4 Weeks)

6 Agreement Drafting

Your mediator will take it from here, drafting a separation agreement that outlines the conclusions reached in mediation sessions. The time-line for this stage will depend mainly on your mediator's availability. Once the mediator has drafted the agreement, they will submit it to both parties for a final review.

7 Final Review

Both parties will review the agreement. It is common for a spouse to consult with an attorney for the review of their separation agreement.

This is often ideal because it ensures that your best interests have been fully considered in the final outcome. Remember, your mediator is a neutral party which means that they are not specifically designated as an advocate for either side. This does not mean that they won't point out and make efforts to address potentially concerning power dynamics but it does mean that they're looking at your case holistically- not solely from your point of view. For that reason, you may want to have your own attorney read through the final agreement to ensure that your interests are adequately protected and considered within the terms. Once any final revisions have been requested, agreed upon, and made, both parties sign the agreement. Depending on the nature and extent of requested revisions, additional negotiations may also take place at this stage until a final agreement can be reached and documents have been officially signed by both parties.

Mediation Timeline

Court Approval (4-8 Weeks)

8 Review by the Court

Once the signed agreement has been submitted, the court will review the separating couple's documents for a number of factors and approve or reject the agreement as it was submitted. A judge will generally approve a separation agreement unless they have reason to believe any of the following:

- The agreement was signed under duress
- The agreement does not comply with regulations and/or was not submitted in accordance with court procedures
- One or both parties failed to disclose significant assets, income, or debts
- The terms of the agreement are one-sided, unreasonable, or unfair

An experienced mediator should know what to look out for throughout the mediation process to give you the best possible chance of court approval. Once your separation agreement is approved, the judge will issue a final judgment and outlining the official finalization of the divorce.

9 Create Your Path Forward

Take a deep breath and look towards your brighter future. The divorce process can be overwhelming, and it is most certainly a marathon not a sprint. Once everything has been finalized, we encourage our clients to take a moment to live- spend time with family, talk to a therapist, grab that coffee you've been telling friends you would meet them for, and most importantly, check in with yourself to see what you need. You have come so incredibly far to reach this point and now have an opportunity to start building your future. We've been in your shoes, and it takes work, but your future is absolutely worth it.

Meet our

Mediators



The OCFL Difference

Here at O'Connor Family Law, we get it because we've been in your shoes. 100% of our mediator attorneys have personal or familial experience with family law issues. We know that the divorce process is so much more than a piece of paper, and we're here to help you navigate the ups and downs of divorce so that you can focus on what matters most.

Our team of experienced mediators is here to help guide you through the separation process with kindness and compassion.

You can visit familylawma.com to learn more about our philosophy, meet our mediators, and continue to educate yourself on the Massachusetts divorce process. Feel free to give our team a call today to schedule a free case evaluation and see how we can help you create your brighter future.

The content in this book is for general informational purposes only. It does not establish an attorney-client relationship nor provide legal advice of any form. Always consult with a local family law attorney before making any decisions with potential legal repercussions.