

# **Mediation: Should I use it?**

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Learn about how you can use mediation to informally resolve many different types of disagreements without going to court.

## **What is mediation?**

It's a way to settle a disagreement without having to go to court to ask a judge to deal with it for you. In a mediation session, you can share your side of the story, how the disagreement affects you, and how you think you should settle it.

Mediation takes place with the help of a trained mediator. The mediator can but doesn't have to be a lawyer.

The mediator doesn't take sides. The mediator tries to help you reach a fair solution that works for each of you. The mediator helps with communication. The mediator creates a safe place to negotiate.

- **The mediator works to** make sure you each have a chance to be heard, show respect for the other's values and feelings, and explore workable solutions to your disagreements.

- **The mediator does not** give legal advice, decide if someone is “right” or “wrong,” or make decisions for you.
- **When asked**, mediators may share their opinions.

### **When does mediation make sense?**

**Both parties in a court case must be ready to compromise.** You each must try to reach a reasonable solution in good faith. Otherwise, it doesn’t work.

Mediation also might be helpful for situations where it wouldn’t make sense to go to court. Many types of conflict can be resolved using mediation, not just legal conflict.

### **How is mediation different from court?**

**In court**, a judge listens to both sides of the dispute and then decides for you. You must follow the judge’s decision (which will be put into writing in a court order), even if you think it is unfair.

**In mediation**, you and the other party are encouraged to work together to solve the dispute. You’re active in finding a solution that you both can feel okay about.

If you cannot agree, you can still go to court. If you solve part of your issue in mediation, there’s less for a judge to decide. If you reach full agreement, you don’t need a trial at all.

### **Can I use mediation for my problem?**

Maybe. You can use it in all sorts of areas: family law, personal injury, consumer complaints, employment law, landlord-tenant disputes, disputes between neighbors, and/or collections.

## Why should I try mediation?

- **You don't have to do it.** You and the other party both must be satisfied to reach agreement in mediation. This protects you. The mediator cannot force you to accept a decision you don't like. At the same time, during mediation you must pay attention to what the other person needs to reach agreement.
- **You can still always go to court** if mediation doesn't work out.
- **Some counties require mediation**, especially in cases involving parenting plans or custody.
- **Mediation is confidential.** There are exceptions to this. For example, threats of violence are not confidential. Neither is information about abuse that has not been reported. Otherwise, generally, what you say there stays there. No one can use what you say there against you later in court or other hearings.
- **Mediation lets you try to solve problems creatively.** After discussing both sides of the dispute, it may be easier to see and suggest a simple solution.
- **You have a trained mediator's help.** Feelings and values are part of the dispute and negotiations. You can use them to reach an acceptable agreement.
- **Mediation is generally cheaper than court.** Many mediation organizations offer a sliding fee scale. Even if you need a judge to sign your agreement and convert it to a court order, as in a parenting plan case, you won't have to pay a lawyer to go to trial over these issues for you.
- **Mediation can help you save an ongoing relationship.** This can include your landlord-tenant, employer-employee, parent-parent, co-tenants, or neighbor-neighbor relationship.

## **I've experienced domestic violence from the other party. Should I use mediation?**

**Probably not.** When there's an imbalance in power, such as in cases of physical, emotional, or economic abuse, or if you feel intimidated by the other person, the result will probably be unfair.

You should have a lawyer if you decide to use mediation even though the other person intimidates you. The mediation should take place with you each in different rooms.

### **How do I get ready for mediation?**

If possible, it's a good idea to talk with a lawyer before you go to mediation.

You must work to understand your legal rights and what could result from your decisions. Some of the things you can do to learn about your legal rights are:

- Learn about the area of law involved in your conflict on WashingtonLawHelp.org
- Visit a local law library
- Read up on state law (<https://apps.leg.wa.gov/rcw/>)
- Try to get an appointment at a free legal clinic. This may help you understand better what sorts of things you can ask for at your mediation session.
- Work to organize your thinking. The mediator can't do this for you. You can, for example, make a list of what you want out of any kind of possible solution, ranking outcomes from most to least important.

## When can I mediate?

You can mediate at any time before going to court, during a court case, or after it ends. **Example:** You can mediate to clarify a final parenting plan.

If your county requires mediation for your type of case, you must mediate and try to reach an agreement before going to trial.

## How much does mediation cost?

It depends. Many Washington counties have Dispute Resolution Centers (<https://www.resolutionwa.org/>). They provide mediation services at no or low cost.

Mediators in private practice can charge \$50 – \$200 an hour. They often base it on type of case and your family income. There may also be an administrative fee.

## What if we reach agreement in mediation?

The mediator will usually put the agreement in writing and have everyone sign it.

## Can I have a lawyer review the agreement before I sign it or submit it to the court?

Yes. If that's what you want, have the mediator put in the agreement that lawyers can review it.

**Warning:** If you have lawyers review the agreement, you may decide to make changes. That means you may not have resolved

the matter.

### How do I find a mediator?

Contact your local Dispute Resolution Center. (<https://www.resolutionwa.org/>)

Or you can also try to find a mediator in private practice.

(<https://washingtonmediation.org/find-a-mediator/>)

Before you choose a mediator, read their website, and **ask about fees**. Some mediators might also have special training for your situation or culture. You can ask about that before deciding what mediator to use.

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