



Mediation and Parenting Plan Guide



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Mediation

If you're headed to mediation, you may be feeling uneasy or confused about what mediation is and what may occur. You may also feel uneasy about having to negotiate with your abusive partner. These feelings are entirely normal and valid.

While mediation may feel completely out of your control, it is important to remember that you have a lot of control over the process. Your attorney is there to be your guide and partner during the process. Knowing and understanding that you can "exit" the mediation process at any time can also be empowering and helpful when things feel one-sided or unsafe.

Mediation may feel like it should be a quick process, but there can actually be a lot of downtime while the mediator meets with each party. Bringing your notes and reviewing these with your attorney can be useful while waiting for the mediator to return to your Zoom room or mediation space.

What happens during mediation?

The mediator will meet with both parties and introduce him or herself. She may ask a little bit about your history and what you hope to get out of mediation.

It is important for survivors to be professional at all times. Some mediators will "play both sides" and validate each person's lived experience ("she's crazy" and "he's abusive"). While this may feel empowering and validating, it is important to remember that the mediator may be trying to gain everyone's trust by engaging in informal conversation. No matter how the mediator behaves, at no time should your conversation veer informal or disparage the other party. Stay on guard with how you converse and engage with the mediator.

The mediator will go from "room" to "room" trying to hash out and write a parenting plan and other agreements like financial arrangements. Parenting plans generally include details of parenting time, decision-making, and financial matters. Having examples of different parenting plans can help with understanding the advantages and disadvantages of short or long (more detailed) plans. Survivors can ask their attorney for multiple examples of parenting plans to get a feel for what they look and sound like. Your attorney can redact any agreements to ensure the privacy of other parties and other plans.

If you are dealing with an abuser on the other side of the mediation table, it may be helpful to mediate an agreement that has many details. The "details" of your plan are rules that will be reduced to a court order. A court order is a legally-binding agreement between you and your ex. This means that if your abusive ex doesn't like rules, a detailed court order/parenting plan may result in substantial violations. These violations (your "body of evidence") will help show the court at future hearings that your abusive partner is unable to coparent, is uncooperative and is harmful to you and your child.

Above all else, survivors should go into mediation prepared. Survivors should consider a "non negotiables" list. If you're not getting what you need at the negotiating table, remember that you can walk away. Survivors often feel pressure (and mediators will try to put pressure on the parties) to mediate agreements in one day. This is not a requirement and may result in irreversible mistakes. Take the time you need to negotiate sound agreements for you and your child. Often, the agreement you come up with in mediation is the plan that will stick forever or until modified by motion or hearing. Modifications can be quite costly and very difficult to undo unless there is documented endangerment to the child.



Parenting Plan Considerations

Section 1: Parenting Time Considerations

1. What kind of schedule will you agree to? A 5-2-2-5 plan? A 2-2-3 plan? 7 days with one parent, 7 days with the other parent? What impact will this have on your work schedule? Childcare needs? Transportation to and from the other parent's home?
2. If your ex has a history of abuse, will your parenting plan include "step-up provisions"? Supervision by a parenting supervisor? Will the abusive party have to engage in therapy or treatment before unsupervised parenting time is granted?
3. Where will the exchanges take place? In a public setting? Surveilled location like Target or a police station? Who will exchange the children? A neutral third party? Will the parties park 100 yards away from each other? If there is a PPO in place, how will exchanges work with the PPO in place? Will the parties remain in their car?
4. What will holidays look like? Will parents alternate holidays? Will holidays include overnight time? Will holidays include the weekend of parenting time adjacent to the holiday? Can the children be taken out of school for holidays or breaks that extend beyond the school calendar breaks (e.g. the Monday and Tuesday before Thanksgiving break)?
5. Will exchanges take place naturally at the school? Or will exchanges take place on the weekend? *Consider how this will impact your job and future employment opportunities. What time will the exchange be? Does this give you enough time to get to work?
6. How much vacation time will each parent have? Who will get to choose vacation time each year (and when is the deadline)?
7. Should the parenting plan change as the children get older (e.g. should a 2-2-3 plan be implemented for younger ages while the parenting plan be modified for middle and high school students)?
8. A provision such as "the parties must mediate" before litigating can often be helpful for co-parents who engage in coercive control or litigation abuse. A "mediation" provision may prevent court appearances and litigation in family court down the road.
9. Can the children be taken out of school for recreation purposes? Therapy? Medical appointments?
10. SRG highly recommends considering the impact of mid-holiday exchanges on the children (*it is unlikely that exchanging children on Christmas Eve, in the cold, in the dark is a great idea for the child).
11. Will your parenting plan include phone calls on the other parent's time? *The research says this can be quite distressing for children, especially in an abusive parent's home. How many calls will be allowed/permitted? Where will the child take the call? Will the calls be recorded or supervised? What happens if one parent misses a call? Consider the impact of calls on the child.
12. Will the parties communicate through a court-ordered app like Talking Parents? *Civil communicator can lesson your abuser's ability to send coercive messages but also does not allow to document or capture abusive messages or harassment or manipulation for court purposes. Talking Parents or OFW can be a method of communication that captures unfiltered messages.
13. If a child is sick, should you have to notify the other parent? If a child is not in school for some reason, should the other parent be notified? If a child is sent home from school, how much time (2 hours? 4 hours?) may pass before notifying the other parent?
14. In case of an emergency, how soon must Parent A notify Parent B? Should Parent B be allowed at emergency facilities if the child needs emergency care? Can a third party care for the child at the emergency room without the consent of both parents?
15. How close must one party live to the other? To the school? What is a reasonable distance to drive for school? Consider the impact of schools, school choice, private school, tuition and academic/behavioral disabilities that may impact schooling.

*This list is non-exhaustive. Gather some parenting plans. See what other parents are considering for parenting time and details regarding parenting time, holidays, and other provisions.



Parenting Plan Considerations

Section 2: Decision-making

1. Who will be responsible for decision-making? In abusive situations, survivors should consider the implications of joint decision making that will impact themselves and their child for years to come. It is likely that if you say “up,” your abusive partner will say “down” just to control you at the expense of your children.
2. If you’ve been the primary caregiver, consider asking for “status quo” decision-making for medical and extracurriculars. Children benefit when their primary caregiver has the safety and security to make medical decisions free of control or coercion. Express this concern to your evaluator. Describe the history of abuse. Center your argument in your fears of decision-making and the need to ensure your children can just be kids. This is valid.
3. Medical decision-making is a critical domain for survivors to secure for their children, especially in a situation of domestic violence or coercive control. Abusers often like to weaponize medical decisions whether withholding consent for treatment or withholding access to therapy/mental health interventions. Medical decision-making is a hill to die on for survivors. Your child’s safety and well-being is paramount.
4. Extracurricular decision-making is also an important domain to secure. Abusers enjoy weaponizing extracurriculars by signing children up for multiple events during the same season, by signing children up for activities during your work day, or by generally creating situations that create no-win scenarios for you and your children. Before agreeing to joint decision-making, consider the implications of control on you and your mental health as well as on your child.
5. Education is an important prong of decision-making. Do you expect to stay in the school boundary (with predictable schooling in your child’s future)? Does your child have special needs? Will he/she require plans that both parents will need to consent to? If so, sole decision-making may be critical to your child’s long term success in school.
6. Religion may not be a hill to die on. Generally, each parent can practice the religion they choose in their household without interference from the other parent. If this empowers your abusive ex to have sole decision-making for religion, so be it.
7. If you want to look like the hero, writing in a provision of “Parent A will notify Parent B” of all major decisions is great (ultimately, you will still have decision-making and appear more cooperative).
8. Can you get your ex to agree to therapy as part of your decision-making? Where he cannot revoke consent? Having a therapist/therapy provision in place can make a huge difference for your child long-term even if you lose medical decision-making.
9. Joint decision-making is nearly impossible in situations of domestic violence or coercive control. If this provision is the only one your ex will agree to at mediation, expect to have ongoing conflict that will require heavy documentation and modifications to decision-making in the future.



Parenting Plan Considerations

Section 3: Financial matters

1. Child support - How much? When will it be paid? Will it be paid through a child support registry (HIGHLY RECOMMENDED).
2. Maintenance - (Same as above). *recommend registry transactions and payments
3. Who is responsible for payments of...
 - a. Extracurriculars (How will the payments be issued? To whom? When? Within 30 days?) What is included for expenses (registration fees, uniforms, travel, club teams, club registration, tournaments, equipment)? Should the child have two sets of equipment? If so, who is paying for two sets of equipment and uniforms?
 - b. Medical (Generally, extraordinary medical expenses above \$250 are shared. Will the expenses be shared according to income? What if one party's income increases drastically but the other parent's income doesn't? Should extraordinary medical expenses be reallocated?) Who will pay for insurance? What happens if one parent loses the insurance through their employment?
 - c. Who pays for orthodontics? Driver's ed?
 - d. Cost of exchanges (if there's a PPO in place, should you have to shoulder the burden of hiring third party transportation?) Should transportation costs be split?
 - e. Who pays for daycare? In what proportion (income)?
 - f. Do you want to include provisions for school trips? School fees? School supplies? Necessary tutoring? Academic intervention? Testing? Evaluations?
 - g. Who will pay for camps? How many camps can the children be signed up for during the summer (these can get quite expensive)? How many activities can the children be enrolled in during a single season?
 - h. Who will pay for therapy for the children? If therapy is "out of pocket," how will the parties pay for therapy? In accordance with income?
 - i. How frequently should each party submit reimbursements to the other party? How long does the other party have to reimburse? For example, if your ex has \$200 of out of pocket expenses in one month, should he be required to seek reimbursement from you within 60 days? 120 days? **Putting a deadline around this can prevent your ex from racking up expenses and saddling you with large reimbursements all at once. (Some statutes speak to timelines for reimbursements. Other statutes are ambiguous. Putting a deadline on reimbursements will hold everyone accountable).
 - j. If a child has a bank account or debit card, can the other parent access the funds on that card or allow the child to spend those funds on their parenting time? Who oversees the funds? Who has access to the funds?
 - k. When will the child be permitted to use a cell phone? Who will pay for the cell phone? Who can access the cell phone for supervision purposes?
 - l. Who will retain control over college funds (529 plans)? Will the parent who controls the 529 account be required to notify the other parent of expenditures from the 529 account?
 - m. Who will claim the children on their taxes? If one parent's income exceeds the threshold for claiming children or for tax credits, what date is required for notification (February 30 each year?).
 - n. Who will pay for private education if one parent decides to enroll a child in private education?
 - o. Will there be a clause that the percentage of reimbursable expenses increases if one party's income increases? How frequently can the percentage change?

Don't be afraid to ask your attorney for redacted
sample parenting plans.



Please be advised that this guide is by no means
exhaustive and is not legal advice. Consult a
qualified legal professional when possible.

