

How to Propose Mediation to Your Spouse

Typically, when couples decide to divorce, at least one of the two involved decides to get "educated". In many cases, learning about mediation comes by accident from endless searching for other divorce information on the internet. Many people quickly endorse the concept as they realize they will save a lot of money, have control over what is decided and minimize negative feelings, all in favor of moving forward. When people understand that mediation is an exciting alternative to going to court, they want to "sell" the process to their spouse. Unfortunately, it is not always met with open arms.

It is also not uncommon for one spouse to immediately head to the lawyer's office when the decision is made to separate or divorce. Protecting assets and "wanting the children" are some of the more typical motivators. There the attorney advises his new client to not discuss anything with the other spouse and that he will do all the talking. He might also describe potential favorable outcomes of a court hearing that essentially sell the new client on the need for continuing legal services. It is also important to add here that attorneys are needed in the divorce process; they just might not be needed to help you work out your parenting plan or how you plan to financially manage your future. Any good mediator will encourage you to have an attorney available on an advisory basis to answer any legal questions or help you understand the legal implications of any decisions you may be considering.

Now you have one spouse who wants to mediate and one spouse who may or may not have retained an attorney. One of the biggest obstacles in convincing your spouse to mediate is the feeling of superiority. If your spouse believes you are very knowledgeable about mediation, then a feeling that you have the "upper hand" may be perceived. On the other hand, if your spouse has an attorney who has made assertions of success, then your spouse may already have feelings of superiority over you. Your opportunity to propose mediation should be during a time when immediate conflict is at a minimum. In other words, it probably will be met with a brick wall right after a fight. If you have children, ask them to go do something outside of hearing distance. The most important thing is to speak calmly, allowing your spouse to speak and

ask questions. When answering questions, reply that "The mediator's web site said that...." as opposed to sounding like it is you who has all the answers.

Don't appear to have too much information or sound like an expert. If you have learned about mediation by internet research, bookmark a few sites that your spouse may visit so that personal research may be done without the perception of pressure from you. If you have printed information, share a copy of each brochure. Be sure to know how it works and what it costs. Suggest that mediation has helped many divorcing couples work out their differences without spending thousands of dollars and that neither one of you can have a decision forced upon you or be bound to agree to anything that you do not wish. And if your spouse has an attorney, that attorney may also be present at any mediation. Lastly, state that you never, ever forfeit your right to resort to going to court. In other words, there's nothing to lose.

Point out that mediation will, most likely, provide a better chance of getting the kids what they need and the each of you what you want. Not wanting to "drag the kids through the process" and the potential of increasing animosity and bitterness between the two of you is an excellent argument for mediating. Wanting to get along and be effective co-parents after the divorce is final is also another very good motivator to mediate.

Some important points to remember:

- Don't appear like you know everything there is to know about mediation. If you do, your spouse will feel disadvantaged and possibly hire an attorney or "turn up the heat" with the one that is already retained.
- Present mediation as an option and let your spouse do his or her own research (possibly using your Internet browser bookmarks or looking at brochures). If your spouse sees it as an option, personal research will be done. Understand that a lot of trust is gone at this point in a marriage, so don't expect that your information will be taken for granted and an immediate "yes" be delivered!

- The timing of presenting a mediation proposal can be very important. For example, if your attorneys are getting nowhere, getting somewhere as a couple through mediation is an option.

- Accept that your spouse is in control of what he or she does. Any attempt at forcing an issue will be met with resistance and cause you additional frustration.

- Never, ever, threaten to do something if your proposal is not accepted. It simply will not work and could easily undo any progress made toward any potential mediation proposal. Wait some time and bring it up again as a gentle reminder and offer the information that you provided the first time.

- Skilled mediators should have an abundance of experience in problem solving. If you and your spouse just can't seem to work out an issue, your mediator has most likely had multiple clients with the same issue. He can be a great resource and suggest alternatives that may meet the needs of the both of you.

- Be willing to be fair. If you sit down in the mediator's office and expect to get your way in every subject area, you will most likely be disappointed. Prioritize your needs and desires and be ready for some give and take. Remember -- it's a negotiation.

- Acknowledge your spouse's feeling and concerns. State that you are willing to accept his or her input on when or with whom you mediate and that it does not have to be a mediator with whom you have already spoken.

- Let your spouse do his or her own mediator research.

- Be patient.

Information provided by:

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