

IMPLEMENTING MEDIATION IN FAMILY DISPUTES

Relationships and dynamics in a family can be complex, and disagreements are inevitable. Whether it is disputes over the division of assets, parenting arrangements, paternity or maternity disputes or marital issues, conflicts within families can strain relationships and create emotional turmoil. At this point, family mediation emerges as a valuable tool to address these conflicts constructively. Moreover, family mediation fosters communication, understanding, and reconciliation. In this article, AMCA explores the concept of family mediation, its benefits, and how it can help families navigate challenges and find mutually acceptable solutions.

Understanding Family Mediation

Family mediation is a structured process where a neutral third party, the mediator, facilitates communication and negotiation between family members involved in a dispute. Unlike adversarial approaches such as litigation, family mediation emphasizes collaboration and problem-solving, aiming to reach agreements that are acceptable to all parties. Mediators are trained professionals who assist families in exploring their concerns, identifying underlying issues, and developing practical solutions that address their unique needs and circumstances.

In general, mediation is entirely a voluntary process. The mediator cannot impose decisions or compel parties to accept settlements. Instead, the mediator's role is to facilitate constructive negotiations, helping parties identify barriers to agreement and devising strategies to overcome them. The informal nature of mediation often allows for sessions to be completed within a single day, or even less, providing a swift and efficient means of addressing family conflicts.

Estimating Family Mediation Efficiency

Family mediation boasts numerous advantages, as indicated by surveys conducted across various countries on this approach. To assess the efficacy of family mediation, the UK's Family Mediation Council conducted a survey in Autumn 2019. The survey gathered responses from 122 FMC-registered family mediators who had mediated 2,161 cases over six months. The findings revealed that participants in mediation achieved complete or partial agreement in over 70% of cases, underscoring the effectiveness of mediation in facilitating resolution and reconciliation within families.

Benefits

Mediation is instrumental in addressing the emotional dimensions of conflict, offering a pathway for relationships to endure. This holds profound importance across all family disputes, particularly those involving children. Let us explore the key benefits that family mediation offers in navigating complex familial conflicts and fostering constructive resolutions:

- **Preserving Relationships:** One of the primary benefits of family mediation is its focus on preserving relationships. By providing a safe and neutral environment for communication, mediation helps family members express their concerns and viewpoints respectfully, even in cases where direct communication seems challenging. By promoting mutual understanding, mediation transforms the conflict resolution process into a constructive exchange. Unlike traditional legal battles, which can escalate conflicts and strain relationships further, mediation promotes cooperation and mutual respect.
- **Confidentiality:** Confidentiality stands as a fundamental pillar of family mediation, accentuating its significance even further in family mediation settings. What is discussed during mediation sessions remains private and cannot be used as evidence in court proceedings. This allows family members to speak candidly and explore potential solutions without fear of judgment or reprisal, fostering a climate of trust and openness.
- **Empowering Family Members:** Family mediation empowers family members to take control of the resolution process and make decisions that are in their best interests. Rather than relying on a judge to impose rulings, family members work together with the mediator to craft solutions that meet their unique needs and priorities. This sense of ownership fosters a greater commitment to implementing agreements and reduces the likelihood of future conflicts.
- **Equitable Engagement:** An essential facet of mediation is ensuring that both parties feel heard and valued. Mediators ensure each participant receives an equal opportunity to express concerns, preventing conversations from becoming one-sided and fostering a sense of fairness.
- **Child-Centric Focus:** Mediation adopts a forward-thinking approach, particularly crucial when children are involved in familial disputes. Effective co-parenting hinges on sustained communication, and mediation plays a pivotal role in preserving relationships and facilitating ongoing dialogue to support children's well-being.
- **Tailored Solutions:** Unlike standardized resolutions often associated with traditional legal processes, mediation empowers families to craft bespoke solutions that align with their

specific needs and circumstances. This personalized approach fosters greater satisfaction and long-term sustainability in the resolution of family conflicts.

- **Less Expensive and Fast:** Compared to litigation, which can be lengthy, costly, and emotionally draining, family mediation offers a more cost-effective and timelier alternative. Mediation sessions can be scheduled at the convenience of the parties involved, and the process typically takes less time than going to court. By avoiding prolonged legal battles, families can save money, time, and emotional stress.

Implementing Family Mediation

Successful implementation of family mediation requires a willingness from all parties to engage in the process and a commitment to finding mutually acceptable solutions. Key steps include:

1. Initiation of Mediation

- Mediation can be initiated with or without a prior agreement between parties.
- Prior agreement: Parties submit a written request to the mediation center.
- No prior agreement: Parties may propose mediation by written inquiry to the center.

2. Selection and Appointment of the Mediator

- Parties may nominate a mediator for approval.
- If no joint nomination, the AMCA provides a list of potential mediators.
- Parties should nominate an acceptable mediator from the list within three days.
- If parties do not nominate a candidate, the AMCA appoints the mediator.

3. The First Session of Mediation

- Scheduled promptly after mediator's approval/appointment, within ten days.
- Mediator determines session details after consulting with parties.
- Identifies participants, format, procedure, and relevant issues.

4. The Course of Mediation

- Conducted in accordance with legislation, rules, and AMCA's internal acts.
- Mediator cannot provide legal advice or express opinions on substantive issues.
- May request additional information or actions from parties and participants.
- Mediation can be joint, separate, or a combination, as agreed.
- Expert opinion or advice may be sought with parties' agreement.

5. Termination of Mediation

- If the parties reach a settlement, a settlement agreement is concluded by the parties and signed by the mediator.
- If parties do not reach a settlement, the mediator issues protocol on termination of mediation.

Conclusion

Family mediation offers a constructive and empowering approach to resolving conflicts within families. By fostering communication, preserving relationships, and empowering families to find their own solutions, mediation helps navigate complex dynamics and promote reconciliation. As families increasingly recognize the benefits of mediation in addressing disputes, the demand for professional mediation services continues to grow. With its emphasis on collaboration, confidentiality, and practical solutions, family mediation stands as a valuable resource for families seeking to overcome challenges and build stronger, healthier relationships.

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