

Working with Attorneys

Representation: You may hire an attorney to represent you throughout the process. The attorney will prepare and file the legal documents. He or she will guide you through the legal process by a) advising you of the law and current practices; b) advising you about the use of appropriate experts such as an appraiser, a child and family investigator, a mediator, a tax expert, etc.; c) negotiating with your spouse or your spouse's attorney to achieve a settlement; and, d) representing you during any court hearings or ADR sessions.

Consulting or “unbundled”: You may choose to represent yourself, but consult with an attorney for limited advice throughout the process. The limited advice is based upon a less comprehensive evaluation than available from an attorney hired to represent you. You will be responsible for preparing the necessary paperwork, complying with any court imposed deadlines, and negotiating with your spouse or spouse's attorney. People often consult with an attorney before mediation or before signing an agreement reached through mediation.

Collaborative Law: This is a non-adversarial team approach where each of you hires a consulting attorney trained in collaborative practice. You may agree to work together with experts such as divorce coaches, financial experts, appraisers, and/or mental health professionals. You work with the other party and the collaboration team in a series of meetings to identify and resolve issues. In a document signed by you and your spouse, you agree that if either of you decides to terminate the collaborative process, you will not litigate with the same attorney who assisted you in the collaborative process. Your collaborative counsel would then assist you in finding litigation counsel.

Commonly Asked Questions

Why seek help resolving your dispute?

You can gain clarity and identify new solutions for resolving issues by obtaining assistance. There are many professionals available to facilitate the process.

How can you find an ADR professional?

To engage a court approved professional, contact the Office of Dispute Resolution at www.coloradoodr.org or call 720-625-5940. Parties have the option of using other mediation providers outside of ODR. Please check with the individual providers to see if their experience and credentials meet your needs.

How can you find an attorney?

A list of attorneys can be found in the local telephone book or online at your local bar association.

What do mediators charge for services?

ADR providers usually charge an hourly fee that you and the other party share, either equally or in an agreed upon proportion.

What if you are low income and do not have the money to pay for a lawyer, mediator or other dispute resolution professional?

If you are low income, you may qualify for free or reduced fee services through the Office of Dispute Resolution at www.coloradoodr.org, and some private mediators. Reduced fees for legal services may be available by contacting Colorado Legal Services at www.coloradolegalservices.org or 303-837-1313, your local bar association, or the courthouse.

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Settlement choices when your marriage or relationship ends



You can make your own decisions about parenting and financial matters

- There are a variety of problem-solving processes referred to as Alternative Dispute Resolution (ADR) which provide an alternative to having a trial where a judge makes the decisions for you.
- ADR can offer cost effective, timely, and appropriate choices for your individual situation.
- These methods are less formal than court hearings and allow you to have greater influence on the outcome of your dispute.
- You can participate in ADR with or without the assistance of attorneys.

Options for Reaching Agreement

You can choose one or a combination of any of these options to resolve your dispute either prior to filing or after you start a court case by filing your petition:

- Negotiation on your own
- Mediation
- Arbitration
- Mediation-Arbitration
- Settlement Conference
- Working with attorneys through representation, consultation, or collaborative law

You can use these options to complete all or part of a written Parenting Plan or Separation Agreement, which must be filed with the court.

When you sign a written agreement on any issues, file the agreement with the court and notify the division in which your case is being heard before your contested hearing.

1. A **Parenting Plan** includes your agreements about parenting, decision making, and child support.
2. A **Separation Agreement** includes the terms of your financial agreements in a divorce or legal separation, including child support, spousal maintenance and division of assets and debts.

NOTE: If you are under a Protective Order or a “No Contact” provision in a bond, inform the mediator prior to the session so, as may be needed, special arrangements to have parties mediate in separate rooms can be accommodated.

Negotiation on your own

You and the other party can discuss and try to settle your differences together. You can fill out all of the necessary paperwork for the court yourselves. There is an online self help center with instructions and forms for divorce/legal separation, paternity, and parenting cases at www.courts.state.co.us/chs/court/forms/domestic/domestic.html. You can also call the Family Court Facilitator’s Office at your local courthouse for help in navigating the court procedures, but the office cannot give you legal advice about the terms of your agreements.

Mediation

Both of you can hire a trained neutral mediator to assist you in reaching your own agreement in an informal and confidential setting. The mediator helps create a safe environment so that each person has a chance to be heard. The mediator will solicit your input and then determine whether you and the other party will be in the same room or in separate rooms as well as who will participate in the mediation. If you have attorneys, they may participate in the mediation. A mediator cannot give legal advice to either party.

The mediator does not decide the outcome - the agreements are up to you. The mediator helps you:

- Clarify issues
- Identify your needs and interests and those of your children
- Create options that best meet the identified needs and interests

Some cases are resolved in one or two meetings, while others take longer. Even if the entire case is not settled, mediation can be helpful to reach agreements on some issues prior to going to trial.

The mediator may put your agreements in written form for your signature, or you or your attorney can write the agreement, which then you should file with the court. If you are unable to reach a mutually satisfactory agreement on all or part of the issues, your case will be set for a court trial.

Mediation is a good option when you will have an ongoing parenting or other relationship with each other. Many people find that mediation helps them work cooperatively together. Parties who reach their own agreements tend to be more satisfied than parties who go to a court hearing.

Arbitration

Both of you can hire a trained neutral arbitrator to make all or some of the decisions upon which you cannot agree. Arbitration can be

helpful when you want a timely resolution, as it can be faster and less formal than court hearings. You can choose an arbitrator with expertise in the issues to be arbitrated, such as parenting, financial, or legal issues. The arbitrator will make a decision based upon the testimony and evidence presented. The decision of the arbitrator will be enforced by the court except in unusual circumstances.

There is a limited opportunity to request a new hearing in child-related matters.

Mediation-Arbitration (Med-Arb)

You begin by mediating, but you agree that if you cannot resolve specified issues, then your mediator becomes an arbitrator and makes binding decisions on those unresolved issues. It provides an opportunity to work out your own solutions and to break any deadlocks. It ensures that a final decision is made. When you have an ongoing parenting relationship with the other party, mediation encourages voluntary communication and settlement, with arbitration being used to decide those issues upon which the two of you cannot reach an agreement.

Settlement Conference

Both of you can hire an impartial legal professional to do an informal assessment and conduct a negotiation session. He or she will analyze the issues, evaluate the strengths and weaknesses of your positions, and suggest settlement options based on the law and precedent. He or she may assist you in writing an agreement. You and the other party may be in separate rooms.