

# Mediation In A Texas Family Law Case: From Scheduling To The Final Order

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In Texas, we believe it is better to settle a lawsuit than to fight it out in court. Settling a lawsuit outside of court, gives the parties more control over the outcome of their case. The early peaceful resolution of disputes is especially important in family law cases that involve children because children suffer when their future is uncertain.[1]

In most cases, parties tend to discuss settlement informally, but when that fails, most courts will require the parties to undergo mediation. Mediation is an alternative dispute resolution method where the parties attempt to settle their dispute with the help of a trained mediator. Since the majority of civil cases will be required to participate in mediation, it is important to understand the process.[2][3]

In Texas, the general law governing mediation and other forms of ADR is found in [Chapter 154 of the Texas Civil Practice & Remedies Code](#). Additionally, the Texas family code sets out the laws regarding mediation specific to family law cases set out in the Texas family code.[4]

Mediation can take place in person at either the office of one of the attorneys in the case or in a neutral location specified by the mediator. Additionally, some courts have private rooms within the courthouse for mediation. Mediations can also be held remotely, through services like Zoom.

## Preparing for Mediation

PREPARATION



### 1. Before Mediation

Before your scheduled mediation, you will receive a questionnaire from the mediator's office, which you must carefully complete, sign, and promptly return.

### 2. Preparing



In the weeks before mediation, carefully think about the areas you are willing to compromise and those you are not. The more time you spend preparing, the higher your chances of successfully mediating your dispute.



***With preparation and a proper understanding of the process, mediation can be a very effective tool to end a conflict and reach a final resolution.***



### 3. Paying for Mediation

Mediation fees must be agreed upon and paid before mediation. It is customary for the parties to split the costs. Courts often refer parties who lack the means to pay for mediation to volunteer mediators who provide their services for a reduced fee or on a pro bono (no charge) basis.



### 4. Mediation is a non-binding Process

Mediation is a non-binding process, which means that the mediator cannot force the parties to settle their dispute. The success, or lack thereof, rests strictly at the hands of the parties. Mediation will only become binding once the parties enter into a settlement agreement.

### 5. Agreeing to Mediate



At the start of the mediation, the mediator will go over the rules of the mediation and ask that everyone agree to mediate in good faith.

### 6. Mediator and parties one on one.



After the opening session, the mediator will meet with each party either jointly or separately and ask for strengths and weaknesses, and their settlement position.

### 7. Trying to reach an agreement.



The mediator will then go back and forth between the parties trying to help them reach agreement for example outline strengths, identify weaknesses, propose ideas, suggest a middle ground for settlement, etc..

### 8. Successful Mediation



If the parties reach a settlement, the mediator will draft a "Mediated Settlement Agreement" (MSA) and present it to the parties for their review and signature. Once signed by the parties, the MSA becomes a legally binding document.

### 9. Declaring Impasse



The mediator will terminate the session and declare an "impasse" when parties fail to reach a settlement. When declaring an impasse, the mediator is declaring that, given her experience and the positions of the parties, she does not believe an agreement can be reached.

## About the Mediator



### Mediator as a neutral intermediary.

A mediator's role is that of neutral intermediary, not that of representative of or advocate for any party. A mediator should not offer legal advice to a party.



### Helping cool down

Mediators serve as a buffer between the parties by helping each party control their emotions, especially in family matters where emotions tend to run high.

### Sources:

- [1]Tex. Civ. Prac. & Rem. Code Ann. § 154.002.
- [2]Tex. Civ. Prac. Rem. & Code Ann. § 154.003.
- [3]Tex. Civ. Prac. Rem. & Code Ann. § 154.051-154.055.
- [4]Tex. Fam. Code Ann. § 6.602 and § 153.0071.

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