

SUPPORTING FAMILIES THROUGH DIVORCE:  
HELPING YOUR CLIENTS UNDERSTAND AND CHOOSE THE BEST PROCESS  
FOR THEIR FAMILY

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Most divorces begin with a level of moderate to high conflict. Within the first year most parents settle into cooperative or parallel co-parenting arrangements. Yet, there is a significant percentage of divorcing parents where hostility and disputes about childrearing continue long after the divorce is final. Today most professionals involved in the divorce process believe that the adversarial nature of traditional legal action increases parental conflict and the probability that the family will suffer more emotional and financial damage.. *As a mental health professional you have an opportunity to assist your clients in selecting the best method for them to end their marriage based upon the unique strengths and needs of their family.*

*For couples who are capable of handling their divorce-related issues in a non-adversarial manner, mediation and collaborative divorce are emotionally and financially useful in terminating their relationship and ameliorating the detrimental effects of the process on their children.*

Mediation offers divorcing couples the opportunity to address their concerns and negotiate their financial and parenting interests to reach a consensus agreement with the assistance of an impartial third party. Once an agreement is reached, it is reduced to writing, the couple is encouraged to have the agreement reviewed by their separate attorneys to assure their rights have been adequately addressed, and the document is finalized and signed by the parents. There are a variety of mediation models, and the mediator chooses the method most appropriate to the goals of the couple.

In Facilitative Mediation the mediator assists the couple in exploring common interests, generating options, and making decisions for themselves, leaving the outcome entirely up to the design of the couple.. Transformative Mediation attempts to do more than just find a resolution. It is a meditative process in which the mediator's goal is to empower the individual to communicate openly and to understand the other parent's perspective. In Evaluative Mediation, or Traditional Settlement Conferences, the mediator or settlement master uses his or her professional experience and knowledge to proffer probable outcomes on the issues preventing settlement to sway the couple to reach an agreement. In Therapeutic Mediation the mediator uses therapeutic

techniques to encourage discussion of the underlying emotional problems to establish a basis to overcome impasse in order to allow candid and effective negotiations. The “Strategic Mediation” model is a systemic approach focused upon reaching a resolution to the presenting difficulty. It is a problem-solving approach which stresses the hidden dimensions of a conflict.

In the Collaborative Divorce the couple and their attorney’s enter into a written contract that mandates cooperative negotiation of the disputes to settlement, and prohibits their attorney’s from representing them in litigation if they withdraw from the process. Clients promise to act in good faith and to voluntarily disclose all relevant information. The couple works with a team of legal, financial, and therapeutic professionals. Therapists serve as “coaches” to aid the party’s in constructive, clear, and rational communication and identification of underlying emotional barriers that lead to impasse. In addition, they serve as child specialists bringing the voice of the children to the negotiation table, educating the parents about the developmental, temperamental, and cognitive needs of their children to minimize the detrimental impact of the transition from a nuclear to a bi-nuclear family, and helping the couple to be child focused through out the negotiation process.

If the couple chooses litigation to resolve their differences, they are more likely to be involved in a high conflict relationship, where communication is significantly impaired or non existent. One or both parties are emotionally unable to compromise due to a belief that to do so will be detrimental to themselves and/ or their children. Court ordered resolutions are required, and judges, and the party’s attorneys, looked to trained professionals to provide insight and unbiased perspectives regarding the best interests of the children.



