

KEY ELEMENTS OF MEDIATION

It is important that parents understand the key elements of the parenting plan mediation process.

Voluntary - You can terminate and leave a mediation at any time for any reason.

Collaborative - As no participant in mediation can impose anything on anyone, everyone is motivated to work together to solve the issues and reach an appropriate parenting plan or other agreement.

Free choice - Each parent has complete decision-making power and can say no to each and every proposed provision of a parenting plan. Nothing can be imposed on you except that each parenting plan is required by the Parenting Act and Court Rule 4.3 to include certain provisions. See [Parenting Plan Checklist](#)

Privileged and Confidential – Under the Nebraska Uniform Mediation Act mediation is generally privileged and confidential, unless you agree in writing that it will not be privileged or confidential. This means that mediation discussions and all materials developed in mediation are generally not subject to discovery or admissible in any court proceeding, except for a finalized mediated parenting plan or agreement. Your mediator is obligated to describe the extent of mediation privilege and confidentiality and exceptions to that privilege and confidentiality. The extent of confidentiality for any "caucus meetings" (meetings between the mediator and individual parties) should also be explained to each parent.

Informed participation - The mediation process expects that each parent will have a full opportunity to obtain and present any legal and other expert information and advice that will assist in resolving parenting plan issues. While legal and other expert information can be presented and considered such information and advice is not what determines an issue in mediation. The parents always retain full decision-making power. Mediators are required to encourage parties to obtain legal counsel and to advise them to have any mediated agreement involving legal issues reviewed by legal counsel prior to final approval. Court Rule 4.3D provides that each parent has an opportunity to have an attorney review and object to any provision in a proposed parenting plan.

Safe and balanced process - The mediator has a responsibility to provide safety while assisting each mediating parent and to not favor a particular result in the mediation. A mediator is ethically obligated to acknowledge any substantive bias on issues or any conflict of interest because of prior contact with a parent. The mediator's role is to ensure that parents have an opportunity to reach parenting plan agreements in a safe, voluntarily and informed manner, and not as a result of coercion or intimidation.

Agreement compliance – Research show that parents who have actively participated in mediation and have voluntarily resolved parenting issues and reached a parenting plan have a higher rate of satisfaction, better involvement in their child's life, and a higher level of compliance with the agreement than those parents who attempted to resolve their issues with court options.