

# Mediated Divorce And Children

by Carolyn Finney

**T**he boy stood in the doorway of the mediator's office with a wary expression. He was a sophomore in high school, and his divorcing parents were deeply divided over whether their son should transfer from the elite private school he attended in the District to the blue ribbon public school a few blocks from his home. They had asked the mediator to meet one-on-one with their son to see if new insights might be gained to help break their impasse.

The boy scanned the room, and then rested his gaze on the three comfortable chairs facing each other around the low table. "I can picture exactly what goes on in here," he said wryly.

The mediator invited the boy to explain. The boy reflected, and then asked where his mother typically sat. He settled into her chair, then launched into a flawless interpretation of his mother's concerns, complete with his mom's gestures and tone of voice. Then, he hopped into his dad's chair and presented the countervailing argument, assuming his dad's tone of voice and mannerisms, as if he had been present at every single session. The boy finished and leaned back, relaxed now, and grinning.

"You know what your parents want for you quite well," the mediator smiled. "Now, how about we talk about what you think is best for you?"

*(Details of this episode have been modified to protect the confidentiality of the participants.)*

What the mediator knew as he related this scenario is that the question of school choice, while important, was simply the issue on the surface. What

was really at stake, and of far greater importance, was the boy's ability to weather this major transition as his parents' marriage was ending, and his ability to adjust beyond. What did he need to feel secure and supported, to thrive and be happy, and how could the mediator enable both parents to play a constructive role under such potentially destabilizing circumstances?

Whether divorcing parents are divided over school choice, religious practices, financial stresses, or other significant lifestyle factors, mediation is structured to discern the needs of children while upholding the values of their parents, and to ensure that both parents can create stable and thriving households for their children.

## Bringing Children "Into the Room" In Divorce Mediation

While children and teens typically do not participate in divorce mediation sessions, mediation is a process that places their needs at the forefront, shielding them from the potential trauma of litigation, and safeguarding hard-earned family assets for college and other long-term family needs. With litigation costs rising and a growing awareness of the emotional harm of high-conflict divorce, more couples are choosing mediation to end their marriages. Their goal: to build long-lasting parenting partnerships in a humane and economical manner, while preserving the emotional health and well-being of their children.

Two local divorce mediators use their practice to bring the needs of the chil-

dren into the room through a carefully structured process that begins at the very first session—when parents are asked to bring in a photo of their children. Mediator John Spiegel is an attorney in Rockville who has been practicing divorce mediation full-time for over a decade. He begins each session by placing the photo on an easel where it remains in view, and asking clients to relate a recent parenting highlight. "By asking parents about what brings a smile to their face," Spiegel says, "it allows the couple to anchor themselves in something that's positive, before they get down to the hard work of constructing a parenting plan or dividing their assets." Spiegel's colleague Donna Duquette, also an attorney, continues: "The focus in mediation is on getting to know the children and their needs, to ask questions about the children so that they are figuratively if not physically in the room. Mediation's a safe place for parents to ask questions, to discuss their hopes and their fears, and to address all of these issues in a constructive manner."

## A Parenting Partnership Based on Trust

The question that Duquette routinely asks divorcing parents during their first mediation session is: "Three or four or five years from now, what do you want your parenting relationship to look like?" Almost invariably, she says, parents come up with an identical list: to give the kids a childhood and not rush them into growing up; make sure that special needs continue to be addressed; to attend sporting

events, graduations and other milestone events, together; and to raise happy kids, even if they are not doing it under the same roof.

When parents hear one another other relate these hopes, Duquette says, "It allows trust to develop between them."



It also creates an opportunity for them to receive acknowledgement of their past roles, and what their roles will be in the future. "People going through a divorce have a lot of fear and need reassurance, especially if one parent is moving a distance away, or if one parent has stayed at home for a number of years to be with the children, and

now finds that role will be changing." But when couples enter litigation, Duquette says, "The process instantly becomes adversarial, and parents don't get to hear these acknowledgements. There's no place for trust to grow."

### Spending Hard-Earned Savings On What You Intended

High-conflict divorce can be not only emotionally devastating; it can also be financially impoverishing. Rising costs, as well as the desire to minimize emotional distress to children, are motivating more parents to choose mediation. Forbes.com estimates the average cost of divorce litigation to run \$15,000 – \$30,000, while another survey of divorce litigation costs in an affluent urban area puts the figure closer to \$78,000. Because mediation employs one professional working toward agreement rather than two litigators, mediation costs run one-tenth or less of the cost of litigation. Spiegel recalls a few years ago when local divorce attorneys, stymied in their efforts to bring a case to closure, referred a couple to him who had spent over \$35,000 in litigation, with nothing to show for their efforts. "That expense," he remarked, "could have secured one or two years of college for the children, or several terrific family vacations, and yet no one in the family got to experience the benefit of these." Both Spiegel and Duquette are committed to making the mediation process as efficient and economical as possible, and have designed a process that couples can also work on between sessions, thereby reducing the overall number of sessions and the length of the mediation process.

### Raising Resilient Children

Divorce is always sad, but it doesn't have to be harmful. One of the greatest intangible benefits of a mediated divorce is that it gives children a model for how to handle conflict in their own lives as they witness their

parents managing what is among the most challenging of interpersonal conflicts. Mediation teaches skills of listening, empathizing, identifying needs, working through anger, and focusing on the future—life-long skills that are communicated through the example of parents to their children. Robert Emery, psychologist, researcher, mediator, and author of *The Truth About Children and Divorce*, writes that a well-managed divorce—one that focuses on the needs of the children, allows for feelings to be processed in a constructive manner, and allows for both parents to actively participate in their children's lives—results in resilient children who are not invulnerable to pain, but learn how to work through it and find happiness on the other side.

One parent recently reflected on the lasting impact that divorce mediation five years ago has on her children's lives today. "Last Sunday morning our kids went over to their dad's for pancakes, like they do every Sunday during weeks they stay with me. It's a tradition that's evolved over time, because our kids feel good about where they are, and we all feel comfortable with that choice. Even though the divorce was hard and scary for all of us, the way we went about it has brought us to a place that feels safe and calm."

Whether your children will be walking down the block or flying on a plane to join a parent for pancakes, whether the new households are headed by a single dad or a newly-remarried mom, whether they remain in their current schools or re-orient to new schools, divorce mediation provides the tools, the process, and the peace of mind to help parents and children navigate these changes.

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