

**Elder Mediation Promotes Relationships, Dignity & Choice**  
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**What is Elder Mediation?**

Elder Mediation is a voluntary process to resolve conflicts regarding the needs of those who are elderly or with special needs and their families. Elder mediators typically use what is called “facilitative mediation”, wherein a neutral facilitator assists the individual and/or their families and others through a process that empowers the parties to identify the issues and develop and identify their own resolution to the conflicts that is satisfactory to all those involved.

It is not the role of the elder mediator to issue opinions or judgments regarding the conflict. In addition, elder mediators are required to keep all discussions and information in the mediation process confidential, even if the parties are involved a court proceeding.

**Who does Elder Mediation?**

First, the parties involved must agree to the use of and select an elder mediator to assist in the resolving the conflict. Elder mediators can be attorneys or non-attorneys (such as social workers). Elder mediators have special training and knowledge in facilitated mediation, as well as specialized knowledge of the needs, interests and issues of individuals who are elderly or with special needs. Elder mediators should also have the skills to maximize communication and participation of individuals who are elderly or with special needs in the process.

Typically, fees are charged at an hourly rate by the elder mediator, and the fees are split between the parties involved. The parties, if agreed, can bring their own attorneys. The role of attorneys in mediation is minimized; the focus is on the parties. However, attorneys can be very helpful to provide ongoing advice and assistance, particularly on legal matters.

### *When is Elder Mediation helpful?*

Meeting the needs of an individual who is elderly or with special needs can be very complex, and can be very stressful on the individual, the caregivers, and other family members and friends. Many issues and disagreements, often those that are emotionally charged, may arise throughout the course of caring for an individual who is elderly or with special needs.

Elder Mediation is frequently used as an alternate dispute resolution method during litigation or a contested matter (e.g., guardianship, wills and trust disputes) that is already before a court. Elder Mediation, however, can also be used as an “early intervention” option to prevent further disputes which may lead to future litigation and court intervention.

Elder Mediation can assist the individual and their families with conflicts that can arise such as:

- What assistance does this person really need? (e.g., financial, medical, daily activities, psycho-social)
- Who and how should that assistance be provided? (Who should have power of attorney? Who should seek guardianship? Who should be the conservator?)
- What services does this person need? Who will make arrangements for these services?
- How will services be provided that will meet the needs of the individual?
- What type of medical treatment will the person receive?
- Who will care for the individual and when?
- Where will the person live?
- How is care to be paid for?
- How will quality of life and care be maximized?
- Should Mom/Dad still be driving?
- How can we keep the person living as independently as possible?
- How will finances be managed?

Because Elder Mediation is primarily a voluntary process (unless it is ordered by a court), so it is best used when all parties are genuinely interested and motivated in resolving the conflict(s).

### *Why use Elder Mediation?*

Relationships with families and friends are considered one of the greatest determinants of a person's quality of life and care. Litigation and court proceedings are adversarial by nature, and can create negative feelings and have a negative lasting impact on these valuable relationships. Moreover, litigation and court proceedings takes away control from the individual, families and other involved parties, and gives the authority to a third party (judge) to impose a decision while not necessarily having a full understanding of the needs and interests of each of the parties. In contested court proceedings, there is typically only one “winner”.

Unlike litigation and contested court proceedings, Elder Mediation:

- Permits the individual who is elderly or with special needs to be involved with the process to the greatest extent possible;
- Allows the individual who is elderly or with special needs to participate in important life choices that may seem out of their control;
- Improves communication and cooperation;
- Improves empathy and understanding;
- Keeps the focus on the future needs of the individual and is goal-directed;
- Keeps matters private and confidential; and,
- Minimizes court costs and attorney fees.
- Empowers the parties to identify creative problem-solving and solutions;
- Creates solutions that are individually tailored to the needs and interests of those involved; and,
- Allows for the possibility of a “win-win” situation for all parties.

In other words, Elder Mediation can: promote independence and choice; protect dignity; improve the quality of life and care; preserve and promote valued relationships for the individual, and keep the focus on the wishes, preferences and best interests of the individual who is elderly or with special needs.