

## Benefits of Mediation

- ▶ **Saves time.** Mediation eliminates lengthy court battles.
- ▶ **Saves money.** Preparing a case for court can be time-consuming and costly. Attorneys must contact and interview witnesses, collect documents and other evidence, schedule court dates and follow up on the case after trial. By choosing to mediate, parties can avoid the lengthy steps that attorneys and the courts must take to prepare for a trial.
- ▶ **Provides confidentiality.** Issues and concerns are kept in the strictest confidence. Mediators cannot disclose matters discussed during mediation except by order of the court for good cause shown.
- ▶ **Preserves relationships.** If you are in a dispute with a friend, a neighbor, a co-worker or a relative, the stress of “winning” a case can take a toll on your relationship. Mediation lets you focus on reaching a solution that is satisfactory to both parties and that may, in the end, preserve rather than destroy your relationship.
- ▶ **Puts you in control.** You decide the issues that are important to you and how to resolve them, rather than a judge who cannot fully know your concerns and might impose his or her decisions upon you.
- ▶ **Lets you voice your concerns.** The mediation environment lets you freely voice your concerns in a way that might not be permitted in a courtroom.
- ▶ **Offers creative solutions.** Because you are in control of the process, you can offer creative solutions that the court might not consider or otherwise allow.



John D. Minton, Jr.  
Chief Justice of  
Kentucky

*Mediation can provide a positive alternative to settling disputes in court*

The Kentucky Court of Justice continually looks for ways to provide greater and more efficient access to justice. Crowded dockets create delays and additional costs for our traditional litigation system. The Division of Mediation of the Administrative Office of the Courts supports the mediation process for the citizens of Kentucky.

Our goal is to provide individuals with timely, cost-effective ways to settle their legal disputes. As you proceed through the court process, I invite you to use mediation as a positive way to resolve the issues that matter to you most.



*For more information, contact:*

Division of Mediation  
Department of Court Services  
Administrative Office of the Courts  
100 Millcreek Park  
Frankfort, Kentucky 40601  
800-928-2350  
[www.courts.ky.gov](http://www.courts.ky.gov)

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*What you should know about*

# Court Mediation



*Mediation is a powerful and proven tool that can be used to quickly and amicably resolve disputes.*

## Mediation allows parties to control their own outcome

*Mediation takes disputes out of the courtroom and into a confidential setting where a skilled mediator helps meet the needs of all parties.*

### The Mediator

A mediator is a trained, neutral third party who can assist you in resolving conflicts. The mediator is highly skilled to help you reach an agreement that is workable for all parties involved in the dispute. Because the mediator is neutral, he or she does not take sides, but rather works with each party to recognize your interests and concerns while allowing you to express your own positions.

### Goals of Mediation

The mediator helps each party identify areas of dispute and come up with potential solutions. The goal of mediation is to put the parties in control of the outcome so that they, not the mediator or a judge, design their own resolution. The mediator recognizes that you are in the best position to know what issues are important to your case. Because the parties determine the outcome of their case, they will be following their choices instead of those that might be imposed upon them by a judge.

### Your Rights in Mediation

No one can force you to agree on something that you believe is not in your best interest. Throughout the mediation process, both parties maintain their legal right to counsel. Each party also retains the right to terminate the mediation at any point and have his or her day in court.



## The Mediation Process

The mediator will meet with you and the other party to identify your needs. The mediator will then help both parties communicate their desires and concerns to each other in an open and safe environment. While you are free to discuss your positions, common courtesy must be observed at all times for the process to be successful.

Your attorney may attend and assist you by offering legal advice, but the attorney is not there in an adversarial role as he or she would be in the courtroom. Rather, the attorney accompanies you and the mediator in an attempt to help move the mediation process forward. Just as the courtroom is your attorney's venue, the mediation session is your opportunity to speak and to be heard.

Under no circumstances should you be pressured to reach an agreement that you are not comfortable with. You are strongly encouraged to work toward a solution that benefits all parties involved, but you are not required to come to a resolution. Because you control the final result in mediation, you can stop the process at anytime and have your day in court, where the judge will decide the outcome of your case.

If an agreement is reached that is mutually acceptable to all parties, the mediator will draft a formal agreement and have all parties sign it and then submit it to the judge. Once the judge reviews and signs the agreement, it becomes an order that is enforceable through the court.

*Any agreement reached between the parties is binding and enforceable through the courts.*

### Mediation Roster

To access a roster of mediators by county or review the Mediation Guidelines, visit [www.courts.ky.gov](http://www.courts.ky.gov). Click on Court Programs, then on Mediation and then choose a topic from the right-hand menu.

## Court Annexed Mediation

A judge may refer a civil case (including small claims cases) and some criminal cases to the court mediator to give you and the other party an opportunity to resolve the dispute before asking the court for a judgment. Once the referral has been made, the mediator will schedule a mediation session for your case. All parties will be notified of the date, time and location.

**Civil Cases.** If a mutually acceptable agreement is reached, the mediator will draft a formal agreement for all parties to sign. Once the agreement is reviewed and signed by the judge, it becomes an order of the court and is binding and enforceable through the courts. If one or both parties fail to appear for the mediation session, your case may be returned to court for further action, including possibly dismissal.

**Criminal Cases.** The judge reviewing a private citizen's sworn complaint that has been filed with the county attorney may send the case to mediation instead of issuing a warrant or a summons. The parties are not required to agree. However, if an agreement is reached the case may never have to proceed to court. If the alleged offender fails to comply with the terms of the agreement, the underlying criminal complaint may be reinitiated.

**Judicial Referral of Criminal Cases.** Once criminal prosecution has begun and the complaint has been signed by a district judge, a district judge may continue the case by referring it to mediation if the following conditions are met:

- The county attorney agrees to the mediation.
- The complaining witness agrees to the mediation.
- The defendant agrees to the mediation.
- The county attorney agrees to dismiss the case if the complaining witness and the defendant reach an agreement.