

**The Arkansas Access and Visitation Mediation Program was created in 1997 as a result of funding provided by a federal grant. The purpose of this statewide program is to support and facilitate non-custodial parents' access to and visitation with their children.**

## **FAMILY MEDIATION**

“Mediation is a family-centered conflict resolution process in which an impartial third party assists the participants to negotiate a consensual and informed settlement. In mediation, whether private or public, decision-making authority rests with the parties. The role of the mediator includes reducing the obstacles to communication, maximizing the exploration of alternatives, and addressing the needs of those it is agreed are involved or affected. Mediation is based on principles of problem solving that focus on the needs and interests of the participants; fairness; privacy; self determination; and the best interest of all family members.”

*From the Academy of Family Mediators - Standards of Practice for Family and Divorce Mediation*

### **What is Access and Visitation Mediation?**

Separation and divorce mean significant changes for everyone involved creating situations which require difficult decisions be made. Traditionally, people have relied on the courts to resolve family issues during this time. However, a potential courtroom battle increases stress on every member of the family, particularly the children. Simultaneously, parents may feel a loss of control over very personal aspects of their lives.

Mediation is another way to work through the problems and address the core issues brought forth by separation and divorce. The mediator is a trained professional who facilitates a difficult, confidential discussion between the parents, helping the parents listen to one another and be open with one another. The mediator has no authority to make decisions for the parents. The goal of mediation is for parents to create a parenting plan allowing both to have a continuing relationship with the children. The focus of the agreement is on the children's needs and the rights and responsibilities of both parents.

### **Why is Mediation Helpful?**

- Parents remain in control.  
In mediation, parents working cooperatively make decisions based on what is best for the children. Decisions are not made for the parents.
- Reduces stress and anxiety.  
The focus on cooperative problem solving in a mediation session helps reduce the stress normally experienced by parents and children in a court battle.
- Parenting Plans are more successful.  
Parents who invest their time and energy creating a parenting plan for their children are more likely to respect and honor the plan.

## What is the Mediator's Role?

- Facilitate a discussion.  
Parents are encouraged to discuss their needs and hopes for the future.
- Focus on the Future.  
Mediation cannot change the past or erase the hurt that may already exist. Mediation can help parents design a plan for present custody and future access and visitation.
- To be a Neutral Party.  
The mediator is a neutral party who does not make decisions for the parents. He or she encourages cooperation and fairness. He or she also assists parents in reaching an understanding of the visitation problems, listing possible solutions, evaluating choices, and putting the plan in writing.

## What is the cost to participants within the Access and Visitation Mediation Program?

The Access and Visitation Mediation Program is a federally-funded pilot program designed to mediate only those issues of Access, Custody and Visitation. There is no cost to participants within this program for the mediation itself. If an agreement is reached parents are advised and encouraged to have the agreement reviewed by their individual attorneys and submitted to the court for final approval.

## How does the Program Work?

*In the case of a court ordered mediation:*

1. The Court or attorneys in the case provide a copy of the court order to the Director of the Arkansas Access and Visitation Mediation Program.
2. The attorneys, in conjunction with their clients, select a mediator from the Access and Visitation Mediation Roster.
3. The attorneys then notify the Director of the Access and Visitation Mediation Program with their mediator choices.
4. The Director contacts the mediator directly for availability and formally assigns the case.
5. The mediator, in turn, contacts the attorneys and/or the parties to set up the mediation.

*In the case of suggested mediation:*

1. The parents contact the Director of the Access and Visitation Mediation Program directly.
2. The Director then provides the parties with the Access and Visitation Mediator Roster for their selection.
3. Once the parties make their mediator selection, they notify the Director of the Access and Visitation Mediation Program.
4. The Director contacts the mediator directly for availability and formally assigns the case.
5. The mediator, in turn, contacts the parties to set up the mediation.

## Both Voluntary and Mandatory:

The Arkansas Access and Visitation Mediation Program is both voluntary and mandatory. It is voluntary in that the Program may be suggested to parents by judges, attorneys, or by self referral. It is mandatory

in that many Arkansas Judges are now ordering parents into mediation with the program serving as one option to work through the issues.

This is an opportunity for parents to work out an agreement themselves. Parents are asked to work cooperatively and try to resolve the issues of access, visitation and in some cases, custody. While attorneys may be present at the mediation, it is not required. Parents are asked to have any agreements reviewed by their individual attorneys prior to signing the formal agreement. After the agreement is signed, it must be submitted to the court for approval. Once approved, the parenting plan will become an enforceable order of the court.

If parents are unable to reach agreement through mediation, they are still free to return to court. Mediation is a voluntary process and participants are not compelled to reach an agreement. The mediation process is also a confidential process. The discussions in mediation are confidential and are not revealed by the mediator to any other persons, including the judge or attorneys.

### **Is Mediation Ever Inappropriate?**

Mediation may not be appropriate for families with substance abuse, alcoholism, spousal or child abuse. When these behaviors are present, the decision to mediate is made on a case by case basis.

### **Referral Process**

Judges may order divorcing parents into mediation according to Ark. Code Ann. § 9-12-322 (a)(2) or § 16-7-202. Attorneys, counselors, etc. may suggest the program parents or parents may refer themselves. If you would like to know more about this program, please call:

**Stephanie Smith**  
**Access and Visitation Mediation Program**  
**625 Marshall Street**  
**Little Rock, AR 72202-1020**  
**(501) 682-9400**

