



## **Child Custody Mediation**

**By Daniel P. Bestul**

Not all divorcing parents can agree how to resolve issues of child custody, periods of placement, or child support. Problems from the relationship of the marriage may cloud the parents' abilities to sit down together and discuss these issues on their own. The parents may be caught up in their own feeling of anger, hurt and betrayal, and cannot or do not want to talk with the other parent directly about these issues.

Mediation is one alternative to litigation that is available to parents. It is designed to help parents be responsible for their children and remain in control of the decisions affecting their children's lives during and after a divorce. Mediation recognizes that children will need to have relationships with both of their parents forever. Wisconsin law requires that parents attend at least one mediation session when disputes over child custody and periods of physical placement arise in a divorce.

A mediator listens to both parents to find out what issues are in dispute, and then facilitates a dialogue between the parents to seek creative solutions to the dilemma they face in structuring their parenting during and after the separation or divorce.

The issues are unique in every case because of the unique circumstances of the parents, as well as the ages and activities of the children. Mediation is based on the premise that parents are best situated to know their children and what arrangements will work for them.

A mediator is trained to refrain from imposing his or her own biases or recommendations on the parents. The mediator does not represent either party and does not give legal advice. Mediation is not meant as a substitute for legal representation.

If the parents are able to agree about the issues, the mediator will send a letter of the agreement to the parents and their attorneys. The agreement can include a provision that if circumstances change or if future disputes arise, the parties agree to try to mediate those conflicts as well.

Obviously, not every conflict can be mediated successfully. In a case involving domestic abuse, for instance, mediation may not be appropriate. Even in cases where abuse is not an issue, sometimes parents are unable to reach a solution. In those instances, the parents declare an impasse, the mediation is ended and the parents return to the litigation arena.

Mediation offers parents the opportunity to maintain decision making authority over their own children as an alternative to litigation. All local courts regularly order participants in a custody dispute to seek to resolve their difference through mediation before resorting to a court fight. Mediation can be a respectful way for parents to take responsibility for planning the joint-parenting of their children.

