

## Mediation

Mediation is a process by which a mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution.

## Orphans' Court

The Orphans' Court wishes to provide alternatives to parties involved in conflict or litigation. The Mediation Program is one way the Court is offering to meet those needs.

## **Resolve guardianship, family and estate disputes through the Chester County Orphans' Court Mediation Program**

### How do I start?

1. Under the Pennsylvania Orphans' Court Rules the Court may direct all parties having an interest in a matter to participate in mediation.

If the Court does not order mediation the parties may voluntarily participate, by written agreement, in mediation.

2. To begin the process the parties shall:

Notify the Orphans' Court Administrator in writing of their intent to mediate the matter.  
Address: 201 W. Market St., Suite 4100, P.O. Box 2746, West Chester, PA 19380-0989.

3. The Orphans' Court Administrator will direct the parties to the next mediator on the orphans' court's approved list.
4. The parties shall then contact the mediator. The mediator will forward an Agreement to Mediate. Upon execution of the Agreement a date/time will be set for the mediation.

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## **Chester County Orphans' Court**

# **Mediation Program**

Prompt, Private and  
Economical Results

Mediation is intended to provide the participant prompt convenient access to dispute resolution proceedings that are fair, confidential, effective, and cost far less than a court proceeding.

In many cases, mediation may allow the parties to reach agreements that will be more agreeable to them than a court decision, and may promote healing of strained family relationships.

Mediation allows sensitive matters to be privately discussed and finally resolved without resort to stressful public hearings and the possibility of costly, time-consuming appeals.

## Who May Participate?

- Anyone involved in a case pending in the Orphans' Court Division is eligible.

## What Types of Disputes Qualify for Mediation?

- Probate Disputes
- Disputes between children of one marriage and surviving spouse of a parties' subsequent marriage
- Guardianship disagreements among family members over the appropriate care and financial guidance for an older or incapacitated relative
- Conflict between beneficiaries of a trust or estate and the fiduciary(executor/administrator)

## Who Will Serve as the Mediator?

- An attorney licensed to practice in the Commonwealth of Pennsylvania who has been trained and certified as a mediator, and who is approved by the Orphans' Court to serve.

## Should the Parties participating in Mediation be Represented by Counsel?

- **Yes.** The Court encourages all parties to Retain their own legal representation throughout the Mediation process, including attendance at the Mediation sessions.

## What Documents are Required?

- A written Agreement to Mediate provided by the Mediator.

## What is the Fee for Mediation?

- The fee for Mediation can be **substantially less** than the costs incurred in court litigation and appeals.
- \$1,200 for a 1/2 day (4 hours) mediation session; \$2,400 for a full day.
- \$1,500 for complex cases (multiple parties and or issues) for a 1/2 day mediation session; \$3,000 for a full day.
- The cost for the mediation is shared equally between all parties unless the parties agree otherwise.

## Are Mediation Proceedings Confidential?

- **Yes.** Any communication made by any participant either to the Mediator or to another party which relates to any controversy being mediated is confidential.

## What is the Result of Mediation?

- **If the parties reach a resolution,** their Agreement may be in writing and signed by the parties and the Mediator. The Agreement will include the terms of the resolution of the issues and the future responsibility of each party.

The Agreement may become part of the Court record. The parties may choose to keep the terms of the Agreement confidential by filing a Stipulation of Dismissal of the underlying pleadings.

- **If no agreement is reached,** the Mediator will end the Mediation session(s) and advise the Court. The Court will then reschedule the case to its calendar.

# Mediation FAQs