



---

# Community Legal Information Association of Prince Edward Island, Inc.

## Mediation in PEI

Going to court is an expensive, lengthy, stressful procedure. There are no guarantees that you will get what you want. There are other ways to resolve conflict that give you and the other person more control over the outcome.

One form of out-of-court conflict resolution is mediation. It is usually a voluntary process, which means everyone has to agree to take part. However, there are times that the court may order mediation.

Mediation involves you, the other person(s) and a mediator. You and the other people involved in the dispute are called “the parties”. The mediator guides the parties towards an agreement by examining underlying issues and finding common ground. The mediator will make sure each of you has the opportunity to speak and to listen. The mediator does not make any decisions for you.

Most mediators work with you and the other person(s) to create communication guidelines. This can include an agreement about confidentiality, respect, and other issues that will help everyone feel safe to mediate.

Using mediation, you are more likely to find a solution that is acceptable to everyone. A solution that is acceptable to everyone is more likely to be followed.

This pamphlet answers a number of frequently asked questions about mediation in Prince Edward Island. If you have questions that are not answered here, contact CLIA at (902) 892-0853 or [clia@cliapei.ca](mailto:clia@cliapei.ca)

### **What kinds of issues are dealt with in mediation?**

Mediation can be used to solve disagreements in almost any circumstance. However, if there are power imbalances or violence between the parties, mediation may not be able to take place.

Specifically, mediation can be helpful:

- to resolve conflicts during separation and divorce
- if your family is trying to make decisions about health care and caregiving for a senior
- when problems arise in the workplace
- when problems arise in a contract
- when problems arise in insurance claims
- to resolve disputes between neighbours
- in many other circumstances

### **Why use a mediator instead of hiring a lawyer or going to court?**

Mediation is usually less expensive than going to court or hiring a lawyer. There are other benefits:

- everyone participates in finding a solution
- the agreement is more likely to meet everyone's interests
- everyone has a chance to talk about how the conflict has affected them
- the process can be more private than going to court

### **What is the role of the mediator?**

The mediator guides parties through the process of mediation and ensures everyone can participate. Sometimes you may hear a mediator talk about how he or she is "neutral". This means he or she does not take sides or judge who is right or wrong.

### **What is the mediation process?**

Usually the mediator will meet with each person individually before the mediation session begins. In this meeting, the mediator will explain the mediation process and ask you questions about your experience and the conflict.

Once the mediator has met with everyone, he or she will decide if mediation is appropriate in your situation and if she or he can be neutral. If the mediator decides mediation is a safe and appropriate choice in your case, he or she will then prepare for the mediation. You may be asked to take part in more sessions alone with the mediator as part of the preparation.

Once everyone is prepared, mediation begins. All parties and the mediator meet together. The mediator guides everyone through the process and makes sure everyone has a chance to speak and participate.

Different mediators have different approaches to mediation. You can contact different mediators to see who would be a good fit for everyone involved and the situation.

Once the process is complete, a written agreement will be prepared for you to sign that outlines the agreements you have reached.

### **Will I still need a lawyer?**

There may be times during the mediation when the mediator will recommend that the parties seek legal advice on an issue before continuing.

You may also need a lawyer to finalize the agreement created by you and the other parties in mediation. If you wish to have a lawyer review an agreement before you sign it, make sure everyone in mediation agrees to this.

Sometimes mediation is not appropriate. If this is the case, you may wish to hire a lawyer.

### **Who can use mediation?**

Mediation can be used by anyone wishing to resolve a conflict. In cases where there is violence or power imbalances, mediation may not be appropriate. Before deciding if mediation is for you, ask yourself:

- Am I willing to meet face to face with the other party or parties?
- Do I see the potential for a win-win outcome rather than winning or losing?
- If we come to an agreement, can I commit to following it?
- Have I considered the alternatives to mediation?

If you answer “yes” to most of these questions, mediation could work for you.

### **How much does it cost? What if I can't afford it?**

The cost for mediation depends on the issue and how long it takes to reach an agreement.

If the issue concerns a parenting plan, mediation is offered free of charge through the Family Court System at 368-6928. If the issue concerns family caregiving for those with dementia, mediation is offered through the Alzheimer Society at a cost. The Alzheimer Society can be reached at 628-2257 or 1-866-628-2257.

Some mediators may charge on a sliding scale, which means the cost depends on your income. If you are concerned about not being able to afford mediation, you can ask about reduced rates. The cost of a mediator is usually shared by all parties, although not necessarily equally.

## **What results can I expect?**

The result of mediation varies from case to case. If the process has been successful, you and the other person(s) will have an agreement. This agreement should be acceptable to everyone. It is up to you and the other people to put the agreement into effect.

Sometimes people report that they communicate better after going through mediation. It is also possible that difficult or damaged relationships are improved.

## **Is mediation final?**

Mediation is not final. Circumstances can change over time and agreements may need to be re-negotiated.

You always have the option of using mediation again to reach a new agreement. Many mediation agreements state that if new conflicts arise, either of you can ask to take part in mediation again and the other will attend.

## **Is a mediated agreement legally binding?**

Once you have an agreement, you and the other people can make it legally binding. To do so, each person must have the agreement reviewed by a lawyer. Your lawyer can ensure that your rights are protected, that you understand what you are agreeing to, and that the laws of the province are being followed.

After you have gotten independent legal advice, if there are no legal inaccuracies and you understand the agreement, it can be made binding. Once the agreement is written up, signed and witnessed, it becomes a legally binding contract.

## **Where can I find a mediator?**

It is important that you choose an individual who is properly trained in mediation. It is also important it is someone everyone is comfortable working with.

You can contact Mediation PEI. (<http://www.familyservice.pe.ca>), Conflict Resolution Professionals of PEI (<http://www.upei.ca/crppei/>) or Family Mediation Canada ([www.fmc.ca](http://www.fmc.ca)) to find a mediator.

You can also get a list of mediators from CLIA (902) 892-0853 or 1-800-240-9798 or check the yellow pages under mediation services.

This information has been prepared by Community Legal Information Association of Prince Edward Island, Inc. It contains general information about mediation. It does not contain legal advice. To obtain legal advice, contact a lawyer. If you don't know a lawyer, call the Lawyer Referral Service at 892-0853 in the Charlottetown area or 1-800-240-9798 toll-free. You can be referred to a lawyer for a half hour appointment for \$10 plus tax.

Community Legal Information Association of PEI, Inc. (CLIA) is a charitable organization that receives funding from the Department of Justice Canada, the PEI Department of Justice and Public Safety, the Law Foundation of PEI and other sources. CLIA provides Islanders with understandable and useful information about the law and the justice system in Prince Edward Island.

For more information, you can telephone CLIA at 892-0853 or 1-800-240-9798, visit our website at [www.cliapei.ca](http://www.cliapei.ca) or email us at [clia@cliapei.ca](mailto:clia@cliapei.ca) .

Non-commercial reproduction of this document is encouraged.

Charitable registration number: 118870757RR0001

ISBN 978-1-894267-78-6

August 2006

Revised July 2010