



The Mediation Process — A Rising Tide

by JUDY BERANGER

Jack and Myrna were married for 12 years. They have two girls, age 11 and 8. They own a house with a considerable mortgage and share ownership of a cabin with Myrna's sister. Jack and Myrna are teachers. Their relationship has been very stressful for several years and it seemed like every summer they would decide to separate and then go back together "because of the kids". This summer they separated for real and sought the help of a counselor to work through their separation. The counselor suggested they also consider *family mediation*.

Joan has been a teacher for twenty years and this past year has been less able to balance home and the classroom. Joan has six siblings and she feels like an only child when it comes to caring for her 83-year-old mother. Joan had a heart-to-heart conversation with her principal who suggested as a family they consider *elder mediation*.

Mac, a high school teacher, is anxious about going back to school as he and several of his colleagues are not getting along very well. He always has the feeling that he should be "watching his back." One of the teachers, who is getting frustrated with all the negativity, suggested that all of them should consider *workplace mediation* to help move to a more productive, respectful place.

In the face of intense emotions or making important decisions, a mediator can help each person understand the other's point of view. *Mediation* is a respectful process that helps people work out their own solutions at times that are often very stressful. In mediation, every effort is made to ensure that all participants feel safe, validated and motivated. With the assistance of a mediator, goals are set and plans created to address current issues in a way that best suits the unique family/school situation. Focus is on two equally important components – resolution or understanding of the current issues and the development of skills and strategies that can prevent future conflict. Participants who come together for family, elder, or workplace mediation with an experienced media-

tor specializing in the field soon come to discover how much more they can do together than they ever could achieve individually.

What Kinds of Issues Can be Mediated?

Issues are as unique as the people coming to mediation. Examples include:

- issues around separation and divorce – residence of children, time sharing, decision making and other important parenting issues, child support, spousal support, marital home and division of assets and debts;
- issues around aging – retirement, health and care issues, financial issues, living arrangements, elder abuse, guardianship issues and estate matters, medical care decisions and end of life decisions; and
- workplace issues – conflicted work relationships, return to work negotiations, grievance processes.

Some of the issues involved are complicated, others are not. A variety of questions are often considered by all participants in the mediation. For example, with separation issues some of the questions may include:

- Who will the children live with and who will make the major decisions regarding them? Who will be responsible for their extra-curricular activities, etc.? How will family possessions be divided? What happens to the debts?
- Both parents want to live in the family home. Who will?
- If the children live primarily with one parent, how can the other keep in touch?
- What can be done to stretch a reduced income?

Research shows that the level and intensity of parental conflict is a very important factor in children's adjustment after separation and divorce. Parents who cooperate, after they separate, increase the chances that their children will have close relationships with both of them and cope successfully after the divorce.

What Happens in Mediation?

Each mediator will do things a little differently, depending on their personality and training, but will always promote balance and fairness for all concerned. In Jack and Myrna's case, both had already seen lawyers, and Jack had seen the mediator. When they did meet together with the mediator, the mediator went over information with them both, explained how mediation works, how the issues would be dealt with and how long it might take. The mediator did not take sides, and was not judgmental but helped participants look at the issues and the choices available to consider in resolving the challenges before them.

When all the information is presented it is possible to work together to find the best or the right answer for all concerned. That 'right' doesn't mean one party wins and others lose. The 'right' choice might be a compromise after some give-and-take. It will, however, be one that is mutually acceptable and best for all concerned, given the present situation.

Will Mediation Work for Me?

If you answer "Yes" to most of these questions, you are a good candidate for mediation.

- (1) Am I willing to keep the focus on the issue (children, parents, colleagues, siblings etc.), even if that means putting feelings like disappointment, blame and anger aside?
- (2) Am I willing to cooperate and compromise and do something different than I am doing right now?
- (3) Am I willing to really listen to other points of view?
- (4) Can I make a commitment to do what I say I will do?
- (5) Do I trust the other(s) to keep their commitments; do I trust myself to honour my commitments?
- (6) Do I see this process as compromise rather than winning or losing?

Mediation may not be possible if there is a history of violence and fear or if there is minimal intention of listening, stretching, being fair, compromising and being honest. In some cases, most of the issues can be resolved in mediation, but sometimes not all.

In elder mediation, the mediator decides with the participants which model/process will best fit the situation and ensures that ethical and legal concerns relating to competence and capacity are fully explored. Family members who may have been uninvolved for years are invited to become involved. Family dynamics can be quite challenging as it is not uncommon for siblings to still act out their long-established family roles as soon as they come together. Regardless of how family members think about one another, it is heart-warming to witness how many family members and close friends answer

the request to participate in mediation and to provide support. Relationships are strengthened, close bonds are established, and in some situations, bonds are re-established. As one teacher put it: *This is like a miracle; I would never have believed we would all show up to participate in the mediation. I certainly would never have believed we could all share in the support to our parents in the way we are doing right now.*

Interest in mediation has increased over the past decade as trust in the competence of mediators, as well as trust in the process, has grown. As the baby boom generation ages, more teachers are finding themselves facing difficult decisions regarding how to best care for their older relatives while balancing a full time teaching career. How we deal with sick and dying parents will influence the way we ourselves grow and develop for the rest of our lives. As psychologist Frank Pitman says, "During this time we all get a chance to 'grow our souls'."

The gradual introduction of elder mediation has provided families with a safe forum in which previously taboo subjects can now be raised and discussed. An added benefit is the significant reduction of caregiver stress and the resultant improvement of quality of life for both the caregiver and care-receiver. As one caregiver asserted, "As my stress went down, and more of us were helping our parents, my ability to get back to my own life improved. I know that if anything happens with my parents now I am doing the best I can – as a family, we are doing better than we have ever done." The application of elder mediation early in the process is instrumental in heightening quality of life and particularly in building trust within the family.

Steadily people are becoming aware of, and participating in, family and elder mediation services; pilot programs are increasing and outcomes are encouraging. Employee Assistance programs are becoming more aware of mediation and recognizing its importance in the continuum of services for teachers. The future of family, elder and workplace mediation remains promising and its use will likely continue to increase as families become more aware of how to access this service.

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Note: All names appearing in this article are fictitious. Any resemblance to real persons, living or dead, is purely coincidental.