

# Resolving Child Custody Disputes – The Facilitators: Parenting Coordinators, Mediators, and Evaluators

By Scott David Stewart

In a divorce or separation, the separation agreement represents the negotiated contract between the parties. The agreement covers property divisions, spousal maintenance, child support, and child custody and visitation. *If the parents can arrive at a written agreement on matters of child custody, in the best interests of the child, then the court will incorporate their agreement into the final decree.*

Judicial decisions over child custody are fully dependent upon determinations of what is in the best interests of the child. In our experience, child custody is one of the most contentious areas of family law. Sometimes the parties are able to work toward an agreement. And sometimes the level of conflict is so persistent and intense that the parents are unable to make reasoned decisions about their children's future.

To assist parents in arriving at a custody arrangement that serves both their interests and the best interests of the children, the family court often relies on the services of three professional facilitators: *the mediator, the parenting coordinator, and the child custody evaluator.*

## ***With the Help of a Mediator***

You may be familiar with mediation as a confidential form of alternative dispute resolution. In Arizona, the parties' attorneys do not attend and matters discussed during the sessions are not divulged to anyone, not even to the judge. When mediation successfully resolves issues and is written into an agreement signed by the parties, the agreement is submitted to the judge who, absent an objection, signs it as a court order.

Settling matters without trial typically represents a cost-savings for the parents. Furthermore, any issue may be mediated, from child custody and parenting time disputes, to spousal maintenance and the division of assets and debts.

As a facilitator, the mediator helps the parties work toward agreement on the disputes presented. If parents can reach [agreement through mediation](#), it is very possible that a court date will not be necessary to resolve custody. By reaching a mediated agreement, the parents maintain "control" of their child custody arrangement. *Without a custody agreement, however, the court will decide all custody issues at trial in the best interests of the children and dictate the custody terms to the parents.*

## ***With the Help of a Parenting Coordinator***

Before any trial takes place, and when continuing high-conflict between the parties interferes with their custody decisions, involving [a parenting coordinator may be another solution](#). Some coordinators are lawyers with mediation training, but most have advanced degrees in psychology with several years of mediation and therapy experience.

Either parent may request that a coordinator be appointed, or the court may decide independently to appoint a coordinator. To resolve disputes, the coordinator holds a series of meetings with both parents to discuss their concerns about the parenting plan. In general, the parties' attorneys do not attend the meetings. The coordinator remains neutral throughout the process and cannot

advocate for one party or the other. *During these sessions, the coordinator will blend counseling, parent-education, and alternative dispute resolution techniques, like mediation and arbitration, to achieve positive results.*

In facilitating negotiations between the parties, the parenting coordinator helps parents reach a settlement that is fair, meets as many of their individual needs as possible, and is in the best interests of the children. *The coordinator concludes by providing a report with recommendations to the court.* Either parent may file a timely objection to the coordinator's recommendations. The court may approve, modify, or reject the recommendations, or may set a hearing on the matter.

If the parties remain intransigent and uncooperative, the coordinator can do little other than resign and let the parties return to court where the lawyers and the judge will resolve the custody issues through litigation.

### ***With the Help of a Child Custody Evaluator***

When the parents are unable to agree on child custody, either party may request that a [child custody evaluator](#) be assigned, or the court may order an evaluation on its own initiative. As a result of the assessment process, the evaluator will, after thorough investigation and inquiry, make custody and parenting time recommendations to the court.

For the purpose of making a custody and parenting time recommendation in the best interests of the child, the evaluator interviews each parent, interviews the child, and observes the parent-child dynamic. Although the evaluator must remain neutral, nothing the parents communicate to the evaluator is confidential or privileged. Also, custody evaluators may decide to interview other family members and review documents and records involving the children. Unless the evaluator believes it is necessary to a successful assessment, the parties' attorneys do not attend evaluation sessions.

Once the assessment is complete, the evaluator will submit a detailed written report with recommendations to the court regarding legal custody, physical custody, and parenting time. *Should a trial become necessary, the child custody evaluator's report will be very influential to the judge on those issues.*

With the use of professional facilitators like mediators, parenting coordinators, and child custody evaluators, most custody and parenting disputes should be resolved in the best interests of the children with a minimum of judicial intervention.

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