

RELATIONSHIPS CAN END  
BUT PARENTHOOD IS FOREVER

**PARENTING AFTER SEPARATION**  
Information session

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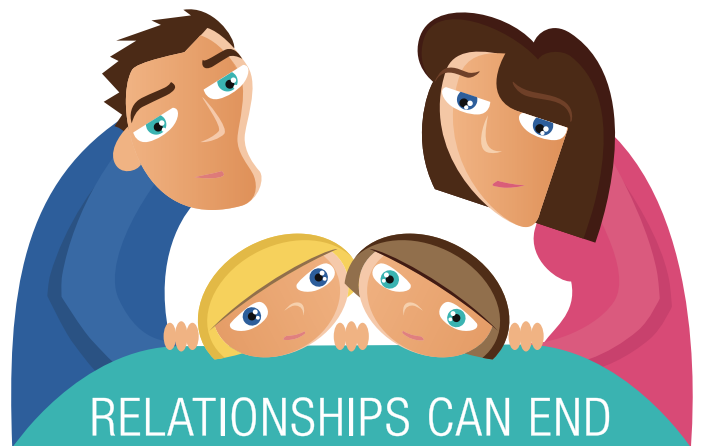
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The contents of this document were prepared in March 2009 at the request of the Ministère de la Justice du Québec by the members of a working committee under the responsibility of the Comité des organismes accréditeurs en médiation familiale (COAMF). The working committee was made up of: Marie-Claude Armstrong, lawyer, Danielle Beausoleil, notary, Pierrette Brisson, social worker, Suzanne Clairmont, lawyer, Caroline Paquet, psychologist, Lorraine Filion, social worker, Jean-Claude Plourde, social worker, Harry Timmermans, psychologist, Dominic D'Abate, social worker, and Patrice Gravel, lawyer.

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# Foreword

This information session is designed for parents who have separated or divorced, or who have begun the process of separation or divorce. You may attend by choice, or on the recommendation of a judge, legal professional, mediator or psychosocial caseworker, including those working for a Director of Youth Protection.

It is also intended to help parents in a conflictual situation with respect to custody, access rights or the exercise of parental authority, or with respect to child and youth protection, if a decision concerning their child has been made by the Youth Division of the Court of Québec.

It can help parents take more parental responsibility and provide them with the tools they need to end a situation in which their child's security or development is considered to be in danger.



# Who and what is covered

## PARENTING AFTER SEPARATION INFORMATION SESSIONS: WHO AND WHAT IS COVERED

Parents who are in the process of separating have to face a difficult situation that is often complex and can sometimes involve conflict.

To help parents adapt to the new reality of their lives and make the transition in a way that focuses on their children's interests, the Ministère de la Justice provides parenting after separation information sessions free of charge.

If you have decided to begin legal proceedings and have not reached an agreement with your former spouse, you have a legal obligation to attend an information session, together or separately, to receive information about family mediation before being heard by a court.

During the information session you will be asked to think about your own needs during the transition, and also about the needs of your children, whatever their age, and the importance of maintaining communications between the two parents.

You will also obtain information about various ways to settle the legal aspects of the breakdown of your couple, and also about family mediation.

Last, parenting after separation information sessions are designed to

- ▶ reduce the impact of your separation on your children;
- ▶ define your obligations as parents and ensure that you understand your responsibilities;
- ▶ make informed decisions about how to reorganize your family.

This session allows you to comply with the requirement to participate in a parenting and mediation information session (see Chapter 3). At the end of the session you will receive a certificate attesting that you have complied with the requirement.



## 1. PSYCHOSOCIAL ASPECTS OF PARENTING AFTER SEPARATION

*From the psychological shock of separation to the rebuilding of the parental relationship*

Your relationship with your spouse was becoming increasingly difficult, and now it has ended. The situation is causing you anxiety and stress, especially since you have children who are also going through a difficult time. You wonder what you can do to reduce the impact of your separation on the children, and how to continue to play your role as a parent.

To ease the strain of separation, you need to understand why you have ended up in this situation. This is not an easy task, since your feelings of sadness or anger may be overpowering, you do not have the necessary perspective, and you have lots of emotions to deal with at the same time.

The psychological impact of the separation may create a crisis situation. Since your children have no prior experience of this kind of event, the conflicts generated by the separation may harm their balance and wellbeing.

To make a useful contribution, the parents need to understand their children's reactions and needs, and cooperation between the parents is essential. However, to cooperate, the parents need to communicate effectively—except in some special cases, such as situations involving domestic violence.

Effective communication means that information must be provided, and must be understood, in order to avoid misunderstandings that can only generate more tension. And, of course, it is the parents who are responsible for communicating.

Since a lot is at stake, trying to deal with the crisis created by a separation without having access to the necessary information would be a risk.

In this section, we examine the psychological shock created by separation, the needs and reactions of the children involved, and communications between members of the newly separated family.

The parenting after separation information session helps parents become aware of the issues and find solutions in order to move on from the crisis created by a separation or divorce.

### 1.1 THE PSYCHOLOGICAL SHOCK OF SEPARATION

As soon as you realize that the breakdown of your couple is inevitable, a series of emotions is triggered and you are thrown into an unknown and frightening new world. The way in which you perceive and manage the situation will influence your daily life for years to come. A proper understanding of this profound existential crisis will help prevent most of the negative impacts.

### **1.1.1 Dismantling an emotional relationship**

The key difficulty in this life experience is clearly the ending of an emotional relationship. In general, we all know how to begin an emotional relationship, but we have never learned how to “dismantle” one. Couples facing this problem may react in an impulsive and sometimes disorderly way, with irreversible consequences.

You have a choice: to demolish your emotional relationship, or to dismantle it. Demolition may appear quicker and more satisfactory in the short term, because it will come as a relief and even meet the need to release your emotions. However, over the medium term, you will realize that it does not offer a valid solution.

The main danger involved in demolishing an emotional relationship is that you will no longer recognize your ex-spouse as a parent. How can you trust the other parent when he or she has fought you with such fury and now inspires such feelings of resentment?

In order to face the dismantling of your emotional relationship with serenity, it is important to understand what occurs during the psychological shock of separation.

There is no avoiding the fact that a separation is a shock and one of the greatest moments of stress in a person's life. Nobody who lives through such a powerful experience is in a “normal” emotional state or psychologically unaffected. The person thus has less ability to listen, has difficulty controlling his or her emotions, and wants to be proved right, all elements that reduce the ability to think sensibly. The person also tends to transpose events from the past into the present and fails to recognize new realities.

To get through this period, both parents need to understand what occurs during the psychological shock of separation, and then what they have to do to overcome their distress and take back control of their lives.

### **1.1.2 Dealing with critical moments during the crisis period**

During the crisis period, there are two moments that are especially critical. The first occurs when the decision is announced, in other words when one person is told or discovers that the other person intends to leave, or asks the other person to leave. The second occurs when the other person actually leaves and the couple no longer lives together.

When you live through this crisis period, it is important to know that the effects of psychological shock, such as stress and suffering, are normal and expected.

In many cases, this is when you will express anger or have to face the anger of the other person. Anger is a feeling that is part of normal human behaviour, and its primary function is to free a person of a burden. Anger is therefore meaningful if it indicates that a burden is being removed.

However, anger should not threaten another person's integrity, since this would constitute violence, which does nothing to resolve a situation. Violence, unlike anger, is not a normal personality trait and requires a specialized approach.

If the crisis lasts for an extended period, it is time to ask questions. Suffering is often the price we have to pay for failing to understand what was happening, and there is a risk of it continuing over the long term. A typical comment from a child neatly sums up the situation: “What was the point of getting divorced, if mommy and daddy are still fighting?”

If you feel that the crisis is ongoing, and that the normal outcome (an improvement in your general state) has failed to materialize, you will need to try another approach. Often, in these cases, you will need the support of your family, your friends, or a professional, who will help you bring an endless cycle of unsuitable behaviour and undesirable results to an end. Because, in the end, what can you hope to gain from the separation, except an improvement in your situation?

### 1.1.3 Mitigating stress

It is a recognized fact that parents who separate undergo severe stress—whether they make the decision themselves or are left by the other parent. On the scale defined by Holmes and Rahe<sup>1</sup> to measure the stress generated by various life events, the two events that rank highest are both connected with life as a couple: first is the death of a spouse, and second is separation or divorce.

In the context of parents with children who separate, the main stress factors are

- ▶ sadness at seeing the other parent leave;
- ▶ anger about what has happened, and the fact that it was unwanted;
- ▶ guilt about the failure of the relationship;
- ▶ anxiety about an uncertain future;
- ▶ a feeling of abandonment;
- ▶ a feeling of rejection;
- ▶ less economic security;
- ▶ a loss of relationships (with children, the extended family, and the social network);
- ▶ increased responsibility for children.

Under such intense stress, people can display abnormal behaviour, such as irrational actions, reckless attitudes, outspokenness or provocation, to the point where they are no longer recognizable, either to themselves or others.

To survive as a parent during this period of crisis, you will have to learn to forgive your own mistakes and refrain from pointing out your former's spouses poor behaviour. You will also have to be careful not to exploit the other parent's weakness and vulnerability. Last, you cannot assess the other parent's parenting ability solely on the basis of the worst moments of the crisis.

In other words, this is not the time to pass judgment on yourself or on the parenting ability of your former spouse, who is also under huge stress. This could be counter-productive. Instead, try to remember that you have enjoyed special times together, and that you both believed enough in your future together to found a family and build your life as a couple.

There are ways to combat and mitigate stress: by trying to understand what you are experiencing, talking to another person about it, giving yourself time to accept a painful new reality, doing things you like, losing yourself in a favourite book, etc.

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1 Thomas H. Holmes and Richard H. Rahe. "The social readjustment rating scale", *Journal of Psychosomatic Research*, vol. 11, no. 2, August 1967, pp. 213-218.

In short, you must bring your stress down from a powerful, devastating level to a tolerable, non-destructive level. In this way you will be able to conserve the energy you need to come through the crisis and regain your previous enthusiasm and efficiency.

#### **1.1.4 Overcoming suffering**

Depending on your personal situation, the crisis resulting from the psychological shock of separation can take up to two years to subside. During this period, you will probably not be in the best of shape; and you will not yet be the person you will be once the crisis is over.

Human beings do everything they can to avoid suffering, but they will be more likely to accept it if it is meaningful. During a crisis, it is important to identify and use the meaning present in the suffering.

One of the dominant causes for the suffering caused by a separation is the feeling of rejection. Despite what we may think, rejection is felt not only by the person on the receiving end of the decision to separate, but also by the person making the decision.

The crisis may also be experienced as “emotional bankruptcy”. A person in this state is vulnerable. And, if he or she has been in a state of “emotional bankruptcy” more than once in his or her life, the suffering will increase, especially if it seems to have no meaning. A state of revolt may quickly develop, unless energetic action is taken to reduce and find meaning in the suffering.

If you are in this situation, the solution will be to engage in an authentic process of personal reflection. This introspective approach may appear difficult, and in this case you should call on the support of a relative, friend, or qualified professional.

#### **1.1.5 Gaining awareness**

At this stage, you will become aware that you have no power over and cannot change your former spouse. You will understand that you must invest in an area where you have some real power: your power over yourself. This is where you must begin your search for meaning.

In every separation, both former spouses bear some of the responsibility. It is therefore up to you both to identify and recognize your personal share in the crisis, in other words the part of the problem that belongs just to you.

You may prefer to accomplish this difficult process on your own. Friends tend to give you over-positive feedback, in other words to tell you what they think you want to hear. Relatives and other close family members will try to support you. On the other hand, if you take the time to establish the distance you need to search for meaning, you will find it hard to lie to yourself and the truth will gradually emerge.

With courage and lucidity, you will be able to recognize your own share of responsibility. By understanding what happened in the past, you will realize that you did not suffer for nothing. This is the point at which you will be able to begin to rebuild your present.

## 1.1.6 Rebuilding for the future

As you begin this stage, you may be tempted to do nothing, because you feel you do not have the strength. This is entirely normal. However, you must say to yourself that, sooner or later, something in your life will force you to ask yourself the same questions. In other words, you will be doomed to repeat the same mistakes unless you seek the answers now.

Reconstruction is a key stage in your progress. It is a big challenge, because it is harder to change yourself than to change jobs, change friends, find a new spouse or move to a new country.

This difficult search for meaning will enable you to see things that would not have been obvious otherwise. This new awareness will give you the feeling of becoming a “new person” with a different way of seeing and thinking about things. This is an important step in your personal development, because it gives a meaning to your suffering and opens up a brighter future.

It is important not to forget that the normal outcome of a crisis is an improved state of mind. This improvement, however, can only result from a new awareness and a transformation of the image you have of yourself. After an event such as a separation, you have an opportunity to become stronger, more aware of what is happening around you, and more attentive to other people and to yourself.

## 1.1.7 Understanding that men and women react differently

Before we end this section on the psychological shock of separation, it is important to know that one aspect of the decision-making process in connection with a separation will be different, depending on whether the person concerned is a man or a woman.

In most cases, the decision to separate is made by one spouse, and imposed on the other. This creates an imbalance that is one of the prime causes of a crisis situation.

In roughly 70% of separations the decision is made by the woman, since women generally become aware sooner than men that their union has no meaning, that their relationship is no longer progressing and that they have no energy to plan their life as a couple. The woman's repeated attempts to improve the situation have not been noticed or understood by her spouse. The woman then moves towards a decision to end the relationship, after expressing her dissatisfaction and her intentions if nothing changes. This process is accompanied by feelings of doubt and guilt, and generally lasts several years.

Men generally react with surprise when they realize that their spouse is really going to leave. Suspecting nothing of the difficult path she has travelled to reach her decision, they put all their energy and imagination behind a single idea: to get her to reverse her decision. But it is often too late, and the man eventually faces the fact of the separation.

This is when the crisis occurs, with all the characteristics outlined above.

Of course, it may be the man who makes the decision to separate but, in this case, he often already has plans to live with another woman. Even in this situation, the crisis will still occur.

It is clear that the people who make the decision to separate are generally more comfortable and sure of themselves, because they know where they are heading and have already started to plan for the future. This is normal, since the process leading to the decision has been under way for some time. On the other hand, the people who have the decision made for them generally do not know how to react, take no action and may react aggressively if they feel they have been rejected.

The result is an imbalance between the spouses at a time when they have to make important decisions, such as how to share responsibility for their children or divide their property. If these decisions are made during the crisis period, they may not be viable over the long term and will need to be renegotiated.

The best way to re-establish the balance needed to make informed decisions is for both spouses to accept the situation. This is not easy to achieve, and takes time. Good decisions, that will remain applicable over the long term, are those that are fair, equitable, understood and accepted.

It is only by understanding what happens during the psychological shock of separation that a more organized approach becomes possible.

### 1.1.8 Applying protection factors

Since your most ardent wish is to protect your children and provide them with the stability they so deeply need, you should pay special attention to the following points:

#### RECOGNIZE THE IMPORTANCE OF THE PARENTAL RELATIONSHIP

Every significant relationship makes a unique contribution to a child's development, and the most important relationship in a child's life is the one that connects him or her to each parent. Whatever opinion you may have about the other parent's family, your child is a part of it. Each in your own way, you and your former spouse contribute to your child's development. Your child needs different models to develop and achieve his or her potential.

#### INVEST IN YOUR ROLE AS A PARENT AFTER THE SEPARATION

Cooperation between two parents who have separated is essential for the wellbeing of their children. It will protect them, for example, against any tension that may occur in the parents' relationship. No child can have a better start in life than a child whose parents cooperate in his or her welfare. Cooperation is possible regardless of the model used to define custody or the time spent with the child. However, cooperation may be difficult or impossible in some situations, such as those involving domestic violence, mental health issues or prohibited contact.

#### ESTABLISH A PARENTAL PLAN

This involves agreeing with your former spouse on a plan for your children's lives and for exercising your responsibilities as parents, by making a series of commitments. You should draw up a written plan, perhaps with the assistance of a family mediator. **For example, you could make a commitment:**

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- 1 To continue living, if possible, in the same city or neighbourhood, so as not to complicate custody arrangements or access to the children by either parent. If one parent needs to move to another place some distance away, the other parent should be notified six months in advance in order to find solutions in the children's best interest.
- 2 To decide, together, on leisure activities for the children if they involve considerable time or expense.
- 3 To make special arrangements for the summer vacation, for example not later than May 1 each year.
- 4 To agree on how the children's time will be organized in a way that puts their interests first, while remembering that if they cannot adapt to the arrangement another one must be found.
- 5 To plan for crisis management measures.
- 6 To agree on what the children will be told about your separation, taking into account their need to understand, their age and their level of maturity.

## 1.1.9 Following the model of the parenting charter

To give yourself a reference framework, we suggest that you study the parenting charter<sup>2</sup>. This is a set of principles defined over a period of time by Harry Timmermans and the members of the Comité des organismes accréditeurs en médiation familiale (COAMF), after observing and assisting parents and children during the separation process.

These fundamental principles provide a foundation for your plans and define a framework. If you understand them, accept and include them into your work to rebuild a new parental relationship, you will find it easier to begin co-parenting.

### The principles can be summarized as follows:

- ▶ Each parent must believe that the other parent will always act in the best interest of the children.
- ▶ Each parent must believe that the other parent is the best possible person to look after the children if an unforeseen event occurs.
- ▶ Each parent must consult the other about important questions concerning the children's health, education or religion. any related documents, such as school report cards or health records, must be accessible to both parents.
- ▶ Both parents must contribute to their children's economic welfare on the basis of their respective resources.
- ▶ Each parent must maintain a positive image of the other parent in the children's minds.
- ▶ The parents must maintain effective communications with respect to their children.
- ▶ The children must be free to express to one parent the love they feel for the other parent.

These simple, but important, principles offer a promise of a better life for the parents, in the best interests of their children.

<sup>2</sup> Richard Cloutier, Lorraine Fillion and Harry Timmermans, *Les parents se séparent... mieux vivre la crise et aider son enfant*, Éditions du CHU Sainte-Justine.

## 1.2 CHILDREN'S REACTIONS AND NEEDS

One of the biggest dangers facing parents who separate is to believe that their children will be traumatized for life and that everything that happens to them will be a consequence of the separation. This belief is sometimes founded and sometimes unfounded.

In general, parents do not decide to separate on a whim, and try to improve their quality of life by successfully completing their separation. In many cases, the separation leads to better conditions for the children.

In addition, it is important to remember that even children who live with parents who decide to stay together can experience developmental difficulties.

In fact, it is constant and ongoing tension between the two parents that actually harms children, rather than the tension that occurs during the destabilizing phase of the separation itself. It is important to distinguish between ongoing tension and so-called circumstantial tension at the time the parents separate. A properly organized separation will not traumatize the children. However, chronic ongoing tension will have a more long-term effect on the children's development by generating fear, insecurity, confusion, distress and aggressiveness.

The fact remains that separation is generally a difficult experience for children, and that their parents' reaction will, to a great extent, determine how the children react. Like adults, children need time to adapt to a new reality.

### 1.2.1 Children's reactions by age group

In general, children's reaction can be divided into three main types:

- ▶ the wish to bring their parents back together;
- ▶ conflict of loyalty;
- ▶ feelings of guilt.

These reactions vary, depending on age. They can be more or less intense, depending on the parents' attitude, but will be temporary if the separation is successfully completed.

**AGE 2 AND UNDER:** sleeping and eating difficulties will provide an accurate reflection of what the child is experiencing. In many cases the reaction will be delayed, as the shock is felt later.

**AGE 3 TO 5:** the loss of an acquired behaviour (toilet training, speech, sociability, etc.) may result from a destabilizing situation and inner turmoil. Anger is a specific expression by children who have been upset by a separation.

**AGE 6 TO 8:** this is the age at which the children's world begins to open up and children begin to think for themselves. At this age, they are able to assess what they will lose. They may feel responsible for the separation and try to replace the missing parent: for example, a little boy may try to become the "man of the house", while a little girl becomes a "homemaker".

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**AGE 9 TO 12:** this is the latency period when children are less inclined to show their feelings and are likely to withdraw. If, for example, they refuse to take part in activities with other children outside school, it may be a sign that there is something wrong. Anger may also be expressed indirectly, often in the form of protests against family rules. In other cases, stress and confusion cause children to make an unusual effort to please. Feelings of guilt and conflicts of loyalty characterize this period, during which children have the impression that they favour one parent over the other. This is the age of logical thinking that may lead to statements such as “I’m going to do something to bring my parents back together.” Also typical of this age is the “smiling depression”: a child may be feeling down, but does not let anybody know about it. It is important to watch out for this state of mind, since it only postpones the crisis to the later, teenage years.

**AGE 13 TO 17:** adolescence. The children concerned experience a violent shock and express themselves through anger. This is the age of contradiction:

- ▶ reactions of loyalty towards both parents, but a taking of sides in favour of one parent;
- ▶ affection for the new step-parent, followed by repulsion. Parents must expect each reaction to be followed by its opposite. In addition, in the early teenage years, comments such as “parents should make an effort to get on with each other” reflect a desire to idealize male/female relationships that is a sign of a healthy emotional state. In later adolescence, statements such as “it’s not my problem,” referring to their parents’ separation, are also a healthy emotional sign.

**AGE 18 AND OVER:** at this age children want to retain a physical and emotional presence with both parents. They do not want to be forced to choose one parent over the other.

## 1.2.2 Children’s needs by age group

A need is an essential expectation for a child’s healthy development. Just like their reactions when dealing with a separation, children’s needs vary depending on their age. One need, however, is constant: the need for both their parents. This need is generally expressed clearly by all children at the age of understanding, who want their parents to get back together.

**AGE 2 AND UNDER:** one principle summarizes a child’s notion of time at this age: “frequency is more important than duration”. At this age, not seeing a parent for two weeks seems like a lifetime. More frequent interactions will promote bonding. Children need affection and security in response to crying, which is their way of expressing themselves.

**AGE 3 TO 5:** the focus should begin to shift to the length, rather than the frequency, of interactions. This is the age of imagination, where children have difficulty separating reality from the imaginary world (they still believe in Santa Claus). It is also the age when they ask “why?”. Children at this age have a strong need to see both their parents, and the collective imagination reflects this in children’s stories that generally feature both a father and a mother.

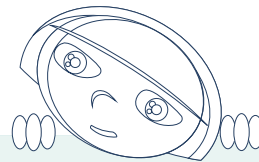
**AGE 6 TO 8:** this is the age when children begin to establish bonds outside the family and need models for the behaviour of both genders. They still need both their parents. For this reason, their need must be met specifically through interactions. Children also need to know what is going on, and to be reassured that they are not responsible for their parents' separation. It is important to ensure that they continue to play games suitable for their age.

**AGE 9 TO 12:** this age is often characterized by an appearance of maturity, leading parents to confide in their children and seek their support and complicity. However, at this age, children cannot become their parents' confidant, or take messages. Instead, they need to be reassured. As a result, parents can talk to their children about the separation, but without trying to win their support. Children still need their parents to confirm their love through concrete actions, whatever the custody model in place. They also need a framework and a routine in order to feel safe, which means that the parents must maintain a system of restrictions and rules.

**AGE 13 TO 17:** the greatest need for teenagers is to become more independent and to organize their world as they choose. Their parents must recognize this need and negotiate new boundaries. They can be more open about the reality of the separation, which will meet the teenagers' need to feel that their parents recognize their maturity.

**AGE 18 AND OVER:** young adults seek more independence, and need to make their mark in both personal and professional terms.

## NEEDS OF CHILDREN OF ALL AGES



Understand the reason for the separation

Be able to love both their parents

Obtain support and guidelines

Be aware that the parents are in contact about their children

Be protected from relationship-based tensions between their parents

Know that they are not responsible for the separation

Know that they will continue to have parents, even after the separation

## 1.3 EFFECTIVE COMMUNICATION

Following a separation, although communication between the two parents is likely to lead to conflict it may also support the emergence of solutions when correctly channelled.

Communication is an essential factor that allows the former spouses to continue to play their role as parents. Communication will remain necessary for a number of years, in connection with various topics affecting the children. Communication is a lifeline which, although it may cause conflict, also offers solutions.

Although communication is generally without problems during times of peace, it can become difficult and even inoperative during the crisis caused by the psychological shock of the separation. It is therefore natural for communication to cease during the intense period of dismantling the relationship that characterizes the breakdown of life as a couple.

Parents who succeed, despite the obstacles, in maintaining good communications during this critical period must treat the ability to communicate as both fragile and precious. It is fragile because one parent often wishes nothing more than to see the link broken with the other parent; and precious, because if the parents fail to communicate then the children will have to take on this unwanted task. They will perform this job, which really belongs to the parents, to the best of their ability, but clumsily, and this could lead to even more tension between the parents. Children should not have to act as their parents' messengers—the task is too hard. This is why communication is essential. It is important to point out here, however, that in a situation of domestic violence, there are other, better-adapted models of communication.

For all these reasons, communication between the parents is a duty that must be faced, rather than ignored. In the circumstances, it is better to adopt a positive, clear-sighted attitude while avoiding all the traps posed by ineffective communication.

### 1.3.1 The worst enemy of communication: misunderstanding

Misunderstandings arise from words that are heard or interpreted wrongly. Ineffective communication is therefore a source of misunderstanding and may sometimes have disastrous consequences. A gap emerges between the actual behaviour of each parent and the perception that the other parent has of that behaviour, in connection with the interests of their children. Misunderstandings are the main enemy of communication and responsible for roughly eight out of every ten disputes.

After a separation, the first misunderstandings often occur when a child, for reasons that are sometimes hard to understand, refuses to go to see a parent despite a prior arrangement between the two parents. Frequently, the parent who witnesses the child's decision believes that the child is entitled to act in this way because the other parent has behaved badly.

It is a mistake not to talk about the situation with the other parent in order to avoid an argument. The idea that the other parent is a less capable slowly becomes established. This is an example of ineffective communication that may have consequences that undermine the quality of family life just as it is being rebuilt. It would be best to check the situation with the other parent in order to fully understand it, rather than jump to conclusions.

Another frequently-reported example is a child who has nightmares or is excitable after returning from seeing the other parent. In this case, it is common to assume that the other parent is incapable and responsible for the child's poor behaviour, creating a temptation to blame the other parent. However, it would clearly be more useful to review the quality of the relations between the parents (tension, criticism, coldness, etc.), which will often explain why a child is unwilling to go from one parent's house to the other.

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## **REAL-LIFE CASES OF MISUNDERSTANDING**

These cases show how a child can interiorize an event, filter it according to the reality at the time, and then reapply it in his or her relational environment.

A father says to his son, at the end of a visit, that he has enjoyed the time they have spent together, is looking forward to seeing him again and will miss him badly when he's gone. When the son arrives back home, he immediately tells his mother that he cannot stay long because "Daddy will miss me too much". Similarly, a mother says to her daughter, in a moment of tenderness, "Nobody on this planet loves you as much as your Mom." When reporting this to her father, the girl says, "Mom says she loves me more than you do." These real-life cases illustrate how complex communication is and how misunderstandings can be a real danger.

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One particularly painful emotion for a parent is to suspect that the other parent is undermining his or her position with the child. When this suspicion turns into a belief, it becomes hard to fight against its negative effect. For this reason, when a child reports comments that appear to discredit one of the parents, it is important to ask if they were really spoken. Sometimes the child has simply overheard comments addressed to another person and reported them in part, without specifying the context.

In these circumstances, it is clear that a lack of effective communication between the two parents (in other words, a lack of clearly stated and understood messages) may lead to misunderstandings and plausible, but incorrect, interpretations. An ongoing misunderstanding may harm communication between the parents and prevent them from rebuilding their parental relationship.

By increasing the level of tension between the parents, a misunderstanding also disturbs the children. They may take refuge in their imagination to protect themselves, in other words by presenting an imaginary story as if it was real.

In a situation where children are the main source of information after the parents have stopped communicating, misunderstandings become the norm rather than the exception, and the cycle may continue until it grows out of control. This ineffective form of communication creates strong pressure on all involved. Over time, children who cannot deal with all the misunderstandings can literally explode. A teenager, for example, could end up saying that she doesn't want to live any longer, drop out from school or fall ill.

# 1

# Psychosocial aspects

There are three possible types of misunderstanding:

Assumed intention: “It’s not even worth asking.”

Erroneous interpretation: “What you said is not what I understood.”

Outside reference: “My work colleague knows all about it and he told me.”

Misunderstandings must always be clarified. Without clarification, they can create a breach between the parents, break their trust in each other and impose the consequences of the misunderstanding on the children.

In short, misunderstandings arise quietly, without creating suspicion, but eventually take over all the available emotional space.

However, some communications skills or attitudes can protect parents against misunderstandings and help resolve conflicts.

## 1.3.2 Reducing the possibility of misunderstanding

Parents can develop four abilities or attitudes to promote communication.

1

The first is the ability to **convey a clear message**. This means talking about one thing at a time, not trying to deal with several problem at once, and avoiding pointless reviews of events in the past.

2

The second, and clearly the most important, is the ability to **listen**. If both parents speak at the same time, there is no communication. Speaking at the same time as the other person is a signal that communication is not working. If this happens, it is better to take a break and try the communication again later on a firmer footing.

What is listening? The ability to listen involves two behaviour patterns: keeping quiet while the other person talks, and trying to understand what the other person is saying. To understand properly, it is important not to prepare an answer until the other person has finished formulating his or her thoughts.

The quality of a communication depends on the ability to listen. If the person speaking feels that the other person is not listening, he or she will start to speak louder to get the other person’s attention. If this does not work, the person may become aggressive and make spiteful remarks. In the end, this failed attempt at communication will generate frustration and delay any new dialogue until much later.

The factors that cause communication failure are well known. First, there is the fact that everyone wants to prove that they are right. One person can criticize or blame the other on the basis that they know him or her only too well, which is not necessarily the case even if they have spent many years together. Another factor for a failure of communication is one person’s belief that he or she has tried everything. The person then uses this as a subtle excuse for failing to take action. This attitude is not an answer. It is better to say, “I don’t know what else I can do,” retaining the potential to listen, because it is only by listening that we can get more information on this “something else”.

Effective communication therefore depends to a great extent on the ability to listen, which is an act of generosity toward the other person, but also benefits the listener. A person who is speaking and who knows that the other person is listening will be more careful about what he or she says. This attitude is likely to become reciprocal, making the communication even more effective.

**3** The third ability is **feedback**, which a person can use to check whether he or she has understood the message correctly. In the field of communication, what is understood is just as important as what is said. A person who applies the principles of proper listening will have more chance of understanding the other person's words.

**4** The fourth ability, clearly the most complex, is to **react to the expression of emotions**. During a discussion, if one parent hears the other say "No," this is not necessarily a refusal. It may be the expression of an emotion that needs to be examined. For example, the other parent may be afraid of exploring a topic or have some other motivation that the first parent is not aware of, but that will become clear through listening.

### 1.3.3 The benefits of effective communication

The need for effective communication is just as great when the parents share custody of their children, since living in a joint custody situation without talking to the other parent means that you have no input into half of your children's lives.

Professionals in the field often meet parents who talk to each other about their children, even though the children live mainly with one parent. This means that the parent with less physical involvement is still present mentally, thanks to ongoing communication and his or her interest in the children's lives.

Experience shows that, even in a situation where tension exists between the two parents, communication is still possible provided they keep in mind the basic attitudes (abilities) described previously.

Effective communication between the parents will ensure that they still retain an important option: to reply to a child's demands by saying "I'll talk to your father (mother) about it and then we'll see." This option gives them time to think, since they do not need to reply right away. It identifies an ally (the other parent) who will help find a solution and, above all, it sends a clear message to the child that the final answer will come from both the father and the mother and will be binding.

On the other hand, if the parents do not talk to each other, children receive contradictory messages that lead to a conflict of values. In addition, the situation will create possibilities for manipulation, and the parents will leave their children with the impression that adults are unable to resolve their problems.

Sometimes verbal communication is not possible, or is not effective immediately. Adults often express themselves clumsily under the influence of strong emotions, and find it difficult to withdraw what they have said. They can apologize for saying the wrong thing, but the harm is already done.

# 1

# Psychosocial aspects

However, there are other ways to communicate. One parent can enter information about key events affecting a child in a “communication notebook”, to be read by the other parent. This will satisfy a legitimate curiosity about what the child experiences when with the other parent. The advantage of written communication is that it requires a moment of thought, and it is always possible to correct any comment that appears inappropriate after a period of reflection.

Last, it is important to realize that one parent always appreciates receiving, from the other parent, even a small sign of appreciation and affection, which helps him or her meet the educational and emotional challenges of parenthood. Expressing pride in the children they have had together and recognizing their joint achievement is a major step towards effective communication. Signs of appreciation between parents cost nothing and help maintain a constructive relationship. Courtesy paves the way for a better relationship in the future.



# 2

# Legal information

## 2. KEY LEGAL INFORMATION

Parents who separate must reorganize their family, and divide custody time, financial responsibilities and property. This often leads to differences of opinion and conflicts. How can they be resolved without damaging their future relationship as parents?

There are several ways to resolve conflicts, including family mediation and court litigation. In addition, parents can reach an agreement between themselves, with or without assistance from an intermediary.

Family mediation, discussed below in section 3, is based on the involvement of an impartial third party who helps the parents negotiate a fair, viable agreement that meets the needs of all family members and has the free and enlightened consent of both parents.

By taking their case to court, the parents can submit their disputes to a judge, who makes a ruling based on the applicable law. Each parent can be represented by a lawyer, whose role is to advise the parent, negotiate on his or her behalf, draft an agreement and have it confirmed to give it legal effect. If negotiations fail, the lawyer can then prepare the case and make the necessary representations before the court to obtain a judgment.

The lawyer can also act as a legal adviser. For example, during a mediation process, the parents can consult a lawyer at any time concerning a specific question that cannot be answered by the mediator. Mediators can provide legal information, but not a legal opinion. To understand the difference, legal information is information given by a person on a matter connected with justice and the application of the law; however, the person does not provide an opinion on the outcome, but simply technical assistance. On the other hand, a legal opinion is an opinion given by a lawyer during a consultation concerning the best action to take in a given legal situation. The opinion is expert advice given by a lawyer or notary in response to a specific question.

It is also possible for parents to represent themselves in court. However, they are still required to comply with all the rules of procedure, including those contained in the Code of civil procedure and the applicable regulations.

### 2.1 CHILD'S RIGHT TO AN ONGOING RELATIONSHIP WITH BOTH PARENTS

#### 2.1.1 Parental authority

When one parent has been given custody of a child, both parents must still consult together before any important decisions are made, such as those concerning the choice of a school, religion, education, health, medical care and place of residence. Decisions concerning everyday life may be made by the parent responsible for the child at that particular time.

### 2.1.2 Interest of the child

All decisions concerning a child must be made in the child's interest and in compliance with the child's rights. Before making a decision, the child's moral, intellectual, emotional and physical needs must be taken into account, along with the child's age, health, personality and family environment, and other aspects of the child's situation.

A court may, when the interest of a child is involved, order a psychosocial evaluation to shed light on the question under examination.

### 2.1.3 Sharing of custody time

In Québec, no custody model is given preference by the courts. Each case is unique, and the only criterion taken into account before a court makes its decision is the interest of the child. In the decision, the court will try to ensure that the child's links with both parents are maintained as far as possible, once again in the child's interest. Unless there is proof to the contrary, the court assumes that both parents have adequate parenting abilities.

There are three types of custody:

- ▶ sole custody, where one parent assumes **more than 80%** (292 days) of custody time for the child;
- ▶ sole custody with visiting and prolonged outing rights, where the parent who does not have custody assumes **more than 20%** (73 days) of custody time, but **less than 40%** (146 days);
- ▶ shared custody, where each parent assumes between **40%** (146 days) and **60%** (219 days) of custody time for the child.

There are many different ways to organize the time a child lives with each parent. Here are some examples:

DAYS	First week							Second week						
	MONDAY	THURSDAY	WEDNESDAY	TUESDAY	SATURDAY	FRIDAY	SUNDAY	MONDAY	THURSDAY	WEDNESDAY	TUESDAY	SATURDAY	FRIDAY	SUNDAY
Model 1	Father	Father	Father	Father	Father	Father	Father	Mother	Mother	Mother	Mother	Mother	Mother	Mother
Model 2	Father	Father	Father	Mother	Mother	Father	Father	Mother	Mother	Mother	Father	Father	Mother	Mother
Model 3	Father	Father	Mother	Mother	Father	Father	Father	Father	Father	Mother	Mother	Mother	Mother	Mother
Model 4	Father	Father	Father	Father	Father	Mother	Mother	Father	Father	Father	Father	Father	Father	Father
Model 5	Mother	Mother	Mother	Mother	Mother	Father	Father	Mother	Mother	Mother	Mother	Mother	Mother	Mother

## 2.2 CHILD'S RIGHT TO A LIFE IN KEEPING WITH THE PARENTS' ECONOMIC MEANS

Parents who separate or divorce are required to contribute to the needs of their children. A decision must be made concerning how, and in what proportion, each parent will make a contribution. Child support payments must be for the whole period when a child is unable to ensure his or her own subsistence, for example because he or she is a full-time student.

# 2

## Legal information

### 2.2.1 Determination of child support

Child support payments, when both parents live in Québec, are determined using the Québec model for the determination of child support payments, which sets the basic amount payable.

However, in a case of divorce where one of the parents does not live in Québec, the Federal Child Support Guidelines apply, although the parents may agree to apply the Québec model instead.

The amount of the child support is determined on the basis of the income of both parents, the number of children and the custody time. If applicable, other expenses for the child concerned (daycare, private school, orthodontics, post-secondary education expenses, etc.) can be added, in proportion to each parent's income. Unless otherwise agreed on by the parents, these expenses are assessed by the court and paid in proportion to each parent's income.

Support payments are made to cover a child's everyday needs, such as food, housing, communications, household cleaning, personal hygiene, clothing, furnishings, transportation and leisure activities.

Support payments are tax neutral, meaning that the person making a child support payment does not deduct it from his or her income, and the person receiving a child support does not add it to his or her income.

The way in which government transfers to families, such as the Child assistance payment and the Canada child tax benefit (CCTB), are paid will depend on the conjugal situation of the parents and the type of child custody. It is important to notify the organizations responsible for administering the payments as quickly as possible if your situation changes. For more information, go to:

- ▶ the "Child assistance payments" page on the website of the Régie des rentes at: [www.rrq.gouv.qc.ca](http://www.rrq.gouv.qc.ca)
- ▶ the CCTB page on the website of the Canada Revenue Agency at: [www.cra-arc.gc.ca](http://www.cra-arc.gc.ca)

Child support payments increase on January 1 each year, based on the percentage increase in the annual pension index of the Régime de rentes du Québec. In addition, each year the Ministère de la Justice adjusts the amounts indicated in the table used to determine child support payments to reflect changes in provincial and federal tax rates.

To ensure that the child support payment continues to reflect each parent's financial situation, the parents are required to exchange information about their income no more than once a year, at the request of one of the parents. For more information, go to the website of the Ministère de la Justice ([justice.gouv.qc.ca](http://justice.gouv.qc.ca)). For more information about child support payments, consult the guidebook on the Québec model for the determination of child support payments.

### **2.2.2 Support-payment collection**

In Québec, the universal Support-Payment Collection Program applies to all court judgments made since December 1, 1995 that specify a support payment.

The amount of the payment is collected by Revenu Québec directly from the debtor (the person required to pay support) and paid to the creditor. Parents can apply to be exempted from the automatic collection program after agreeing that support will be paid directly by the debtor to the creditor. In this case, the debtor must provide Revenu Québec with security equal to one month's payment.

It is important to know that only a court can alter the amount of a support payment specified in a court judgment. A change in a parent's situation requires a new court judgment to change the amount collected. However, you may be eligible for the child support recalculation service (Service administratif de rajustement des pensions alimentaires pour enfants, or SARPA), which can make an administrative adjustment to the amount (section 2.2.4).

For more information, go to the website of Revenu Québec at: [revenuquebec.ca](http://revenuquebec.ca).

### **2.2.3 Procedure to give effect to an agreement**

Two parents who have reached an agreement on child support payments, custody or access arrangements can file an application to have their agreement homologated by a special clerk. Once homologated, the agreement has the same force and effect as a court judgment.

Various products and services are available to help you get a new agreement homologated by a court or obtain a modification after your situation has changed. These include publications, available free of charge or for a fee, that provide information and help you prepare the documents needed to file your application with a court. They are listed in the last section of this document, "To end with: other resources".

### **2.2.4 Modifications following a change in situation**

Since family law touches on highly personal aspects of the lives of parents and children, the changes that occur in family life often require modifications to be made to previously determined arrangements.

A change in situation may involve, for example, the modification of child custody arrangements or access rights; one parent's loss of employment; a change of job leading to a change in income; or new expenses to be shared, such as orthodontics, which affect the amount of the support payment.

In these situations, parents can modify their agreement by mutual consent or ask the court to modify a previous judgment. Various products and services are available to help parents make modifications. For more information, see the last section of this document, "To end with: other resources".

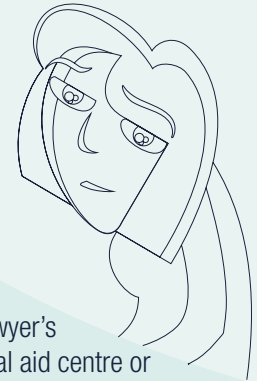
# 2

## Legal information

More specifically, two new services have been introduced to help parents have a judgment reviewed or adjust the amount of a child support payment.

### **Homologation assistance service:**

Legal aid is available for all parents for the review of a family court judgment. Once the parents have reached an agreement on a modification to custody arrangements, access rights, child support payments or spouse and child support payments, they can obtain a review of their court judgment. The service costs roughly \$275 per parent if they are not financially eligible for free legal aid; it is free for parents who are financially eligible for legal aid, subject to the rules governing the contributory scheme. The charge covers lawyer's fee of \$400 and court fees of about \$150. For more information, contact your local legal aid centre or go to the website of the Commission des services juridiques at: [www.csj.qc.ca](http://www.csj.qc.ca), under the "Homologation" tab.



### **Child support recalculation service (Service administratif de rajustement des pensions alimentaires pour enfants, or SARPA):**

In simple cases where a parent's income has changed, you can apply for the administrative recalculation of a child support payment, without going to court, for a fee of roughly \$275. The service is provided free of charge for parents who are financially eligible for legal aid, subject to the rules governing the contributory scheme.

For more information and to check your eligibility, go to the SARPA website at: [www.sarpaquebec.ca](http://www.sarpaquebec.ca), or call 514 873-3563 or toll-free 1 855 LeSARPA (537-2772).



# 3

# Family mediation

## 3. FAMILY MEDIATION

It is important for parents who separate to make careful choices, of their own free will, concerning the consequences of the separation. Since emotions are running high, you will need to be guided through the decision-making process as you define a new life plan and choose how you will play your role as parents.

The family mediation service at the Ministère de la Justice allows couples with dependent children, whether or not they are married, to receive a number of free sessions with a professional mediator if they decide to separate or divorce or want to apply for the review of a judgment or agreement.

Parents who have previously used the family mediation service can contact it again for the review of a judgment or agreement.

### 3.1 PRIOR INFORMATION SESSION

By law, parents who separate and failed to reach an agreement must participate in a parenting and mediation information session before being heard by the court.

The session focuses on parenting after separation, in particular on the impact a conflict between the parents may have on the children and the parental responsibilities of each party. In addition, it includes information on family mediation, including the nature, objectives and procedure for this mode of dispute resolution, the role of the mediator and the role of the parents and the choice of a mediator.

After the session, you will have to decide whether or not you wish to begin mediation with the mediator of your choice. Family mediation may begin at any point, whether before or during court proceedings, in order to finalize an agreement.

### 3.2 MEDIATION: NATURE AND GOALS

#### 3.2.1 Definition of mediation

Family mediation is a conflict resolution method in which an impartial mediator helps the spouses negotiate a fair and viable agreement that meets the needs of each family member and to which free and enlightened consent is given. This reasoned approach to negotiation allows the needs of each party, whether the children or the parents, to be explored in depth, analyzes various settlement options, and allows the participants to select the solution that offers the best protection for the interests of all family members.

The mediator does not make any decisions on your behalf or offer an opinion. However, the mediator may suggest that you seek help from a specialist to deal with a specific dispute, such as a property assessor or a lawyer to provide legal advice, or a psychosocial expert to assess any difficulties your children may have.

Family mediation helps reduce conflicts in connection with an application for custody, access and outing rights, support payments or the division of property. In addition, it helps parents take responsibility for the decision-making process.

At any time, you may suspend the mediation process on your own initiative or at the suggestion of the mediator, to seek advice from your lawyer or any other person you choose.

In some situations, such as situations involving domestic violence, family mediation is unlikely to be appropriate but may proceed if certain conditions are complied with.

### **3.2.2 Nature of mediation**

Mediation can be comprehensive or partial. It allows former spouses to settle their differences with respect to child custody, support payments and the division of property, covering some (partial mediation) or all (comprehensive mediation) of these topics.

Mediation is confidential and takes place behind closed doors. Nothing revealed during a mediation session can be used as evidence in court. The mediator's report mentions only the presence of the parties and the questions where an agreement has been reached, and provides no other information.

### **3.2.3 Use of mediation**

All parents with dependent children can use mediation at any time:

- ▶ when they are looking for information or want to complete an amicable agreement following their separation (before beginning court proceedings);
- ▶ when they want to reach an agreement without having it homologated by the court; however, this type of agreement has no legal effect and, as a result, if it is not respected the injured party must apply to the court;
- ▶ when they have filed an application for divorce or legal separation (if they are married) or an application to determine custody, access rights and support payments (for de facto spouses), but have not yet been heard by the court because they still disagree on custody, support or the family patrimony and other patrimonial rights resulting from the marriage;
- ▶ when they have filed an application for the review of a judgment in connection with a dispute over custody, access or support;
- ▶ when they have obtained a judgment or reached an agreement, but wish changes to be taken into account.

# 3

# Family mediation

## 3.3 CONTENT AND PROCEDURE FOR THE MEDIATION SESSION

### 3.3.1 Issues subject to mediation

The following topics may be discussed during a mediation session:

- ▶ The sharing of parental responsibilities:
  - Parental authority (important decisions concerning the children: health, religion, education...).
  - Custody time and access rights.
  - Sharing of financial responsibilities (child support payments).
- ▶ The division of property, including the family patrimony and other patrimonial rights resulting from the marriage.
- ▶ The division of property acquired jointly while the couple were living together.
- ▶ Financial support provided by one spouse for the other (in the case of a marriage or civil union, or in the case of a de facto union if support was provided for in a cohabitation contract).

### 3.3.2 Mediation sessions

Mediation sessions require the presence of both parents and a mediator or, if the parents agree, two mediators known as co-mediators. Other people may also be present if the parents consent and if the mediator considers that their presence is required, provided they are not acting as experts in the dispute involved and are not the legal representative of either parent.

### 3.3.3 Phases of the mediation process

The mediation process covers the following topics:

- ▶ changes in the parents' situation;
- ▶ recognition of the parents' and children's needs;
- ▶ the search for options to resolve the conflict;
- ▶ an analysis of each option;
- ▶ the choice of a "single" solution for each topic;
- ▶ the drafting of a summary of all the points on which agreement has been reached;
- ▶ the forwarding of the mediator's report.

First, the family situation is presented to assess whether mediation is relevant.

Second, whatever the topics submitted for mediation, your needs and those of your children will be clearly established and identified.

Third, the mediator will help you find various settlement options. The mediator will rely on your creativity and, in some cases, may point out other options. An analysis of the range of options available will form the basis for a report on needs and options in order to focus on a solution.

When an agreement is reached, the mediator will give you a summary, along with a recommendation that you consult a qualified professional to obtain independent advice, whether legal or not, and information about the steps that must be taken to draft proceedings that can be certified by the court or homologated by the special clerk, as the case may be.

Last, the mediator will forward a report to the family mediation service (Service de médiation familiale) setting out only the topics covered by the agreement, such as custody, access rights, the division of property and support payments.

#### 3.3.4 Parents' roles

Your collaboration as participating parents is essential to the success of the mediation process. Here are the main conditions you must meet:

- ▶ Commitment to the mediation process:
  - your decision to take part in mediation must be voluntary;
  - you must negotiate, with help from the mediator, without undue constraint;
  - you must participate actively in the discussions, and cooperate to the best of your ability;
  - you must accept the principle that the mediation cannot impose a solution;
  - you must behave honestly at all stages in the process;
  - you must disclose all the information needed to understand the situation.
  
- ▶ Tasks to be completed between mediation sessions:
  - you must think about the various options for custody of your children and access rights;
  - you must draw up, or help draw up, budgets for the parents and children;
  - you must list your property, with an assessment of its value;
  - you must provide all relevant documents.
  
- ▶ Tasks to be completed at any point during the mediation process, as needed:
  - you may have to obtain supplementary information and independent opinions;
  - you may have to contact outside resources (lawyer, notary, therapist, real estate agent ...);
  - you may have to assess, with the mediator, the possibility of having your children take part directly in the mediation process.
  
- ▶ Tasks to be complete at the end of the mediation process:
  - you must complete the tasks that are your responsibility to ensure that your agreement is implemented and applied;
  - you must take steps to obtain a court judgment, if needed.

# 3

## Family mediation

### 3.3.5 Role of mediator

The mediator ensures that each parent communicates his or her needs and expectations freely and in full to the other parent, and that negotiations are conducted fairly and in full knowledge of the facts. The mediator also ensures that the needs of the children are taken into consideration during the negotiations.

The mediator must remain impartial, and cannot represent one of the parents or take the side of one of the parents.

The mediator cannot make any decisions on your behalf or provide an opinion of any kind. However, the mediator may suggest that you contact a specialist, depending on the nature of the dispute.

During a mediation session, the mediator:

- ▶ ensures that mediation is not contra-indicated, for example because of a major imbalance between the parties;
- ▶ directs the process to help the parties reach a free, voluntary agreement in full knowledge of the facts;
- ▶ maintains balance and equality during the negotiations;
- ▶ reduces the obstacles to communication;
- ▶ considers the interests of the children and their parents;
- ▶ provides general information, but not opinions;
- ▶ suggests input from professionals;
- ▶ terminates the mediation process, when necessary;
- ▶ suggests that the parents obtain an independent legal opinion before finalizing the summary of the points on which they agree;
- ▶ reminds the parties that it is possible to end the mediation process without prejudice.

### 3.3.6 Role of experts

At any stage in the mediation process, experts in the fields of law, finance, social work or psychology can be asked to clarify a situation or break a deadlock. The parents must pay their professional fees.

## 3.4 DURATION AND COST OF MEDIATION

Free family mediation sessions are offered for couples with children of minor age, or dependent children aged 18 or above, up to a fixed number of hours depending on their situation. The Service de médiation familiale pays the mediator's professional fees for these sessions.

You are entitled to a session of 2 hours 30 minutes on parenting after separation, in addition to

5 hours of free mediation, if you are in the process of separating,

or

2 hours 30 minutes of free mediation, if you already have an agreement or court judgment but wish to have it reviewed, if you have already received family mediation services, or if you have already obtained a judgment ordering separation from bed and board (legal separation).

Any additional time you need to reach an agreement will be charged to you at the regulation rate of \$110/hour.

Some costs are not covered by the Service de médiation familiale and are charged to the parents:

- ▶ administrative fees such as file opening fees, long-distance calls and photocopying;
- ▶ the costs and fees paid to obtain a court judgment.

### 3.5 Finding a mediator

Only an accredited mediator can conduct mediation sessions. Six professional orders have been authorized by the Québec government to accredit their members:

- ▶ Barreau du Québec;
- ▶ Chambre des notaires du Québec;
- ▶ Ordre des conseillers et conseillères d'orientation du Québec;
- ▶ Ordre des psychoéducateurs et psychoéducatrices du Québec;
- ▶ Ordre des psychologues du Québec;
- ▶ Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec.

Youth centres are also authorized to accredit their employees.

To find a mediator, you can contact one of the professional organizations whose members are authorized to conduct family mediation. In addition, a search on the website of the Ministère de la Justice at [justice.gouv.qc.ca](http://justice.gouv.qc.ca) will quickly provide the contact information for mediators working in Québec in the field of family mediation.

# 3

## Family mediation

### 3.6 ADVANTAGES OF MEDIATION

Family mediation will help you

- ▶ work together to define a parenting plan tailor-made for your family;
- ▶ establish effective parental communications with respect to your children;
- ▶ take your children's interest into account, along with the interest of each parent;
- ▶ protect the image of the other parent;
- ▶ make free and enlightened decisions about all aspects of your separation.

The agreement you negotiate will ensure that your children react positively to your separation and will give you some influence over decisions that concern you, while helping you to fully exercise your parental responsibilities.

### 3.7 STEPS TO TAKE FOLLOWING MEDIATION

You may, if you wish, have your agreement homologated by a special clerk, to give it legal effect. If this is done, Revenu Québec will collect the necessary support payments, unless you ask to be exempted and provide the necessary security.

However, you may also decide not to have your agreement homologated. In this case, since it is not equivalent to a court judgment, Revenu Québec will not collect the support payments and you will have to agree with the other parent on how the support will be paid. However, you will need a court judgment in order to divorce.

In both situations, you are eligible for 2 hours 30 minutes of free mediation each time your situation changes in a way that requires a review of the judgment or agreement.

### 3.8 QUÉBEC FAMILY MEDIATION DAY

The first Wednesday of February each year has been designated as Québec Family Mediation Day to raise awareness of family mediation in the general population and to provide information about the benefits of this amicable approach to conflict resolution.

Québec Family Mediation Day reflects the goal of the Ministère's main partners in the field of making the service better known. It is also intended to raise the profile of family mediation professionals in Québec.

### 3.9 STATISTICS

According to a 2008 Léger Marketing survey on family mediation conducted on behalf of the Ministère de la Justice among persons who obtained a court judgment in family matters,

- ▶ **82%** of all persons using family mediation were able to come to an agreement;
- ▶ **92%** of all persons using these services would advise friends or family to opt for family mediation if they were in the same situation;
- ▶ Persons who opted for family mediation reduced the expense of obtaining a court judgment by **an average of almost one-half**.

# To end

## TO END WITH: OTHER RESOURCES

Various products and services are available to help you have a new agreement homologated by a court or to obtain a modification following a change in your situation. These include publications, available free of charge or for a fee, that provide information and help you prepare the documents needed to file your application with a court:

- ▶ The Joint Application for Divorce on Draft Agreement is designed for parents who are married or in a civil union. One version, which requires you to print out the forms to be completed, is available free of charge on the website of the Ministère de la Justice ([justice.gouv.qc.ca](http://justice.gouv.qc.ca)). Another version, with printed and electronic options, includes the forms to be completed and is available for around \$10 from bookstores and Les Publications du Québec.
- ▶ The Joint Application for the Determination of Custody Access and Child Support is designed for de facto spouses who decide to separate, and includes the forms to be completed. It is available for around \$10 from bookstores and Les Publications du Québec.

You can also obtain general legal information in the field of family law from:

- ▶ Website of the Ministère de la Justice [justice.gouv.qc.ca](http://justice.gouv.qc.ca)
- ▶ the publication *Representing yourself in court – In family matters*, available in a printed version or from the website of the Fondation du Barreau du Québec. It can be ordered by calling **514 954-3461** or going to the website at [www.fondationdubarreau.qc.ca](http://www.fondationdubarreau.qc.ca)
- ▶ a community justice centre: [www.justicedeproximite.qc.ca](http://www.justicedeproximite.qc.ca)
- ▶ the Barreau du Québec [www.barreau.qc.ca](http://www.barreau.qc.ca)
- ▶ the Referral Service of the Barreau du Québec: [www.barreau.qc.ca/fr/public/trouver/avocat](http://www.barreau.qc.ca/fr/public/trouver/avocat)
- ▶ the Chambre des notaires du Québec [www.cnq.org](http://www.cnq.org)
- ▶ Éducaloi [www.educaloi.qc.ca](http://www.educaloi.qc.ca)
- ▶ the Association de médiation familiale du Québec (AMFQ) [www.mediationquebec.ca/fr](http://www.mediationquebec.ca/fr)
- ▶ Justice Canada for the Divorce Act or the application of the federal guidelines: [www.justice.gc.ca/fra](http://www.justice.gc.ca/fra)
- ▶ ARUC Séparation parentale Recomposition familiale [www.arucfamille.ulaval.ca](http://www.arucfamille.ulaval.ca)

In the field of mental health, the resources available include:

- ▶ Ministère de la Santé et des Services sociaux [www.msss.gouv.qc.ca/sujets/prob\\_sante/sante\\_mentale/index.php?Accueil](http://www.msss.gouv.qc.ca/sujets/prob_sante/sante_mentale/index.php?Accueil)
- ▶ Centres de santé et de services sociaux (CSSS) [www.sante.gouv.qc.ca/systeme-sante-en-bref/csss/](http://www.sante.gouv.qc.ca/systeme-sante-en-bref/csss/)
- ▶ Ordre des conseillers et conseillères d'orientation du Québec [www.orientation.qc.ca](http://www.orientation.qc.ca)
- ▶ Ordre des psychologues du Québec [www.ordrepsy.qc.ca](http://www.ordrepsy.qc.ca)
- ▶ Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec [www.otstcfq.org](http://www.otstcfq.org)
- ▶ S.O.S. Suicide Jeunesse [www.sos-suicide.org](http://www.sos-suicide.org) or **1 800 595-5580**
- ▶ Centres de prévention du suicide **1 866 APPELLE (277-3553)**

For information or assistance in the area of domestic violence, see:

- ▶ Ministère de la Santé et des Services sociaux [www.msss.gouv.qc.ca/sujets/prob\\_sociaux/violence conjugale.php](http://www.msss.gouv.qc.ca/sujets/prob_sociaux/violence_conjugale.php)
- ▶ Centre d'aide aux victimes d'actes criminels (CAVAC) [www.cavac.qc.ca](http://www.cavac.qc.ca) or **1 866 LE CAVAC (532-2822)**
- ▶ Regroupement des maisons pour femmes victimes de violence conjugale [www.maisons-femmes.qc.ca](http://www.maisons-femmes.qc.ca) or **1 800 363-9010**
- ▶ Fédération des maisons d'hébergement pour femmes
- ▶ À cœur d'homme – Réseau d'aide aux hommes pour une société sans violence [www.acoeurdhomme.com](http://www.acoeurdhomme.com)
- ▶ SOS violence conjugale [www.sosviolenceconjugale.ca](http://www.sosviolenceconjugale.ca) or **1 800 363-9010**

The following tools are designed to improve communications between parents:

- ▶ Agenda parental [www.agendaparental.com/](http://www.agendaparental.com/)
- ▶ Planiclik [www.planiclik.com/](http://www.planiclik.com/)

For more information about the products and services available for parents in the field of family law, or to obtain information about the justice system in general, contact the information department at the Ministère de la Justice by calling **418 643-5140** or, toll free, **1 866 536-5140**. You can also send an e-mail to [informations@justice.gouv.qc.ca](mailto:informations@justice.gouv.qc.ca).



[www.justice.gouv.qc.ca](http://www.justice.gouv.qc.ca)