

Family mediation

» Negotiating a fair agreement



On September 1, 1997, a new law concerning family mediation came into force in Québec. This law allows **couples with children** whether legally married, in a civil union or living together in a de facto union to obtain the services of a professional mediator during the negotiation and settlement of their application for separation, divorce, dissolution of the civil union, child custody, or spousal or child support, or the review of an existing decision.

[Presentation](#)

[Family mediation](#)

[The role of the mediator](#)

• [Certified family mediators](#)

[Choice of a mediator](#)

[Free sessions](#)

[Information session](#)

• [Steps in the mediation process](#)

[Court-ordered mediation](#)

[Protecting the rights of the spouses](#)

[The procedure following mediation](#)

[For more information](#)

-

» Presentation

Mediation services may be provided in any of the three following situations:

Situation A: Voluntary mediation

Both spouses wish to reach an amicable settlement and to negotiate an agreement with the help of a mediator.

Mediation may take place before a court case has begun, or while a court case is under way.

Situation B: Information session

The spouses must attend an information session if they disagree on one or more of

the following issues:

- child custody;
- access rights;
- the amount of spousal or child support;
- the partition of family patrimony;
- other rights resulting from the marriage or civil union.

Before the case is heard by the court, the spouses are **required** to attend an information session on mediation. This session may take place either before or after an application is submitted to the court. The spouses may then choose to continue on with the mediation process or to go before the court.

Situation C: Mediation ordered by the court

At a certain point during the examination of a contested application, the court may decide it is appropriate to order the spouses to undertake mediation.

» **Family 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 is entered upon of their own free will.

The three phases in the mediation process

Phase 1 Assessment	Assessment of the situation			
Phase 2 Negotiation	Needs of the parents and of children	List of options	Analysis of options	Choice of solution
Phase 3 Drafting	Drafting of mediator's report		Drafting of projected agreement	

» **The role of the mediator**

The mediator ensures that the spouses express all their needs and expectations freely to each other, allowing the negotiation to proceed in a fair and enlightened way. The mediator also ensures that the children's needs are taken into consideration by the parents during the negotiation process.

During the mediation process, the mediator does not make any decisions or offer any advice. However, the mediator may suggest that the spouses seek help from a specialist to deal with a specific dispute.

» Certified family mediators

Only a certified mediator may conduct family mediation.

Five professional associations are authorized by the Québec government to certify their members:

- the Barreau du Québec;
- the Chambre des notaires du Québec;
- the Ordre professionnel des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec;
- the Ordre des psychologues du Québec;
- the Ordre professionnel des travailleurs sociaux du Québec.

Youth Protection Centres are also authorized to certify their employees.



[Top](#)

» Choice of a mediator

A mediator may be chosen from the field of law (attorney or notary) or from the field of psychology and the social sciences (psychologist, social worker, guidance counsellor or employee of a Youth Protection Centre (see [For more information](#))).

Important

Spouses may choose their own mediator. However, to obtain mediation free of charge, they must choose a mediator whose fee corresponds to the rate prescribed by law, which is \$95 per session.

If the mediator charges a different fee, the spouses must pay all the mediation costs.

» Free sessions

In the case of a couple with children, the Service de médiation familiale **will pay the mediator's fee for six sessions** (including the information session if applicable). However, if the mediation concerns the review of an existing court judgment, the Service will pay for only **three sessions** (including the information session if applicable).

The spouses must pay for any **additional sessions** needed to reach an agreement. In such cases, the cost per session must not exceed \$95.

» Information session

The goal of the information session is to provide information on the mediation process, including the nature and objectives of mediation, the steps in the process, the role of the mediator, and the role played by the spouses.

After attending the information session, the spouses must decide either to undertake mediation to reach an agreement, or to institute or continue legal proceedings.

The spouses have two choices: to attend a private information session with the mediator of their choice, lasting approximately one hour and fifteen minutes, or to attend a group information session lasting approximately one hour and a half.

Private information session

The spouses meet in the mediator's office to receive the information outlined above. If they decide to continue the mediation process with the same mediator, they can make the necessary arrangements immediately, or they can decide to continue with another mediator.

Group information session

If the spouses cannot agree to attend a private information session, or disagree about the choice of a mediator, they must register for a group information session with the Service de médiation familiale at the [courthouse](#) of their [judicial district](#).

At the end of the information session, they will have an opportunity to choose a mediator if they wish to continue with the mediation process.

After the information session (whether a private or group session), the mediator submits an attendance report to the Service de médiation familiale. A copy is given to the spouses, who will need it if they decide to go to court to settle the issues that are still disputed.

Exemption for a valid reason

If one of the spouses has a valid reason for not attending the information session, he or she must state that fact during a meeting with a mediator at the mediator's office. Examples of valid reasons include

- an unequal power relationship between the spouses;
- the disability or physical or psychological condition of one of the spouses;
- the geographical distance between the homes of the two spouses.

The spouse is not required to reveal the exact reason for the exemption to the mediator, but may ask the mediator to assess his or her situation regarding the information session and to suggest possible alternatives.

The mediator then writes a report informing the court of the fact that one of the spouses has declared a valid reason for not attending the information session, but without disclosing the reason. The spouses are exempted from any other procedure relating to attendance at an information session, and their application will follow its course before the court. However, the court may still order mediation at a later date during the proceedings.

A spouse required to attend an information session who fails to attend without a valid reason may be ordered to pay all costs relating to the application that is submitted to the court.

» Steps in the mediation process

During the first mediation meeting, the mediator provides information on the mediation process if the spouses have not already attended an information session. The mediator then helps the spouses clarify and define their problems.

Next, the mediator establishes a work schedule with the spouses for each of the scheduled meetings; for instance, one meeting may focus on the division of property, and another on support payments for the couple's children.

Each mediation session is attended by both spouses and at least one mediator, but the spouses may prefer co-mediation, in other words the presence of two mediators. If both spouses agree, the session may also be attended by other people whose presence the mediator considers useful, as long as they are neither experts nor advisors.

At any time, a spouse may suspend the mediation process to consult an attorney or other person, and may also decide to terminate the process. The mediator is also required to terminate the process if he or she considers that it may be more damaging to continue.

At the end of the mediation, the mediator produces a document setting out the points on which the spouses agree, but without disclosing any details of what was said or written during the mediation process. All mediation sessions are confidential, and nothing from a mediation session may be used as evidence in a court of law.

» Court-ordered mediation

At any time during court proceedings involving a contested application, the court may order the parties to undertake mediation. The spouses must select a mediator and notify the court. If they fail to do so, a mediator will be appointed by the Service de médiation familiale.

If the spouses have not begun mediation within 20 days, or if one spouse refuses to undertake mediation within the 20-day period, the mediator reports to the court and transmits a copy of the report to the parties involved and to their attorneys.

» Protecting the rights of the spouses

If necessary, to allow mediation to proceed while protecting the rights of the spouses, the court may, after receiving an application and on the conditions it determines, issue an order to protect the rights of one of the spouses or the couple's children during the mediation process or for any other period it determines.



[Top](#)

» The procedure following mediation

Once the mediation process has been completed and the mediator has submitted a report to the Service de médiation familiale and given the spouses a draft agreement, a few steps remain.

- If necessary, the spouses must consult a legal advisor to verify the draft agreement and, in some cases, have it put in legal form.
- The spouses must decide to have the agreement ratified by the court or have it recorded by the special clerk.

The court or the court officer, as the case may be, makes sure that the agreement is in accordance with the law, that the calculation of the child support payments complies with the [Regulation respecting the determination of child support payments](#), that any derogation is justified and reasonable, and that the interests of the parties and of any

children concerned are sufficiently protected.

» For more information

Video on family mediation:

- [Family Mediation: Another way to win](#)

The addresses and telephone numbers of Québec courthouses:

- [Courthouses](#)

Which judicial district a municipality is located in:

- [Search for a judicial district](#)

Certified mediators in Québec:

- [Search for a family mediator](#)

The legal framework of the family mediator:

- [Regulation respecting family mediation](#)  (R.S.Q., c. C-25, a. 827.3)

Professional organizations whose members are authorized to provide family mediation services:

- [Barreau du Québec](#) 
- [Chambre des notaires du Québec](#) 
- [Ordre des conseillers et conseillères d'orientation et des psychoéducateurs et psychoéducatrices du Québec](#)  (In French)
- [Ordre des psychologues du Québec](#)  (In French)
- [Ordre professionnel des travailleurs sociaux du Québec](#)  (In French)
- [Association des centres jeunesse du Québec](#)  (In French)
- [Centre jeunesse de Montréal](#)  (In French)
- [Centre jeunesse de Québec](#)  (In French)

The content of this document is strictly informative and has no legal value.

If you find some of the information difficult to understand, do not hesitate to [contact us](#).

Please note, however, that we cannot interpret the information to apply it to a specific situation.



Latest update: July 25, 2005

-
- [General information](#) • [Policies, Studies and Reports](#) • [Administrative documents](#) • [Publications for sale](#)

Québec 

© [Gouvernement du Québec, 2003](#)



General Information

» Ministère de la Justice du Québec
Édifice [Louis-Philippe-Pigeon](#)
1200, route de l'Église, 6^e étage
Québec (Québec) G1V 4M1

Telephone: (418) 643-5140
Toll free: 1 866 536-5140
Email: communications.justice@justice.gouv.qc.ca

Please note: The personnel at the Service de renseignements of the Ministère de la Justice can help you understand the general rules for applying Québec legislation. They cannot, however, interpret these rules to respond to a specific case or situation.

When contacting us by mail or e-mail, please indicate your address and telephone number so that we can contact you when necessary.

Latest update: February 20, 2007

• [General information](#) • [Courthouses](#) • [Complaints Bureau](#) • [Public service directory](#) •

Québec



© [Gouvernement du Québec, 2003](#)

- > [Minister](#)
- > [Department](#)
- > [Publications](#)
- > [Forms](#)
- > [Programs and services](#)
- > [Related links](#)
- > [Courts](#)
- > [Contact us](#)
- > [About this site](#)