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### Working Together to Resolve Custody

Child custody can be resolved through informal negotiations between the parents or other parties (usually with attorneys), through use of out-of-court alternative dispute resolution (ADR) proceedings that tend to facilitate a voluntary settlement, or in the traditional court setting -- where a family court judge makes final decisions. The vast majority of custody cases are resolved before issues must go before a family court judge, many through informal settlement negotiations or the use of ADR processes such as mediation and collaborative family law. Following is an overview to your options in resolving child custody out of court.

#### **Settlement Through Informal Negotiations**

If the parents or other parties in a custody dispute are willing to work together informally to resolve all issues related to child custody and visitation, they can negotiate an agreement (with or without the assistance of attorneys). In some cases, the parties in a custody dispute may prefer to have their positions negotiated by an attorney, or the parties may negotiate themselves, and consult their attorneys prior to finalizing any agreement. The specific settlement negotiation process will vary in most cases, but the end result of successful settlement talks in a child custody case is a written agreement. This agreement may be referred to as a "settlement agreement" in some states, while in other states the document may be called a "custody agreement" or "parenting agreement." (More on finalizing this agreement below.)

#### **Alternative Dispute Resolution (ADR) and Child Custody**

For parents and other parties involved in a child custody matter, another option for reaching agreement is alternative dispute resolution (ADR) -- including processes such as mediation and collaborative law. ADR may prove to be a beneficial tool in resolving child custody issues, depending on factors such as 1) the degree to which the parents are in dispute on key issues related to custody and visitation, and 2) their willingness to work together to resolve those issues.

#### **ADR Options**

ADR processes tend to be less adversarial and more casual than the traditional court setting, and may encourage and facilitate early settlement. With **mediation** and **collaborative family law**, parents or other parties in a custody dispute (along with their attorneys) have an opportunity to play an active role in resolving key decisions related to custody and visitation, instead of having a third party (judge or jury) make those decisions. Rarely used in family law cases, **arbitration** is a more structured ADR option, in which a neutral third-party makes decisions after hearing each side's evidence and arguments. The arbitrator's decision in a custody case is not necessarily final, and the parties may still be able to resolve key issues before a court at a later date.

In some states, divorcing parents are required to attempt resolution of custody disputes through mediation, so it is a good idea to understand your options. Learn more about out-of-court alternatives for resolving a child custody matter:

#### **Mediation**

[Child Custody Common Mediation Questions](#)

More on [Divorce Mediation](#)

#### **Collaborative Family Law**

[Collaborative Family Law: Overview](#)

[Collaborative Family Law: Resources](#)

#### **Finalizing Custody Out-of-Court: Parenting Agreements**

Whether the parties resolve a child custody dispute out-of-court through informal negotiation or ADR, the result is a written document which finalizes what was agreed upon. This agreement is usually shown to a judge for final approval. If the custody agreement is part of the parents' divorce, the agreement is filed in court in the county/district branch of state court where the divorce petition was filed. An informal court hearing may follow, during which the judge will ask some basic

factual questions, and whether each party understands and chose to voluntarily sign the agreement. As long as the judge is satisfied that the agreement was fairly negotiated, and the terms do not appear to blatantly favor one spouse over the other, the agreement will almost always receive court approval. In most states, the custody or parenting agreement then becomes a binding court order or "decree," and the parents or other parties to the agreement must adhere to it or face legal consequences.

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