

The Collaborative Process: A Guide for Separating Couples

The Role of a Mediator

Mediators in the Collaborative process are held to the same standard of qualification as other allied professionals. Namely, they must be credentialed as a mediator.

They must understand their role in the context of Collaborative practice and be collaboratively trained.

Mediators may be brought in to assist in a collaborative process, as a neutral person, but they do not typically replace the role of the key allied professionals (the Financial Professional or the Family Consultant).

Rather, if a mediator is brought in, their role is to provide additional facilitation as a neutral in the Collaborative process in order to further help in promoting an agreement between clients. This can be particularly beneficial even when one of the Collaborative lawyers in the process is also a trained mediator.

To be clear, the Collaboratively trained lawyer who is also a trained mediator cannot act in both roles in the collaborative process, ie as lawyer for one client and mediator for both. The reason for this is that while the Collaborative lawyers are working in a Collaborative context, they are not considered neutral and cannot be, because of their legal obligations to and relationship with their Collaborative law clients.