Are All Mediators the Same?

Couples that decide to use mediation for their divorce process often don’t realize that there are three distinctly different styles of mediation. They vary greatly and the style your mediator is trained in will significantly impact the experience you are signing up for. It can be very confusing for the consumer and you need to make sure you are educated before you shop. The three styles of mediation are facilitative, evaluative and transformative.

**Facilitative Mediation**

This is the earliest form of mediation introduced in the 1960’s and 1970’s. The mediator typically creates an atmosphere that encourages each party to have a voice in the process and the mediator asks powerful questions to elicit the underlying fears, concerns, and interests. The mediator does not typically make recommendations to the couple and encourages them to come to their own agreements on the various issues. Generally, all sessions are held jointly but are free to caucus, have short meetings with each person individually, as well.

When facilitative mediation began, it was not necessary for the mediator to have extensive knowledge or experience in the area being mediated so many are not family law attorneys. That can still be the case today, but more and more family law attorneys are embracing the practice as well.

**Evaluative Mediation**

This style was born out of the court system and modeled after the settlement conferences held by judges. This style is far more brutal. The mediator will point out weaknesses in each person’s case, and predict what a judge might do according to the law. Evaluative mediators are concerned with protecting the legal rights of either party rather than their needs or interests.

This style is often practiced using separate meetings with parties and their attorneys “shuttle” style, moving back and forth from one office to another. The evaluative mediator makes recommendations to each party and directly influences the outcome. This type of mediation is typically tied to a litigated case in an attempt to reach settlement prior to trial.

**Transformative Mediation**

The newest concept in mediation, transformative mediation was introduced by Folger and Bush in the book “The Promise of Mediation” in 1994. It is based on “empowerment” of each of the parties and “recognition” by each of the parties of the other parties’ needs, interests, values and points of view. The values are very similar to facilitative mediation. The foundation of transformative mediation is self-determination, the couple’s ability to structure their own solutions and process and the mediator follows their lead.

One of the keys to a more amicable divorce is empowering of each of the parties. Both Facilitative and Transformative Mediation are in line with that goal.