

# Mediation agreement

Law



AGREEMENT TO MEDIATE BETWEEN: David Smith of 125-Old Chappell road, London David AND: Angela Smith of 12-Old Trafford road, London Angela AND: Ian Stewart 15-King’s Road, London (The “ Mediator”) WHEREAS: A. David and Angela were married on March 22, 1998 in Manchester. B. David and Angela have two children, Connie and Benjamin. C. David and Angela want to end their marriage and the issue at hand is to resolve temporary custody issue of the children during family mediation. D. For this purpose they want to take help of the mediator. E. According to family law mediation, both parties discuss their case in presence of a third non-related party acting as a mediator and try to reach a consensual agreement. THEREFORE the parties agree as follows: 1. David and Angela will have mediation session in the presence of the mediator. Mediator will be there to take care of any issues that arise due to separation of David and Angela. 2. The mediator can convince both the parties to take care of their children’s betterment and fulfillment of needs to give them a good future instead of fighting over trivial issues. 3. No agreement will be binding between David and Angela until and unless it is in writing and is executed. 4. David and Angela both agree to sort out issues with mutual consent. They have agreed to focus on pointing out issues and finding there solutions. 5. Most of the mediation sessions will involve all three, David, Angela and the mediator, but as per requirement Mediator might need to see David or Angela alone in some sessions. 6. Mediator is not acting as a legal counsel and is neutral. His task is to help the two parties reach a mutually acceptable decision. 7. The reason for the demand of both the parents to have temporary custody of children lies in many factors. Firstly, both of parents love their children and out of love wants to live with their children. Secondly, there are financial issues in <https://assignbuster.com/mediation-agreement/>

between also which force Angela to keep both of children with her on temporary basis only. However, she could permanently keep her children if she is given a chance to get a better job. On the other hand, David earns more than Angela so he is in a better position to keep his children with him. Thirdly, both of the parents are kind of competing with each other and want to assert his or her right over their children. Thus it can be problematic for the progress of mediation. 8. In addition to the guidelines described above, more rules should be developed to include in the parenting plan of David and Angela. This includes guidelines related to out of state issues as when a parent is not residing with children. The healthcare needs of children are also required to be fulfilled by their parents as well as their needs to visit places to spend their vacation. For this purpose, it is necessary that proper schedule be developed as to when they will be taken for vacation and for how much duration. It should also be decided as to how much time they will be spending with each of their parents. The schedule of Connie's school breaks and holidays needs to be considered in making decisions about her. An important area is the day-to-day decisions that each parent will have to take about each child. The religion of the child and the mode of communication of each parent with their children should also be discussed with the signing of parental agreement. 9. At this stage it seems child custody is to be decided which goes in favor of David. It is due to the fact that he has more income than Angela and he can provide for his children's financial needs in a better way than Angela. However, he might not be able to cope with the psychological needs of his children as he has become detached in behavior with his family. However, if Angela is able to get a good job, she can get permanent custody of her children as only thing that is withdrawing herself

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form keeping permanent custody of her children is financial expenses. Nevertheless, she is more attached with her children and can care for them more than David. 10. David wrote a textbook about accounting that has been adopted as a required text by several university accounting schools. David began receiving royalties of \$6, 000 per year last year. He anticipates receiving similar royalties for the next four years. David maintains that the copyright on the textbook is his alone under the United States Constitution, Article One. Angela maintains that the copyright is community property because the book was written entirely during their marriage. Royalties should be shared by both of them as the book was written at the time of their marriage and intellectual property rights calls for both of them to share such benefits. 11. Angela and her sister, Andrea, own 50 acres of land. It is important that the ownership of Angela is determined because she needs money to spend for her children's expenses as she is divorced now and in need of financial resources to get permanent custody of her children. 12. Valuation specialists would be required to decide for the value of interests held by David and Angela because it would greatly impact the law mediation process by determining who would be given temporary or permanent custody of their children on grounds of their financial condition. 13. The property in name of Angles needs to be divided among David and her as it was acquired during their marriage. Thus both of them have rights over this property. FULL DISCLOSURE: 1. David and Angela acknowledge that they have to fully disclose all information related to this case. The information is to be disclosed to their spouse as well as to the mediator. The mediator has the authority to show information disclosed by one party to the other. 2. Also, David and Angela acknowledge that in case full disclosure is not made, <https://assignbuster.com/mediation-agreement/>

and this is proved, the mutual agreement can be set aside by court of law.

CONFIDENTIALITY: 3. David and Angela realize that as the information being discussed in this case might move on to litigation, all discussions between the mediator and David or Angela or between David and Angela should be treated as confidential by all three parties. 4. Both David and Angela agree that mediator will not be supposed to provide information provided by either David or Angela in case of any legal proceedings. 5. David and Angela agree that in case legal counsel of any of the two party requires, Mediator can discuss the information with the counsel provided during mediation sessions. 6. David and Angela agree that the mediator can contact accountants, doctors, publishers, real estate agents or valuers with the mutual consent of both David and Angela. The instructions will also com from David and Angela in this case. 7. David and Angela agree that the information collected in this case can only be disclosed if either i) A child needs protection and the mediator has to inform the Superintendent of family and child services OR ii) A court of law ignores other conditions and asks either of the spouse or mediator to provide evidence in a legal proceeding. PRESERVATION OF THE STATUS QUO: 8. David and Angela agree that they will not sell, dispose off, mortgage or transfer any asset until the mediation process ends and a mutual agreement is reached. They can do that only if they have written permission from the other spouse. 9. David and Angela agree that they will not do anything to spoil the interest of other party in the asset. 10. David and Angela agree that as Benjamin and Connie are very young aged two and four, certain things need to be taken care of keeping in view their age. Firstly, both David and Angela should form guidelines for the resolution of dispute between them. It is necessary so that they could focus on the

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betterment of their children. Secondly, they need to establish rules for supporting both of their kids. 11. David and Angela agree that the child's rights should not be neglected at any cost. It is necessary that a worksheet for child support obligation is developed for Connie as she belongs to pre-school age. Thirdly, further guidelines need to be established for the childcare expenses of Benjamin and Connie as well in case she joins an afterschool program. AUTHORITY TO SETTLE: 12. David and Angela realize that they both have the authority to settle this problem at hand in its full and final form. TERMINATION OF THE MEDIATION PROCESS: 13. David and Angela accept that termination of mediation process can be in one of the following two ways: i) David and Angela reach an agreement, bring it in writing and execute it. OR ii) When David, Angela and the Mediator decide that this issue cannot be resolved through mediation, and this decision is brought in writing. 14. David and Angela accept that either of them can withdraw from this whole process of mediation during the process before final settlement is reached. FEES AND EXPENSES: 15. The mediator will be paid \$150 per hour. Also, 7% goods and services tax will also be paid to the mediator. Any necessary expenses like phone calls, drafting and others are also to be paid to the mediator. 16. David and Angela agree to pay half of the fee each to the mediator. 17. David and Angela agree to pay \$1000 as retainer before the commencement of mediation process. They also agree to pay the amount regularly as and when required. 18. Accounts rendered by the mediator must be settled within 30 days or an interest of 12% will be charged. INDEPENDENT LEGAL ADVICE: 19. David and Angela are advised to have separate legal counsel to secure their own rights. 20. David and Angela are advised to discuss the final agreement with their legal counsel before <https://assignbuster.com/mediation-agreement/>

signing it. EXECUTION OF THIS AGREEMENT: 21. Execution of this agreement acknowledges that David and Angela are working towards a fair resolution of the problems at hand. 22. Both David and Angela agree that the mediator has not given them any legal advice and they must discuss the final agreement with their legal counsels before signing the settlement. THIS AGREEMENT is entered into \_\_\_\_\_ date of \_\_\_\_\_ month, 2011 at London. David Smith Angela Smith 125-Old Chappell road, London 12-Old Trafford road, London Ian Stewart 15-King's Road, London References: Galatzer-Levy, R. Kraus, L. and Galatzer-Levy, J. (2009) Scientific basis of child custody decision. Wiley. Stewart, J. (2000) The child custody book: how to protect your children and win your case. Impact publishers. Zimmelman, M. (2010) Building a parenting agreement that works: Child custody agreement step by step. NOLO.