

Conflict in Mediation Between a Needs/Interests Process and Rules/Laws Based Financial Support

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When dealing with family law cases, mediators act as third-party neutrals and are generally mental health and financial professionals or attorneys. Mediators have tremendous flexibility in applying the principles of this problem-solving approach to reaching agreement in any one case, and some may use a more facilitative or evaluative approach, depending on training and client needs. Mediators cannot give legal advice; this is true even when the neutral is an attorney. Deciding whether, how, and when to introduce formula-based court rules or state laws occurs on a spectrum. In this article, three professionals, each from a different discipline, discuss their approach to the following important issue:

Mediation is a needs-based process, however, there may be a conflict between these needs and formula-based court rules or state

laws requiring financial support. There are several questions that we must consider before we start working with a new mediation client:

- *Should we integrate the rules and guidelines into the discussions? If so, when and how?*
- *Should we bring up the formula-based solution proactively or wait until one of the clients references them?*
- *If one or both clients is not represented by legal counsel, how will we balance the need to educate the client with potentially providing legal advice?*
- *If one or both clients has an incorrect understanding of the guidelines but both agree on a solution, what is our*

Ellene Lammers is a Licensed Clinical Social Worker with many years of experience working with individuals of all ages. She is in private practice in Vernon Hills, IL, and provides divorce coaching for couples who have chosen collaborative divorce, as well as divorce mediation. Ellene became a Fellow of the Collaborative Divorce Institute of Illinois in 2012 and completed her Family and Divorce Mediation Training through DePaul University also in 2012.

She has been employed on an inpatient psychiatric unit, as well as an inpatient general medical unit in the past. She has also taught communication skills to parents and their children for the National Institute of Health (NIH). Ellene has worked with families experiencing many different types of crises including physical illness, psychiatric illness, and drug and alcohol abuse. Ellene has been a social work field instructor for both Loyola University and the University of Illinois at Chicago. She has received honors for her excellent teaching abilities. Ellene is especially skilled in working with couples who are allowing barriers and recurring past emotional issues to impede the progress of their divorce.

Ellene is a member of the National Association of Social Workers (NASW), the Collaborative Law Institute of Illinois (CLII), the International Academy of Collaborative Professionals, and the Mediation Council of Illinois. In addition, Ellene is a co-chair of the NASW Shared Interest Group focusing on divorce mediation and is also the recording secretary for the Mediation Council of Illinois.