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Lawyer and Mediator: Different Roles, Different Responsibilities

A Lawyer and a Mediator May Sit in the Same Room—but They Do Not Serve the Same Function

A lawyer generally represents a client's interests.

A mediator remains impartial among all participants.

A lawyer may advise a client about rights, risks, legal strategy, and probable outcomes.

A mediator does not provide legal advice, determine who is right, predict the court's ruling, or tell the participants what agreement they should accept.

A lawyer may move strategically toward a legally advantageous resolution.

A mediator must sometimes resist moving too quickly toward any resolution at all.

That restraint is essential.

Conflict often contains ambiguity, grief, fear, identity, history, misunderstanding, and needs that have not yet been articulated. Moving immediately toward settlement can produce an answer before the participants have adequately understood the problem.

Maryland's public guidance describes mediation as voluntary, confidential, and grounded in self-determination. Participants retain authority over whether to continue and whether any proposed resolution works for them. The mediator manages the process but does not act as a judge or adviser.

This does not mean lawyers are unsuited to mediation. Many lawyers become excellent mediators.

It means that, when serving as mediators, they must consciously step out of the advocate's role.

The distinction protects participants.

It preserves space for solutions that may be lawful without being dictated exclusively by litigation strategy. It allows relationships, practical realities, personal values, future cooperation, and community interests to remain part of the conversation.

Law answers an indispensable question:

What are the parties legally entitled to do?

Mediation introduces another:

What are the participants willing and able to create together?

The professions can complement one another—but mediation loses something essential when it becomes litigation conducted in a quieter room.



In Practice

Whether serving as a lawyer or a mediator, clarity about your role is essential. Participants benefit when they understand what to expect from the process and from the professionals involved. Mediators should clearly explain that they facilitate communication and support informed, voluntary decision-making, while encouraging participants to seek independent legal advice whenever legal questions arise. Respecting these distinct professional boundaries helps preserve neutrality, protects participant self-determination, and strengthens confidence in the mediation process.

Reflection Questions

- How does understanding the distinct roles of lawyers and mediators contribute to a more effective conflict resolution process?
- Why is it important for mediators to resist the urge to direct participants toward a particular outcome?
- How can legal guidance and mediation complement one another while preserving the unique purpose of each profession?
- In my own conversations, do I tend to solve problems for others, or do I help create space for them to reach their own decisions?

Key Takeaway

Law and mediation serve different, yet complementary, purposes. Lawyers advocate for their clients' legal interests, while mediators safeguard a fair, impartial process that empowers participants to make their own decisions. By honoring these distinct responsibilities, mediation preserves the space for understanding, collaboration, and self-determination—allowing solutions to emerge from the participants themselves rather than being imposed upon them.

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Disclaimer

This article is provided for educational purposes only and is intended to encourage thoughtful reflection about communication, conflict, and mediation. It is not legal advice, psychological counseling, or mental health treatment.

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