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Standards and Guidelines for Divorce Proceedings at the Beth Din of America

When a Jewish couple divorces, they are typically faced with three tasks: resolving disputes between them (e.g. financial and custody issues), obtaining a Jewish divorce (Get) and obtaining a civil divorce. This document is meant to provide information to divorcing couples about processes and policies relating to divorce services offered by the Beth Din of America.

Matrimonial Dispute Resolution

It is almost always preferable to resolve divorce disputes by negotiating a settlement between the parties, either through meetings with a trained mediator or negotiations between intermediaries such as attorneys. The Beth Din of America offers mediation services.

In some cases, a mutually agreed settlement is not possible. As a matter of Jewish law, disputes between Jews must be handled in a beth din rather than in secular court, although there are some exceptions to this rule. For more detailed information about this, see "[The Prohibition Against Going to Secular Courts](#)." When choosing a beth din to adjudicate a dispute, it is important to keep in mind that different *batei din* (plural of beth din) have varying practices and adhere to different standards. Before signing any documents or otherwise submitting to the jurisdiction of a beth din, a party should research the reputation of the beth din and consult with his or her attorney.

In matrimonial cases heard by the Beth Din of America, the following standards apply:

- When a husband and wife agree to come to the Beth Din to adjudicate financial and custodial matters relating to the end of their marriage, whenever feasible the Beth Din of America finalizes the Get at the beginning of the proceeding between the parties.
- When the Beth Din is called upon to resolve child custody or parenting time matters, a mental health professional is empaneled as one of the three *dayanim* (arbitrators) hearing the case, or is enlisted as a consultant. Consistent with normative Jewish law, cases are decided based on the best interests of the child.
- Unless the parties specify otherwise in the arbitration agreement, financial issues are resolved in accordance with Jewish law. Jewish law often incorporates local laws and customs. This means that decisions issued by the Beth Din relating to distribution of marital assets often track what a secular court might decide. For more detailed

information about this, see [“Equitable Distribution and the Enforceability of Choice of Law Clauses in Beit Din.”](#)

- Proceedings at the Beth Din are governed by its [rules and procedures](#). These rules cover issues such as the recording of proceedings, the right of parties to be represented by legal counsel, and the prohibition against ex parte communication (i.e. communications between arbitrators and a party outside of hearings).

Following the adjudication of a matrimonial case, the Beth Din of America will issue an arbitration award containing the rulings of the panel that heard the case. This award can either be filed in court by the parties cooperatively, or a motion may be made by one party in court to confirm the award, as part of the process of obtaining a civil divorce.

Get Proceedings

Regardless of which forum is used to resolve disputes, a Jewish marriage can only be dissolved through the issuance of a Get. For a description of the actual Get process, see [“Explaining Jewish Divorce.”](#) When both parties are prepared to arrange a Get, there are no a priori requirements, such as settlement of financial or custody issues, for issuing a Get.

When a Get is issued by the Beth Din of America, we adhere to the following standards:

- The Beth Din of America is careful to treat every person with sensitivity and compassion, and tries to make the Get proceeding as smooth and as comfortable as possible for the parties. The Beth Din provides a warm, dignified and private environment for the administration of the Get and scrupulously preserves the privacy of the parties.
- The Beth Din employs women on its staff who are available to provide emotional and moral support to women who come to the Beth Din for a Get. Parties may also bring along a friend to support them during the Get proceeding.
- When desirable because of logistical and/or emotional reasons, the Beth Din of America will arrange for the husband to appoint a proxy to deliver the Get to his wife after the husband has left the Beth Din office so that the parties need not appear together.
- The standard Get is generally completed within a time span of less than ninety minutes, and takes place at the offices of the Beth Din in midtown Manhattan. Upon request, shorter proceedings may be available and the Beth Din will travel to offices, homes, or other locations to facilitate a Get.
- The Beth Din will subsidize and, when appropriate, waive fees based on financial need. A party will never be denied a Get at the Beth Din of America based on inability to pay.

Summoning a Party to Beth Din

One way for a party to initiate proceedings in a beth din is to request that the beth din issue a *hazmana* (invitation or summons) to the other party. The Beth Din of America issues *hazmanot* (plural of *hazmana*) either (i) to submit to a *din torah* regarding all end of marriage issues (e.g. Get, asset allocation, child support, child custody and parenting time) or (ii) simply to arrange a Get or adjudicate any dispute relating to the issuance of the Get. Where parties disagree on when or whether a Get should be arranged, the Beth Din may arrange a hearing and issue a determination regarding this matter.

The Beth Din of America does not charge a fee for the issuance of *hazmanot* in a matrimonial case where a Get has not yet been arranged.

A *seruv* (document indicating contempt of beth din) may be issued by the Beth Din of America when a party is summoned and fails to provide a response in accordance with Section 2 of the [Beth Din's rules and procedures](#). Some considerations used by the Beth Din in determining when a *seruv* is appropriate are:

1. A *seruv* generally will not be issued if a party who initiated the *hazmana* process for the resolution of financial or custody issues is not prepared to arrange an unconditional Get up front, without regard to whether the summoned party is prepared to submit to a *din torah* arbitration.
2. A *seruv* generally will be issued following a party's failure to respond properly to *hazmanot* for adjudication of end of marriage issues in a *din torah* when the initiating party is prepared to cooperate with respect to the giving or receiving of a Get.
3. For failure to respond properly to a *hazmana* covering only the arranging of a Get, the issuance of a *seruv* depends on a number of factors, including the willingness of the initiating party to adjudicate other issues in the Beth Din when the other party is prepared to do so, particularly if the case has not already been subject to litigation in court. Additionally, a *seruv* is more likely to be issued if a significant amount of time has passed since separation or the initiation of civil divorce proceedings, or if the parties are already civilly divorced.

If the parties signed an agreement to submit any issues to the Beth Din, including by signing a halachic prenuptial agreement, a *seruv* is often unnecessary since the Beth Din has jurisdiction to hear the case and issue an award. Such an award may include financial support for a spouse, or the issuance of direction to arrange a Get and the imposition of social sanctions (*harchakot deRabbeinu Tam*) for failure to do so.