



## What Is Alternative Dispute Resolution?

Alternative Dispute Resolution (ADR) is a term used to describe a number of processes in which a neutral third person helps parents resolve differences over child custody, parenting time, or support issues. This brochure describes the most common forms of ADR available in Michigan courts, which are:

**MEDIATION.** In mediation, parents work together to resolve all or part of their dispute with the help of a trained, neutral mediator. The mediator may be a Friend of the Court employee, a volunteer from the local community dispute resolution center, a person the court appoints, or a person the parents choose.

Mediators do not make any recommendations to the court, and do not recommend solutions to the parties' dispute unless the parents ask them to.

Some courts require parents to try mediation before they come before a judge or referee. If there is a personal protection order in effect or if the parties are involved in a child abuse or neglect case, the court must hold a hearing before ordering parties to try mediation.

**MEETINGS WITH FRIEND OF COURT STAFF.** Courts often require parents to meet with Friend of Court staff to try to resolve their differences over custody, parenting time, or support. These meetings may take place either before or after a court issues a final divorce judgment. During these meetings, parties are encouraged to reach their own resolution of issues. If the parents do not reach an agreement, however, the Friend of Court staff member may recommend terms for a judge to include in a court order. The Friend of Court staff member may share statements made by the parties with the judge, so these meetings are not as confidential as mediation. Meetings with Friend of Court staff that take place after the court issues a judgment of divorce are typically called “**joint meetings.**” Meetings that take place before a divorce judgment is issued go by different names in different courts, including “**conciliation**” or “**early intervention conferences.**”

## Why Use ADR?

Parents who can agree to resolve their disputes without a court hearing may enjoy these benefits:

**PARENTS CONTROL THE RESULT.** Parents know best what their children need and what works best for them. A solution they work out together may be better than a solution imposed by the court.

**SAVE TIME AND MONEY.** Resolving disputes during mediation or meetings with Friend of Court staff may be faster and less expensive than a court hearing

**REDUCE FUTURE CONFLICT.** After a court order is signed, parents will likely have continued contact with each other as they raise their children. ADR processes are almost always less

stressful than court hearings for both parents and their children, and can set a positive course for future interactions between the parents.

## Where Can I Go For Help?

**To find your local Friend of the Court Office visit:** <http://courts.mi.gov/Self-help/Directories/Pages/trial-court-directory.aspx>

## For help finding an attorney:

- Visit [www.michbar.org/public\\_resources/legalaid](http://www.michbar.org/public_resources/legalaid)
- Call the State Bar's Lawyer Referral Service at (800) 968-0738 from 9 AM to 5 PM Monday through Friday, or visit: [www.michbar.org/LRS/Intro/Lawyer-Referral-Service](http://www.michbar.org/LRS/Intro/Lawyer-Referral-Service)

## To locate an agency addressing domestic violence issues in your county:

- Visit <http://www.michigan.gov/domesticviolence>.
- Call the National Domestic Violence Hotline at 1-800-799-7233 and TTY 1-800-787-3224.

## To find help in changing abusive behavior toward a present or former partner or spouse:

- Call the Batterer Intervention Services Coalition of Michigan at (734) 707-7550 or visit online at [www.biscmi.org](http://www.biscmi.org).



# Resolving Custody, Parenting Time, and Support Disputes Without a Trial

A Guide to Alternative Dispute Resolution in Family Court



## Is ADR Confidential?

All forms of ADR are more private than court hearings that are open to the public.

Statements made during **mediation** are usually confidential; however, some mediators may have a legal duty to report child abuse or neglect. They may also report criminal activity or threats of harm against others. Unlike mediation, statements made in **meetings with Friend of Court Staff** are generally NOT confidential and may be shared with the judge and the other parent or that parent's attorney.

If you are concerned about the confidentiality of an ADR process, discuss your concern with the person assisting you in the ADR process before beginning the process.

## Sometimes ADR Is Not Recommended

The ADR processes described in this brochure involve parents meeting together to discuss how to resolve their current differences. For these processes to work, parents must be able to listen to each other, and to freely express their and their children's needs and concerns. Also, all parties must feel safe and be able to negotiate on their own behalf (with an attorney or advocate if desired). In mediation, the law requires mediators to ask about violence or coercion that would make mediation physically or emotionally unsafe, or that would keep the parties from reaching a safe, voluntary resolution of their issues.

If you have concerns about meeting with the other parent or negotiating with the other parent, consider these questions:

- Am I afraid the other parent will assault, threaten, or harass me before or after the meeting, or if we are in the same room?

- Am I afraid to disagree with the other parent, or say what my children or I need in front of him/her?
- Is there a court order that protects me and/or my children from the other parent, like a Personal Protection Order or a no-contact order in a criminal case? Has the other parent violated this order?
- Has there ever been a child abuse or neglect case involving the other parent? Am I afraid of what may happen to my children if I say the wrong thing in front of the other parent?

If you answered "yes" to any of these questions, ADR may not be right for you. If you still want to try (or if the court insists that you try), ask your attorney or the person assisting you in the ADR process:

- Can I meet at a separate time or place from the other parent? Can other safety arrangements be made?
- Can my attorney or another support person come with me to the ADR meeting and speak for me, if needed?
- Is the person responsible for the meeting trained to handle situations like mine?
- Can we end the meeting if I don't feel safe?



## What If I Don't Think That ADR Is Right For My Case?

- Before the first meeting, explain your concerns to your attorney, if you have one, and to the court or ADR provider.
- Tell the court or ADR provider about any court orders that protect you or your children from the other party. These might include a Personal Protection Order, a no-contact order in a criminal case, or an order issued to protect a child from the other parent.
- Tell the court or ADR provider about any other cases that you or the other parent may have been involved in, such as criminal cases or child protection cases.

## Asking The Court To Remove Your Case from ADR

A court may require you to attend an ADR session. However, you or your attorney can request that your case be removed from ADR by filing a request (called a "motion") with the court. This motion must be delivered to ("served" on) the other parent or his/her attorney. The court may remove your case from ADR for good cause, including:

- There is reason to think your health or safety would be endangered by participating in ADR.
- There has been domestic abuse and you will not have a lawyer with you during the ADR session(s).
- The case involves child abuse or neglect.
- You cannot negotiate for yourself and will not have a lawyer or other advocate present during ADR meeting(s).
- There is a Personal Protection Order or other court order that protects you from the other parent.

## Additional Services

Some courts offer additional services through the federal "State Access and Visitation Program Grant." These services include supervised parenting time and/or neutral drop-off and exchange of children, as well as free or low-cost mediation of custody and parenting time disputes.

The neutral drop-off and exchange program involves the services of a neutral party who is present during the transfer of children at a neutral and safe location.

The grant also supports mediation of parenting time and custody disputes where a noncustodial parent has filed a complaint against the custodial parent (for example, in alleging that his/her court-ordered parenting time was denied). In courts where this service is available, the court may order the parents to participate in mediation to see if the issues leading to the parenting time dispute can be resolved without a hearing. Mediation services under the grant are provided through Michigan's network of Community Dispute Resolution Program centers.

If you believe that you have been denied parenting time and would like to learn more about mediation, you can discuss your options with the Friend of the Court, or contact a mediation center. To find the center nearest you, visit: <http://courts.mi.gov/Administration/SCAO/Offices/Programs/ODR/Pages/Find-a-Mediation-Center.aspx>

*The access and visitation program expenses for 2016-17 totaled \$302,448. Federal funding contributed \$272,203, or 90 percent of the program expenses and the remaining balance of \$30,245 or 10 percent was financed by nongovernmental sources.*