

ALTERNATIVE DISPUTE RESOLUTION (ADR) STATEMENT TO THE COURT

Procedures: When and How to Use the ADR Statement

The Arizona Rules of Family Law Procedure (Rule 66) requires parties in a Family case to:

- Discuss the possibility of settlement and whether a form of **Alternative Dispute Resolution (ADR)** described below will help resolve the case, **AND**
- Report to the court if there's a settlement, **AND**
- Inform the Court which type of ADR process was selected, with an expected date of completion.

AFTER A RESPONSE IS FILED . . .

- (1) **The Party filing the Response must immediately mail or deliver to the other Party** (If either party is represented by an attorney, all communications should be sent directly to the attorney) **a blank copy of the ADR statement and these instructions, AND**
- (2) No later than ninety (90) days following the filing of the response, the parties **MUST** meet in person or confer by phone to discuss the type of ADR process appropriate for their case **EXCEPT** if a protective order is in place and/or there are allegations of domestic violence:
 - **DO NOT** meet in person in cases where allegations of domestic violence have been made.
 - If you are under a **protective order**, follow the court orders for communicating with the other side.
 - Choose an ADR provider who follows appropriate policies and procedures regarding domestic violence. In cases where allegations of domestic violence have been made, the parties are encouraged to communicate via phone (except where prohibited by an Order of Protection) and choose ADR providers who have appropriate policies and procedures in place to handle cases involving domestic violence.

If you do not discuss these matters with the other party as required, be prepared to explain to the court the reason(s) (inconvenience is not an acceptable reason).

- (3) **Within 30 days AFTER you meet, you MUST** submit one of the following to the Judicial Officer assigned to your case:
 - Joint ADR Statement**OR**
 - Separate ADR Statement if you have not discussed these matters as required or cannot agree to use one form

Keep a copy of the completed form for your records.

- (4) Submit the Joint or Separate ADR Statement to the Judicial Officer by delivering the original to Court Administration. If you are submitting a Separate ADR Statement to the Court, you must also provide a copy to the other party via mail or hand-delivery.

INFORMATION ABOUT ADR (ALTERNATIVE DISPUTE RESOLUTION) PROCESSES

ADR is a peaceful alternative to the courtroom process that helps parties in court disputes reach settlement without having the judge decide all issues. Court-sponsored ADR programs are currently available at no extra cost for pre-decree Mediation, Open Negotiation, and Settlement Conferences; you may choose to hire a private ADR provider at your own expense.

The purpose of ADR is to encourage settlement of cases

Benefits of ADR include, but are not limited to:

- ADR provides parties the opportunity to resolve disputes more quickly and less expensively than a full trial.
- ADR provides parties more control over the outcome in a negotiated settlement.
- ADR provides parties greater satisfaction with results than litigation.
- ADR provides parties a greater chance of establishing or maintaining a working relationship.

COURT SPONSORED ADR OPTIONS

MEDIATION AND OPEN NEGOTIATION through the Court are ADR alternatives where parties work with a neutral third party (Conciliator) to reach mutual agreements on legal decision-making and/or parenting time **only** (not child support, spousal maintenance, property, debt, etc.).

Mediation offers parties an opportunity to meet with a Conciliator to identify and address their child(ren)'s needs and each parent's ability to meet those needs. Together they generate and consider choices to develop a workable parenting plan and determine legal decision-making that meet the best interest of the child(ren). Mediation conferences are private, confidential, and nothing said or written during mediation may be disclosed.

Open Negotiation uses the same process and has the same goal as mediation, however it is **NOT** confidential. If the parties are unable to resolve their differences, the Conciliator can give feedback to the court on areas of agreement and disagreement. Open negotiation can only be scheduled by Court Order.

There is currently no extra charge for Mediation and Open Negotiation when these services are for *pre-decree cases* (a final Order is not in place regarding Legal Decision-Making and/or Parenting Time). If, however you return to court to mediate legal decision-making and/or parenting time issues *post-decree* (a court order has been signed resolving these issues) a fee will be assessed.

SETTLEMENT CONFERENCES are pre-trial meetings between the parties, their attorneys (if represented) and a neutral Judicial Officer. The purpose of the settlement conference is for the parties to make an effort to settle all issues in dispute before going to trial. The neutral Judicial Officer facilitates an evaluation of the strengths and weaknesses of the parties' case and may also suggest ways to resolve disputed matters, but will not decide the case or make recommendations to the Judge assigned to your case. Currently there is no charge for this service.

PRIVATE PROVIDER OPTIONS (You are responsible for all costs.)

Private ADR providers may offer opportunities or variations on those already described, including evening or weekend hours or other conveniences. Additional providers/services may be available at public libraries.

Private Mediation is where the parties work with a neutral third party (the mediator), who helps them identify their needs and explore viable options to settle all issues surrounding their Family case, including legal decision-making (custody), parenting time, child support, property division, etc. With the aid of the mediator, the parties can determine the outcome of their case.

There is a charge for this service, determined by each mediator.

Private Settlement Conferences are generally conducted by retired Judges separate from the Settlement Conferences provided by the Court. Private providers may allow parties more control to select the provider they wish to work with, have shorter wait times and have fewer time constrictions. The ADR mediator helps parties reach settlement by taking a more direct approach than in mediation. The mediator will focus on the conflict's legal issues, realistically evaluate case strengths and weaknesses, and actively suggest and weigh options for the parties to consider, as they attempt to resolve their case. There is a charge for this service, determined by each provider

You may also find private providers online by searching for "Arbitration" and "Mediation" in your area. Be aware that there are differences among private providers. While some are trained specialists, counselors, and attorneys, others are not. There are no licensing or minimal educational requirements to advertise as a mediator, arbitrator, or alternative dispute resolution provider.

As with hiring any private business for service, we recommend asking friends and relatives for referrals for any of the services mentioned above. **You are responsible for all costs involved in using private providers.**