

## Alternative Dispute Resolution (ADR)

Arbitration & Mediation are two of the most common methods of Alternative Dispute Resolution (ADR). Mediation is one of the less formal alternatives to litigation that involves impartial third party or panel (normally one or more licensed attorneys trained in negotiations) that intervenes to promote the resolution of the dispute or grievance. Mediation is used for a wide array of case-types: ranging from family law issues to juvenile felonies to Federal government negotiations with Native American Indian tribes or other disputing parties.

At the beginning of the formal mediation, the mediator explains their role, the confidential nature of the proceedings, any ground rules (e.g., no name calling), the benefits of mediation, and the procedural steps that will be followed (if any).

During the fact-gathering stage, the mediator will begin to define the issues, helping the parties to focus on the issues rather than their positions. At appropriate times the mediator will reinforce points of agreement and conduct reality checks whenever necessary. The mediator steers the parties away from past events and focuses them on what they want to see happen in the future.

Once a tentative agreement is reached, the mediator clarifies the terms of the agreement and makes sure all parties understand the terms of this agreement. One way this can be accomplished is by having the parties restate the agreement in their own words. The essence of the agreement is then prepared in writing, although the parties may want to have the agreement reviewed by an attorney before signing a formal agreement.

Mediation is usually voluntary although participation is sometimes mandated by contract or by the court. Settlement, however, can never be mandated. When settlement is reached, studies show that mediated agreements are more likely to be complied with than decisions imposed by arbitrators or judges. This success may be because the parties take an active role in the decision-making process.

Call us at 270.766.1800 or contact us online to set up a consultation to discuss your legal options

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