

**Q: Where will my mediated settlement conference be held?**

**A:** Your conference will be held in a location agreed to by the parties and the mediator. In the absence of agreement the mediator shall hold the conference in the county in which the case is pending. If you are in a wheelchair or have other accessibility issues, let your mediator know. Regardless of where your mediation is held, the proceeding will be private and not open to the public.

**Q: What if I am unwilling to agree to the terms discussed at the mediation?**

**A:** Not every dispute can be settled at mediation. If an agreement cannot be reached, your case will proceed to trial in due course. The judge will not be informed about the particulars of your mediation conference or told why the case did not settle.

**Q: What if I have a complaint about my mediator's conduct?**

**A:** You may address your concerns to the mediator in the hope that they may be resolved amicably. You or your attorney may also file a complaint with the NC Dispute Resolution Commission which regulates mediator conduct. You may contact the Commission at (919) 890-1415.

**Q: Where can I learn more about Mediated Settlement?**

**A:** The Commission invites you to visit its web site at [www.ncdrc.org](http://www.ncdrc.org) or call (919) 890-1415 for more information.

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**MEDIATED SETTLEMENT  
CONFERENCES  
IN  
EQUITABLE DISTRIBUTION  
AND OTHER FAMILY  
FINANCIAL CASES**



**This Brochure is Brought to You By:**

**The N.C. Dispute Resolution  
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## ***Introduction***

If you are reading this brochure, it is likely you are involved in a dispute which has been referred to the Family Financial Settlement Program for mediation. This means that you will be required to meet with your spouse or ex-spouse (the other party) and, with the help of a mediator and your attorneys, to try to resolve financial disputes arising out of the dissolution of your marriage or the support needs of your children. You may be wondering why your case has been referred for mediation and what the process is all about. This brochure is designed to answer these and other questions.

You should think of mediation as an opportunity to resolve your disputes in a way that is acceptable to you without the delay and risk involved in lengthy litigation and trial. Mediation is not a way for you to get everything you want, but it can be a means to satisfy many, if not most, of your needs and enable you to get on with your life.

## ***Why Mediation?***

Many North Carolina district courts now provide for mediation of the custody and visitation disputes that arise when parents decide to live their lives separately. Mediation is also available statewide for most civil claims filed in North Carolina's superior courts. As a result of these programs, judges, attorneys, parties, and the members of our General Assembly have learned that mediation works -- that it helps resolve disputes early on and gives those most directly involved more control over outcomes.

In 1997, the General Assembly adopted legislation providing for a district court program to help parties resolve family financial disputes. The Family Financial Settlement Program provides parties an opportunity to mediate claims concerning the division of their marital property as well as claims for child or spousal support. It is to this program that your case has been referred.

## ***What Happens During A Mediation?***

Mediation is an informal proceeding. A mediator, a trained neutral with no stake in the outcome of your litigation, meets with you, the other party, and your attorneys to help you discuss the issues in dispute and to consider options for resolving them. The mediator will work to open channels of communication, to help clarify your and the other party's needs and positions, and to explore settlement options. Though you will be participating in the discussions and problem solving effort, you will not be called upon to testify or be cross-examined by the other party. Unlike a trial, mediations are not open to the public.

The mediator will begin the conference by explaining the ground rules for your discussions. Then, each side will be asked to make a brief opening statement describing the marital property, the issues in dispute, and his or her needs and expectations. The mediator will then begin the negotiation process. At some point in the conference, the mediator may meet separately with each party and his or her attorney. This is known as a caucus. The caucus provides an opportunity for the mediator to speak frankly and it gives the parties an opportunity to share information in confidence with the mediator.

Ultimately, it is the mediator's goal to help you and the other party, with the advice of your attorneys, reach your own agreement. Unlike a judge, a mediator will not impose a settlement on you. If you and the other party are able to reach an agreement, the terms will be put down in writing and signed at the conference.

## ***What Are The Benefits of Mediation?***

A successful mediation allows you to avoid the time and stress involved in lengthy litigation and assures both you and the other party of an outcome that you find mutually acceptable. In addition, where children are involved, a successful mediation can sometimes mark a turning point in the parents' relationship. They become motivated to communicate more effectively with the goal of cooperatively resolving future disputes, financial or otherwise, that arise as they parent from separate households. Many cases can be settled in mediation. However, if a dispute cannot be resolved, it is important for the participants not to view their efforts as a failure. Often, the dialogue that began in mediation goes forward in the days ahead as the parties and their attorneys continue their efforts to find a satisfactory resolution.



## **???? Some Questions You May Have ????**

### ***Q: Is this the same Program as the Child Custody and Visitation Mediation Program?***

**A:** No. The Custody Mediation Program, as its name implies, addresses issues of child custody and visitation. The Family Financial Settlement Program has a different focus, helping parties resolve financial issues, including division of marital property and claims for alimony and child support. However, you may ask your attorney about custody and visitation issues at your Family Financial mediation.

### ***Q: Will my attorney be with me during the mediation and will we be able to speak privately?***

**A:** Yes. Your attorney will be present throughout the proceeding. If at some point during the conference you wish to speak privately with your attorney, you can ask the mediator for an opportunity to do so.

### ***Q: How much will mediation cost?***

**A:** If you and the other party and the attorneys involved in your case agree upon a mediator and notify the court of your selection, the mediator's fee will be arrived at by agreement with the mediator. If you and the other party cannot agree on a mediator, the court will appoint one. Rule 7 of the *North Carolina Supreme Court Rules Implementing Settlement Conferences in Family Financial Cases* provides for court-appointed mediators to be compensated at the rate of \$150.00 per hour for mediation services plus a \$150.00 one time, per case administrative fee. Unless otherwise agreed or ordered by the court, the fee for services is to be paid in equal shares by the parties at the conclusion of the conference.

### ***Q: Who qualifies as a mediator and how are they trained?***

**A:** You and the other party will be given an opportunity to choose a mediator. If you select a mediator who has been certified by the North Carolina Dispute Resolution Commission, you can be assured that mediator has completed at least 40 hours of mediation training. Many certified mediators are experienced attorneys with family litigation experience. There are also certified non-attorney mediators who have been trained in court organization and procedures. Lists of certified mediators are posted on the Commission's web site, along with information about each mediator's education, experience, and training.

### ***Q: What if I prefer to go to trial and do not want to mediate my case?***

**A:** Once your case has been ordered to mediation, you and your attorney must participate. However, if you believe there is some compelling reason why your case should not be mediated, you may ask the Court to rescind its order. However, do not be too quick to reject the mediation process. Even in cases where parties seem hopelessly at odds, a skillful mediator can sometimes find a way to get opposing parties thinking and talking about ways to resolve their dispute.