

More options make mediation more accessible.



Mediation may take place:

- in person
- over the phone
- by Zoom or other video conferencing platforms
- online with MI-Resolve

To find a mediator, contact your local circuit court's ADR clerk to receive a roster of mediators or contact the Community Dispute Resolution Program (CDRP) center nearest you.

You can find the contact information for your local CDRP center by visiting:
courts.mi.gov/CDRPCenters

MI-Resolve is a new service from the Michigan Supreme Court's State Court Administrative Office that provides a free, quick, and easy way of resolving some disputes online.

Learn more about MI-Resolve at:
courts.mi.gov/MIResolve

Office of Dispute Resolution
State Court Administrative Office
P.O. Box 30048
Lansing, MI 48909
cdrp@courts.mi.gov

Mediation



Resolving
your dispute
without
going to trial

Michigan Supreme Court
State Court Administrative Office
Office of Dispute Resolution

What is mediation?

If you are in a conflict with someone, are thinking about suing someone, or are already involved in a lawsuit, it is likely that at some point someone will ask you if you would like to try **mediation**.

Mediation is a process in which a neutral third party – a mediator – helps parties develop a solution for their problem.



The mediation process is simple, but effective.

With a mediator present (which can be online), parties begin by telling each other their side of the story. The mediator helps parties identify the issues that, if addressed to each party's satisfaction, would resolve the dispute. Parties share options for resolving the dispute, and the mediator helps the parties find the option that best addresses all parties' concerns.

When the parties reach an agreement, the mediator helps the parties put the terms in writing and may help prepare any paperwork that would need to be filed in court to conclude the case.

People who reach their own agreement and give any necessary documents to the court typically do not need to return to court.

Most people are familiar with the traditional legal process in which a lawsuit is filed, documents are exchanged, and motions may be heard. What most people don't know is that only about two percent of all civil cases filed go to trial. The cases that do go to trial result in a winning party and a losing party. Through mediation, parties have a chance to reach a result that all parties can agree with and put the lawsuit behind them.

Each year, over 60,000 Michigan citizens who might otherwise have a court hearing or trial resolve their disputes through mediation services provided by local Community Dispute Resolution Program (CDRP) centers. These centers are financially supported through the State Court Administrative Office.

Learn more about the Community Dispute Resolution Program at: courts.mi.gov/CDRP

When is mediation not recommended?

Mediation is not appropriate where one party uses fear, force, threats, violence, or intimidation against a party to get what they want. All parties must feel safe and be able to negotiate on their own behalf or with an attorney.

If you have been ordered to try mediation and feel that mediation is not appropriate for your matter, you must file a motion to set aside the court's order to mediate within 14 days of the order. If you have an attorney, immediately bring any concerns about negotiating with the other party and domestic violence to his or her attention.

Why mediate?

Participants control the outcome.

In mediation, the people involved in the dispute come up with their own solution, and they create an agreement that works for them. In court, the resolution, by way of a judgment, is imposed on the parties by a judge.

May be less costly than litigation.

If parties mediate early in their dispute, it is likely that they can avoid many costs associated with preparing their case for trial.

Mediation is confidential.

The parties can speak openly and directly to each other without their conversation being recorded or made public. This is because Michigan Court Rules say that mediation conversations are confidential, except for a limited number of circumstances, like threats of harm made against another person.

Reaching an agreement is voluntary.

While a judge may order parties to try mediation, parties are under no obligation to reach an agreement. Whether or not to settle the dispute in mediation is entirely voluntary, and the court will not know what happened during mediation. If parties do not reach an agreement in mediation, their case will continue along toward trial.

Mediation helps restore ongoing relationships.

Family members, business partners, employees, and students, who have ongoing contact with the person they are having a conflict with can restore their relationship by resolving their problem and agreeing how to avoid or effectively manage any conflict that may arise in the future. Mediation is said to result in a "win/win" rather than a "win/lose" solution unlike court, where someone wins, and someone loses.

Mediation is more comfortable and private than the courtroom.

Mediation usually takes place in a neutral office setting or using Zoom, and the only people present are the parties, their attorneys, if any, and the mediator.

Mediation is forward-looking and creative.

In mediation, the people involved in the dispute are the ones who come up with their own solution and create an agreement that works for them.

Pending court cases may be settled through mediation.

If the parties reach an agreement through mediation, a court case can be concluded by filing a consent judgment or a voluntary dismissal. People usually do not have to appear again in court unless directed by the court. If mediation does not resolve the case, or if the issue is not right for mediation, the parties still have all their legal remedies available, such as requesting a trial. In a majority of disputes taken to mediation, parties reach an agreement that makes further legal action unnecessary.

Mediation is effective and agreements are legally binding.

People typically reach agreements about 70 percent of the time. Because reaching an agreement is voluntary, people do not need to make a decision the day of mediation; they can "sleep on it," as long as the other party is willing to offer some time to think about a proposed settlement. In a high percentage of cases, people keep their agreements, but if a party fails to live up to their agreement, the other party can return to court to ask the court to enforce the signed agreement.

Who are the mediators?

Mediators on court rosters reflect a wide variety of backgrounds, have completed training programs approved by the State Court Administrator, and met additional qualifications. They do not tell people how strong or weak their case is, and they do not tell people what to do. The mediators are trained to help the parties come up with a solution they can all live with.

A list of approved mediators can be obtained by contacting a court's ADR clerk.

Mediation is also available through Michigan's network of CDRP centers that provide low-cost mediation services throughout the state. CDRP center mediators are qualified volunteers who have also completed training programs approved by the State Court Administrator.

Legal Advice and Attorneys

Mediators do not provide legal advice. Parties are strongly encouraged to seek legal advice regarding their conflict prior to participating in mediation. Attorneys are encouraged to attend mediation, but it is also common for parties to attend without their attorney present and have their attorney review a tentative agreement that the parties reach through mediation. Parties will often speak directly to each other during a mediation session, but in some instances, parties may prefer that their attorneys speak for them.

The Michigan Supreme Court recognizes the value of mediation and its demonstrated ability to help people resolve differences. Judges have implemented mediation in circuit, probate, and district courts.

Types of Conflicts Mediated

Small Claims: quality of workmanship, uncollected money owed, neighborhood disputes, distribution of property after a relationship

General Civil: contract disagreements, personal injury, property disputes, employment matters, accident/insurance claims

Probate: disputes over wills and trusts, conservatorship, guardianship, choice of facilities or long-term care, estate expenses and responsibility

Family: divorce, parenting time plans, schedule changes, make-up time with children, medical bills

Juvenile: truancy petitions, parent/child problems, incorrigibility, juvenile restitution claims, juvenile diversion programs

Landlord/Tenant: disputes on rental deposits or damages, living arrangements and loans without a lease or legal contract.

MichiganLegalHelp.org

It is always important to know your rights. Michiganlegalhelp.org is a website that has legal information and tools for people handling their own legal problems. Anyone with a Michigan legal issue can use this site. This website does not give legal advice and is not a substitute for having a lawyer.