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”



THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION

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DISTRICT CRIMINAL COURT MEDIATION PROGRAM

For more information about the
North Carolina Dispute Resolution
Commission and its court-based
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THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION

Created by statute and charged with certifying and regulating mediators who serve North Carolina's courts

INTRODUCTION

If you are reading this brochure, it is likely that you are involved in a criminal case pending in one of North Carolina's district courts. This brochure is published by the North Carolina Dispute Resolution Commission and describes the District Criminal Court Mediation Program.

WHAT IS DISTRICT CRIMINAL COURT MEDIATION?

Authorized by N.C. General Statute § 7A-38.3D, the District Criminal Court Mediation Program provides an opportunity for those involved in a misdemeanor criminal matter to sit down with a mediator in order to discuss and try to resolve their dispute. Participants will have an opportunity to tell their side of the story, to hear the other participant's perspective, and then to search together for ways to settle their disagreements without having a trial.

Unlike a judge, a mediator will not decide the case. The mediator's role is to keep the discussion focused, help the participants explore their options, and support their efforts to reach an agreement. If an agreement can be reached, the case may be dismissed. If no agreement is reached, the matter remains before the court.

The court may order you to participate in mediation or you may be given the choice to do so. If you are not required to participate and a judge or district attorney does not suggest mediation, you may request it. There are many reasons why mediation can be helpful.

- ▶ It is an opportunity for you and others involved in a dispute to work things out yourselves;

- ▶ If the parties know each other, for example, they are family members, friends, neighbors, or co-workers, there may be an opportunity to repair damaged relationships;
- ▶ Participants may be saved time, court appearances, and the need to testify;
- ▶ If the participants can reach an agreement, the charges against the defendant may be dismissed;
- ▶ Participants who have reached an agreement on their own may be more likely to abide by the terms of their agreement.

HOW CAN YOU HELP MEDIATION WORK FOR YOU?

The mediation process depends on you. There are many things you can do to ensure that you have a successful mediation:

- ▶ **BE POSITIVE.** Have confidence you can talk through your dispute with the others involved and reach a settlement;
- ▶ **BE COURTEOUS AND WILLING TO LISTEN.** Raising your voice, insulting others, or interrupting others will not help move your discussion forward;
- ▶ **BE WILLING TO CONSIDER OTHER PERSPECTIVES.** In heated or difficult situations, it is easy to get carried away and see only your side of the conflict;
- ▶ **BE HONEST.** Being untruthful or exaggerating the truth will not lead to a productive discussion;
- ▶ **BE CREATIVE.** Be thinking about ways your dispute could be settled;
- ▶ **BE OPEN TO COMPROMISES.** Mediation is about coming together to reach a resolution that works for everyone involved;

- ▶ **BE WILLING TO APOLOGIZE AND TO MAKE AMENDS,** if appropriate;
- ▶ **BE PREPARED TO MOVE FORWARD.** It is normal to be distressed when you're in the middle of a conflict. Mediation can help everyone involved move beyond the upsets of the past.

WHO ARE THE MEDIATORS?

Your mediator will be a volunteer or a staff member at your local community mediation center. Mediation centers are non-profit organizations dedicated to the peaceful resolution of conflict in North Carolina communities. Your session may be conducted by a single mediator or by two co-mediators. All mediators will have met education, experience, and training requirements set by the Supreme Court of North Carolina for certification and have shown they are of good character. Most importantly, your mediator is there because he or she wants to help!

SOME QUESTIONS YOU MAY HAVE:

▶ **Is mediation confidential?** A mediator will not tell the court what the participants said during their mediation and will keep the terms of any agreement confidential. If the participants cannot reach an agreement, the mediator will not tell the court why they were unable to settle. There are, however, a few important exceptions to confidentiality: a mediator must report abuse or neglect of children, the elderly, or the disabled revealed during mediation; a judge may require a mediator to tell him or her about any felonies discussed during mediation; and a mediator may also be required to report serious threats of harm to persons or property made during mediation. Unlike the mediator, the defendant and complaining witness are not bound by confidentiality unless they agree in mediation to keep their discussions and terms of agreement private.

▶ **Is there a charge for mediation?** Yes. When a case is referred to mediation, there is a \$60 fee which is due and payable before the mediation begins. The parties may agree on how to split the \$60; if they cannot agree, the defendant must pay the fee, unless the court waives it. There are no additional court costs or administrative fees due. If the case is not settled at mediation and goes before the judge, court costs will likely be imposed against the defendant and may well exceed the \$60 mediation fee.

▶ **Do I have to reach an agreement in mediation?** No. Sometimes cases cannot be settled in mediation and a mediator should never try to force you to agree to terms that are unacceptable to you. If you are not comfortable with a proposed agreement, do not sign it.

▶ **What if I have concerns about my mediator?** If you have concerns about your mediator or the way your mediation was conducted, you may contact the Executive Director of the community mediation center where your mediator works or volunteers and express your concerns. You may also "File a Complaint Against a Mediator" online with the N.C. Dispute Resolution Commission website at www.ncdrc.gov or by calling 919-890-1415. The Commission regulates mediator conduct.



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