

Child and Family Services Act

ONTARIO REGULATION 496/06

METHODS AND PROCEDURES REGARDING ALTERNATIVE DISPUTE RESOLUTION

Methods of alternative dispute resolution

1. A method of alternative dispute resolution that satisfies the following criteria is a prescribed method of alternative dispute resolution:

1. The alternative dispute resolution must be undertaken with the consent of all participants.
2. The alternative dispute resolution must be one that can be terminated at any time by any of the participants to it.
3. The alternative dispute resolution must be conducted by an impartial facilitator who has no decision-making power.
4. The alternative dispute resolution must satisfy section 2 with respect to confidentiality of and access to records and information.
5. The alternative dispute resolution must not be an arbitration. O. Reg. 496/06, s. 1.

Confidentiality of and access to records and information

2. (1) The following rules respecting the confidentiality of and access to records and information apply to prescribed methods of alternative dispute resolution:

1. Neither the participants nor the facilitator conducting the alternative dispute resolution nor any other person providing alternative dispute resolution services are compellable to give testimony or to produce documents in a civil proceeding with respect to matters relating to or prepared or exchanged during the alternative dispute resolution.
2. Representations, statements or admissions made in the course of the alternative dispute resolution and documents prepared or exchanged during the alternative dispute resolution cannot be used in evidence or produced in a civil proceeding, subject to the following exceptions:
 - i. the statements, admissions or documents give rise to the duty to report that a child may be in need of protection under section 72 of the Act,
 - ii. where there are reasonable grounds to believe that the disclosure is necessary to address a real or perceived threat to any person's life or physical safety,
 - iii. an individual consents to the disclosure of his or her own personal information, or
 - iv. the terms of an agreement, memorandum of understanding or plan arising from the alternative dispute resolution may be disclosed to a court and all counsel for the participants in the alternative dispute resolution, including counsel for the child where applicable.
3. The alternative dispute resolution facilitator may use or disclose non-identifying information relating to the alternative dispute resolution for research or educational purposes, but the facilitator must provide written notice of this to all participants in the alternative dispute resolution before the alternative dispute resolution begins. O. Reg. 496/06, s. 2 (1).

(2) Nothing in subsection (1) abrogates the rights of the participants in an alternative dispute resolution to discuss the content of the alternative dispute resolution with their counsel. O. Reg. 496/06, s. 2 (2).

(3) Nothing in subsection (1) limits the powers of a program supervisor under section 6 of the Act. O. Reg. 496/06, s. 2 (3).

(4) In this section,

“non-identifying information” means information whose disclosure, alone or in combination with other information, does not reveal the identity of the person to whom it relates. O. Reg. 496/06, s. 2 (4).

Transition

3. (1) A method of alternative dispute resolution that commenced before section 51.1 of the Act is proclaimed in force and that, subject to subsection (2), satisfies the criteria in section 1 is deemed to be a prescribed method of alternative dispute resolution for the purposes of section 51.1 of the Act. O. Reg. 496/06, s. 3 (1).

(2) Paragraph 4 of section 1 and section 2 do not apply to an alternative dispute resolution that is deemed to be a prescribed method of alternative dispute resolution under subsection (1). O. Reg. 496/06, s. 3 (2).

4. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION). O. Reg. 496/06, s. 4.