

Conciliation

A First Step

What is conciliation?

Conciliation is a mandatory process that begins after one of the parties starts a proceeding in the Supreme Court (Family Division). It usually involves both parties, either in separate rooms or together, meeting with a court officer who will help them focus on their situation. In conciliation the court officer helps you to sort out what to do about your situation and what the next steps might be.

What are the purposes of conciliation?

- to identify the issues involved
- to ensure proper information or documents are exchanged between the parties and given to the court
- to clarify the positions of the parties
- to reduce conflict between the parties
- to facilitate negotiations between the parties
- to determine the next step(s) appropriate in resolving the issues

The court officer does not force the parties to reach a settlement outside of court. A resolution to the case may involve a hearing or trial before a judge or, in appropriate cases, mediation.

The conciliation process may help the parties reduce the number of issues in dispute when the matter proceeds to court.

In some cases, the parties will have reached an agreement before coming to the court. They may want this agreement to be considered by a court officer and/or a judge and made into a court order. The court officer will help facilitate this process.

Do I need a lawyer?

The court officer does not give legal advice. It is advisable to see a lawyer if you are involved in a legal dispute. The court officer can tell you how you can contact a lawyer. The conciliation process will not replace negotiation between lawyers or negotiation of disputes in the mediation process.

Lawyers can attend conciliation meetings with their clients if they wish.

What will happen at conciliation meetings?

The primary concerns of the court officer are to help the parties identify what the issues are and to make sure that all information (especially documents) required by the court have been provided. During conciliation, each party will be required to state what they want to see happen in their situation.

Is conciliation confidential?

Details of discussions during the conciliation process will not be included in the court record. The judge will not know exactly what has been said, although the judge will know what issues the parties have not been able to settle.

The court officer will prepare a document called the conciliation record. This explains to the judge what issues have and have not been agreed upon and the basic positions of the parties. The conciliation record is not a detailed account of discussions, nor a “he-said-she said” statement of what was said to the court officer.

Those parties who need and want the opportunity to negotiate privately or who want an off-the-record resolution of more difficult issues could consider mediation or a settlement conference with a judge. The court officer can refer the parties to either of these options, when appropriate.

Do I have to attend conciliation with my ex-partner?

No. A conciliation meeting can be held with one or both parties. The court officer will schedule a meeting with the parties together, if it is appropriate. Joint sessions will not take place if there is a history of family violence or if one of the parties refuses to meet with the other party.

What if my ex-partner will not give the court officer the information that is needed or will not attend conciliation meetings?

Conciliation is a part of the court process and is mandatory. Court officers and judges have the authority to order a party to provide certain information. A court officer may also order that a party attend conciliation on certain days or times.

What happens if we can reach an agreement on the issues without going to court?

The court officer will draft an order that outlines the agreement reached by the parties. The parties then have 14 days to consult a lawyer about the agreement. If, within that period, one of the parties advises the court **in writing** that they are not satisfied with the agreement, then the parties will proceed through the court process. However, if parties are satisfied, the order will be forwarded to a judge to review without the parties appearing in court. If acceptable to the judge, the order will be signed and copies sent to the parties, and to the Maintenance Enforcement Program, if appropriate.

Can a court officer make final decisions about my case?

No. A court officer can help the parties reach an agreement, but cannot make a final decision in your case. A court officer can give certain directions or make certain interim orders in appropriate cases.

The court officer can

- order a party or other person to provide certain information, such as a parenting statement or financial information
- order a party to go to conciliation

- make an interim or short-term order for child support at the table amount under the child support guidelines
- refer the parties to parent information sessions
- schedule a court appearance or an organizational pre-trial or pre-hearing conference
- recommend to a judge that a parenting assessment report be prepared
- schedule a trial before a judge
- prepare a draft consent order, based on the agreement reached between the parties
- shorten or lengthen the time for service of certain documents
- issue other types of orders or recommendations

For more information about representing yourself, see <www.gov.ns.ca/just/repselfmain.htm>. For information about the Nova Scotia courts, see <www.courts.ns.ca>.