

**CONFIDENTIALITY OF MEDIATION IN MASSACHUSETTS  
UNDER STATUTE AND COURT RULE**

**Massachusetts General Laws Chapter 233, section 23C**

§ 23C, Work product of mediator confidential; confidential communications; exception; mediator defined.

All memoranda, and other work product prepared by a mediator and a mediator's case files shall be confidential and not subject to disclosure in any judicial or administrative proceeding involving any of the parties to any mediation to which such materials apply. Any communication made in the course of and relating to the subject matter of any mediation and which is made in the presence of such mediator by any participant, mediator or other person shall be a confidential communication and not subject to disclosure in any judicial or administrative proceeding; provided, however, that the provisions of this section shall not apply to the mediation of labor disputes.

For the purposes of this section a "mediator" shall mean a person not a party to a dispute who enters into a written agreement with the parties to assist them in resolving their disputes and has completed at least thirty hours of training in mediation and who either has four years of professional experience as a mediator or is accountable to a dispute resolution organization which has been in existence for at least three years or one who has been appointed to mediate by a judicial or governmental body.

**Supreme Judicial Court Uniform Rules on Dispute Resolution**

**Rule 9. Ethical Standards, Section (h)**

A neutral shall maintain the confidentiality of all information disclosed during the course of dispute resolution proceedings, subject only to the exceptions listed in this section.

(i) The information disclosed in dispute resolution proceedings that shall be kept confidential by the neutral includes, but is not limited to: the identity of the parties; the nature of the substance of the dispute; the neutrals impressions, opinions, and recommendations; notes made by the neutral; statements, documents, or other physical evidence disclosed by any participant in the dispute resolution process; and the terms of any settlement, award, or other resolution of the dispute, unless disclosure is required by law or court rule.

(ii) Confidentiality vis a vis nonparties. The neutral shall inform the participants in the dispute resolution process that he or she will not voluntarily disclose to any person not participating in the mediation any of the information obtained through the process, unless such disclosure is required by law.

(iii) Confidentiality within the mediation. A neutral shall respect the confidentiality of information received in a private session or discussion with one or more of the parties in a dispute resolution process, and shall not reveal this information to any other party in the mediation without prior permission for the party from the information was received.

(iv) Neutrals who are part of a court connected dispute resolution program may, for the purposes of supervising the program, supervising neutrals and monitoring of agreements, discuss confidential information with other neutrals and administrative staff in the program. This permission to discuss confidential information does not extend to individuals outside the program.

(v) Neutrals may, with prior permission from the parties, use information disclosed by the parties in dispute resolution proceedings for research, training, or statistical purposes, provided the materials are adapted so as to remove any identifying information.