



## SURROGATE'S COURT PRESUMPTIVE ADR PROGRAM REFERRAL GUIDE (NYC)

### REFERRAL

**Timing:** Matters may be referred to ADR as early as practicable, once jurisdiction is complete.

**Referral Process:**

- Court Initiated: The Surrogate may refer matters eligible for presumptive ADR by completing an Order of Reference.
- Party/Attorney Initiated: Parties/Attorneys have a variety of ways of accessing ADR. They may engage in an ADR alternative with the Court or ask the Surrogate to refer their matter to mediation.

**Role of ADR Coordinator:** The ADR Coordinator works closely with the Surrogates to support the use of ADR in Surrogate's Court, according to each of their respective ADR Rules ([New York](#), [Kings](#), [Queens](#), [The Bronx](#), Richmond).

### EXCLUSIONS

- Matters involving allegations of domestic violence, child abuse or neglect, or severe power imbalance between the parties and/or where an Order of Protection is in effect are not appropriate for presumptive referral to the program.
- Parties/Attorneys may opt out of Presumptive ADR for good cause, in accordance with the Surrogate's ADR Rules.

### NEUTRAL SELECTION

- The Order of Reference will reflect the ADR alternative chosen by the parties or the Court, in consultation with the parties.
- Parties may choose to mediate with a [Community Dispute Resolution Center](#) (CDRC), a specially trained neutral from the approved [Court Roster of Surrogate's Court Mediators](#), or a private Mediator.

### COMPENSATION

- Court Roster Mediators are not compensated for preparation time or the first 90-120 minutes of mediation, in accordance with each of the Surrogate's ADR Rules.
- Members of the Court Roster have agreed to provide mediation services for the Court at the mediator's customary rate once the required non-compensated time has concluded.

### REPORT and POST-MEDIATION SURVEY

- Mediators shall submit a Report of Mediator Form to the ADR Coordinator at the conclusion of the mediation, in accordance with the Surrogate's ADR Rules. The report should indicate whether the parties attended mediation and whether the matter was fully/partially resolved or there was no resolution.
- Court Roster and CDRC mediators should encourage mediation participants to complete the Post-Mediation Survey.

### CONFIDENTIALITY

ADR processes, except for settlement conferences with court staff, are confidential. Documents and communications exchanged during those processes shall not be disclosed to the Court unless there are threats of imminent or serious harm, or there are allegations of child abuse or neglect.

### INTERESTED IN LEARNING MORE ABOUT ADR?

**Tell the Surrogate or their Court Attorney-Referee!**

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**Visit:** [NYS ADR Webpage](#)