

**FAMILY COURT OF THE STATE OF NEW YORK
PUTNAM COUNTY**

RULES OF THE FAMILY COURT- ALTERNATIVE DISPUTE RESOLUTION

PREAMBLE

It is the policy of the Courts of this State, as set forth in the State Chief Judge’s Excellence Initiative, to encourage the resolution of disputes and the early settlement of pending litigation through various settlement procedures. The Putnam County Family Court desires to use mediation as one method of settling disputes. The benefits to the parties are many not only in a savings of time and money but also in providing a result in which all parties benefit.

The following Rules shall govern cases which qualify for [Alternative Dispute Resolution](#) (“ADR”) through mediation. The Rules set forth herein are intended to apply in the Family Court of Putnam County. These Rules supplement and shall be applied in tandem with the Rules of the ADR Program for the Ninth Judicial District (the “Ninth JD Rules”).

Rule 1: Program

Mediation is a voluntary service offered by the volunteers of the Dispute Resolution Center (“DRC”). Presently, volunteers of the DRC make their best efforts to be present during the Family Court calendars, so that they are available to explain the benefits of mediation and perform intake in cases where the parties are interested, or the Court orders the intake to take place.

As detailed herein, mediation is generally utilized in cases involving custody and visitation. Cases which are appropriately referred to mediation, and pass the mediation screening process, will be designated as qualified for mediation.

Rule 2: Cases Qualifying for Mediation and Determination of Suitability

The following cases generally qualify for referral to the DRC:

- a. Custody and Visitation cases;
- b. PINS cases;
- c. Any appropriate cases where parenting issues are present, as the DRC offers parent-child mediation.

The following cases are determined to be inappropriate for referral to the DRC:

- a. Cases where there is a history of domestic violence, or where the intake or screening process flags potential ongoing domestic violence that has not been reported;

- b. Cases where there are complete “stay-away” orders of protection in place;¹
- c. Abuse and Neglect cases or similar matters where CPS is investigating;
- d. Cases where one party has a lengthy or violent criminal history.

Rule 3: Roster of Mediators and Compensation

In Putnam County, family court mediation is provided by the DRC. The DRC is partially court/state funded, and is staffed by volunteers. The parties do not need to pay for mediation. There is a one-time processing fee of \$25.00, which can be waived or reduced in cases of indigency.

Parties desirous of retaining a private mediator are free to do so at their own cost and expense. Private mediators selected may be from the Roster of Mediators for the Court, which shall be established and maintained by the Administrative Judge for the Ninth Judicial District. Continuing presence on the Roster is subject to review by the Administrative Judge. Mediators may be removed from the Roster at the discretion of the Administrative Judge. The Roster will be available through the Court’s website: www.nycourts.gov.

Unless otherwise directed by the Court, the Mediator shall be compensated in accordance with the Ninth JD Rules, including those provisions allowing for exemptions from parties having to pay for mediator compensation and those provisions allowing for portions of the Mediator’s time to be non-compensable.

Rule 4: Procedure and Automatic Disclosures

With respect to cases appropriate for mediation, as set forth *supra*, the Judge will direct/order parties to participate in the *intake phase* of the mediation process. Whenever possible, intake shall take place in a location in the courthouse designated by the Court.

When a representative from the DRC is not available in the courtroom, the clerk generates an intake form with the requisite information the DRC will need to conduct the intake, and a copy of this form is faxed to the DRC. Additionally, the DRC can perform the intake over the phone.

Cases directed to intake will be second-called on the calendar after the intake process has been completed to notify the Court whether they have completed the intake and consent to

¹ Certain cases where orders of protection are in place contain only “refrain from” language and do not prohibit the parties from being within a certain distance from one another. Assuming the case is appropriate for mediation, these orders of protection would not prevent the parties from being together for purposes of the mediation. In cases where there are “stay away” orders in place, the parties can request the Court include an exception (where appropriate based on the facts of the case) in the order of protection to allow the parties to be in the same room for purposes of the mediation. However, many cases that warrant the Court to issue a “stay away” order may not be appropriate for mediation.

proceeding with the next phase of the mediation process. If so, the parties proceed to screening and scheduling of mediation. If not, the Judge hears the case in court as scheduled.

Once a case has proceeded through the screening process, and is determined appropriate for Mediation, the mediation session(s) are scheduled with a volunteer from the DRC. The parties shall provide the mediator with the initiating petition and any other documents deemed relevant to the matter being mediated. If the mediator requests any additional documentation or information, the parties shall comply with the request of the mediator to the extent practicable. The screening and the actual mediation sessions take place at the DRC offices, located in close proximity to the Courthouse.

In cases that are going forward with screening and mediation, the Court will schedule the next appearance date approximately 30-45 days out, based on the Court's schedule.² The Court will be notified by the DRC of cases where the parties do not show up to their scheduled mediation, or after a full screening are deemed not eligible/appropriate for mediation, so that the return date can be advanced, as the Court deems necessary.

Additionally, the DRC will notify the Court of cases that are successfully mediated, so that the cases can be removed from the Court's calendar, and the agreements can be "so ordered" if the parties or their attorneys request. The family court clerks will keep track of the number of cases ordered to proceed to intake, and the number of cases that proceed to screening and meditation, along with the numbers of cases that are/are not successfully mediated after completion of the process described herein.

Rule 5: Continuation of Mediation after the 45-Day Period

According to the DRC, nearly all cases that proceed to mediation are resolved within one to two sessions of 60-90 minutes each. However, if the matter is not entirely resolved within the 45-day period as provided in the Ninth JD rules, but the parties and the Mediator believe that it would be beneficial if the mediation process were to continue, the process may go forward, but in such event, there shall be no extension or stay of the proceedings unless otherwise provided by the Ninth JD Rules or leave is granted by a Justice of the Court.

Rule 6: Administration of Program

The Program shall be supervised and coordinated by the Court Attorney for the presiding Judge assigned to the case, who shall act as the Administrator for the implementation of ADR/mediation for that case.

² Keep in mind, the Putnam County Family Court Judges are multi-hat judges, and usually family court calendars are only scheduled one or two days a week.