



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

HON. JOSEPH A. ZAYAS
CHIEF ADMINISTRATIVE JUDGE

HON. NORMAN ST. GEORGE
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

DAVID NOCENTI
COUNSEL

MEMORANDUM

To: All Interested Persons

From: David Nocenti

Re: Request for Public Comment on a proposal to amend 22 NYCRR §§ 160.1(f), 160.2(a), 160.3(a) & 160.5 relating to the confidentiality of alternative dispute resolution activities, and updating the name of the Division of Alternative Dispute Resolution

Date: September 29, 2025

=====

The Administrative Board of the Courts is seeking public comment on a proposal to amend 22 NYCRR §§ 160.1(f), 160.2(a), 160.3(a) & 160.5 relating to the confidentiality of alternative dispute resolution processes, and updating the name of the Division of Alternative Dispute Resolution.

This proposal was recommended by the Statewide Advisory Committee on Alternative Dispute Resolution (“ADR Advisory Committee”), which noted that longstanding practice and codes of conduct have called for mediators and neutral evaluators to maintain the confidentiality of information exchanged during or in connection with their respective ADR processes and not to disclose information from those proceedings to the judge or to anyone else, subject to limited exceptions described in 22 NYCRR § 160.3. In contrast, other dispute resolution processes (such as settlement conferences conducted by court staff), are not subject to the same confidentiality restrictions.

The ADR Advisory Committee wishes to eliminate any potential confusion regarding the applicability of confidentiality under this rule, and therefore recommends that 22 NYCRR § 160.3(a) be amended to read as follows:

- (a) Except as otherwise provided herein or as otherwise required by law, all communications, memoranda, and work products made in preparation for, during, or in connection with ~~an ADR process~~ a mediation or neutral evaluation conducted by a mediator or neutral evaluator to whom a dispute is referred pursuant to this Part shall be confidential and not subject to disclosure in any judicial or administrative proceeding.

In addition, the ADR Advisory Committee is recommending changes to 22 NYCRR §§ 160.1(f), 160.2(a) and 160.5 to change the phrase “Statewide ADR Office” to “Division of ADR.”

The proposed amendments are attached as Exhibit 1, and a memorandum from the ADR Advisory Committee dated September 3, 2025 is attached as Exhibit 2.

=====

Persons wishing to comment on the proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: David Nocenti, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 10th Fl., New York, New York, 10004. Comments must be received no later than Friday, November 21, 2025.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT 1

Proposed Amendments

Subdivision (f) of section 160.1 of the Rules of the Chief Administrator is amended to read as follows:

(f) "Mediation-trained court staff" shall refer to employees of the UCS who have completed the training required of a mediator pursuant to subdivision (b) of section 146.4 of the Rules of the Chief Administrator of the Courts (22 NYCRR § 146.4(b)), or its equivalent as approved by the administrative judge of the judicial district in which they serve in consultation with the ~~Statewide ADR Office~~ Division of ADR of the UCS, and who provide mediation services in disputes referred to an ADR process in accordance with this Part.

Paragraph (4) of subdivision (a) of section 160.2 of the Rules of the Chief Administrator is amended to read as follows:

(4) Where the parties in a family court or matrimonial matter are referred to mediation under this Part, the parties shall be screened using a standardized mediation screening tool developed by the ~~Statewide ADR Office~~ Division of ADR of the UCS, to determine whether it is appropriate for mediation to proceed. This screening is in addition to any statutory registry checks under section 240(1)(a) of the Domestic Relations Law and section 651(e) of the Family Court Act. Where mediation is determined to be inappropriate, the matter shall be returned to the referring court.

Subdivision (a) of section 160.3 of the Rules of the Chief Administrator is amended to read as follows:

(a) Except as otherwise provided herein or as otherwise required by law, all communications, memoranda, and work products made in preparation for, during, or in connection with an ~~ADR process~~ mediation or neutral evaluation conducted by a mediator or neutral evaluator to whom a dispute is referred pursuant to this Part shall be confidential and not subject to disclosure in any judicial or administrative proceeding.

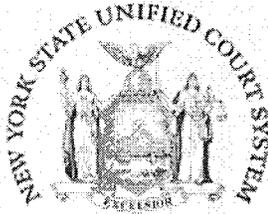
Section 160.5 of the Rules of the Chief Administrator is amended to read as follows:

§ 160.5. Local ADR Rules.

Following consultation with local bar associations and, as appropriate, with others, including but not limited to the Chief Judge's Advisory Committee on ADR, the UCS Commercial Division Advisory Council, and the Office of Court Administration ~~Office~~ Division of ADR, and with the approval of the appropriate Deputy Chief Administrative Judge, each District Administrative Judge shall develop local rules for the implementation of this Part in the courts of the Judicial District over which such District Administrative Judge exercises

jurisdiction. These local rules may include a proposal for such local rules of court as may be necessary for their implementation.

EXHIBIT 2



Statewide Advisory Committee on Alternative Dispute Resolution

September 3, 2025

Co-Chairs

Hon. Doris M. Gonzalez
Hon. Joseph E. Lamendola
John S. Kiernan

Dear David Nocenti, Esq.,

Re: Proposed Revisions to Part 160

The New York State ADR Advisory Committee requests the Office of Court Administration, and the Administrative Board approve the attached proposed amendments to Part 160 of the Rules of the Chief Administrative Judge ("Part 160"). The ADR Advisory Committee voted in favor of the proposed Resolution, to amend Part 160, without opposition.

We move to amend the Part 160 Rules in response to the multiple inquiries by court personnel, bar leaders and interested organizations, regarding concerns about court personnel and their obligations when engaged in court-sponsored efforts to help parties resolve matters through mechanisms other than conventional litigation. For many forms of ADR procedures, including mediations and neutral evaluations, longstanding practice has called for the mediators or neutral evaluators to keep the ADR proceedings strictly confidential, and not to disclose anything substantive to the judge or to anyone else. For other forms of ADR proceedings, such as settlement conferences, no such confidentiality stricture exists.

We submit there should be no confusion about whether the confidentiality requirements of Section 160.3 apply to any particular ADR effort. The proposed amendment to section 160.3, shown in the attached redline, clarifies the confidentiality provisions of Part 160 as it applies to mediators and neutral evaluators to whom a dispute is referred pursuant to this Part shall be confidential and not subject to disclosure in any judicial or administrative proceeding.

The ADR Advisory Committee appreciates this opportunity to seek changes in the existing rules to enhance the use of ADR in proceedings by court personnel, mediators or neutral evaluators.

Sincerely,

Hon. Doris M. Gonzalez

Hon. Joseph E. Lamendola

John S. Kiernan, Esq.

CC: Lisa Courtney, Esq.

Desiree Kim, Esq.



Statewide Advisory Committee on
Alternative Dispute Resolution

Co-Chairs

Hon. Doris M. Gonzalez
Hon. Joseph E. Lamendola
John S. Kiernan

MOTION

WHEREAS, the importance of Alternative Dispute Resolution (ADR) in resolving civil disputes effectively and efficiently was recognized in Part 60 of the Rules of the Chief Judge which directed that rules for the referral of civil disputes in the trial courts of New York State be adopted; and

WHEREAS, Part 160 of the Rules of the Chief Administrative Judge sets forth the rules required by Part 60 of the Rules of the Chief Judge; and

WHEREAS, Chief Administrative Judge Joseph A. Zayas and First Deputy Chief Administrative Judge Norman St. George established the Division of Alternative Dispute Resolution after Part 160 of the Rules of the Chief Administrative Judge were promulgated; and

WHEREAS, the Statewide Advisory Committee on Alternative Dispute Resolution recognizes that court users and court personnel alike should understand the scope of confidentiality provided to participants in dispute resolution processes and any limits on such confidentiality; and

WHEREAS, ADR services in the New York courts are delivered by court personnel as well as Community Dispute Resolution Centers, private neutrals on panels, and other providers; and

WHEREAS, the confidentiality obligations of court personnel vary with the dispute resolution service they deliver; and

WHEREAS, the Statewide Advisory Committee on Alternative Dispute Resolution, which is charged with reviewing ADR services and recommending improvements and expansion, has appointed a subcommittee to specifically address issues related to court personnel; and

WHEREAS, that subcommittee recommends that Part 160 of the Rules of the Chief Administrative Judge be amended to clarify that confidentiality provisions pertaining to mediators and neutral evaluators apply to court personnel serving as mediators and neutral evaluators;

RESOLVED, That the Statewide Advisory Committee on Alternative Dispute Resolution recommends that the Office of Court Administration amend Part 160 of the Rules of the Chief Administrative Judge as set forth below (deletions are in ~~strikethrough~~ and additions are underscored):

Subdivision (f) of Section 160.1 is hereby amended to read as follows:

(f) "Mediation-trained court staff" shall refer to employees of the UCS who have completed the training required of a mediator pursuant to subdivision (b) of section 146.4 of the Rules of the Chief Administrator of the Courts (22 NYCRR §146.4(b)), or its equivalent as approved by the administrative judge of the judicial district in which they serve in consultation with the ~~Statewide ADR Office~~ Division of ADR of the UCS, and who provide mediation services in disputes referred to an ADR process in accordance with this Part.



Statewide Advisory Committee on
Alternative Dispute Resolution

Co-Chairs

Hon. Doris M. Gonzalez
Hon. Joseph E. Lamendola
John S. Klerman

* * * * *

Subdivision (a) of Section 160.2 is hereby amended to read as follows:

(4) Where the parties in a family court or matrimonial matter are referred to mediation under this Part, the parties shall be screened using a standardized mediation screening tool developed by the Statewide ADR Office Division of ADR of the UCS, to determine whether it is appropriate for mediation to proceed. This screening is in addition to any statutory registry checks under section 240(1)(a) of the Domestic Relations Law and section 651(e) of the Family Court Act. Where mediation is determined to be inappropriate, the matter shall be returned to the referring court.

* * * * *

Subdivision (a) of Section 160.3 is hereby amended to read as follows:

(a) Except as otherwise provided herein or as otherwise required by law, all communications, memoranda, and work products made in preparation for, during, or in connection with an ADR process a mediation or neutral evaluation conducted by a mediator or neutral evaluator to whom a dispute is referred pursuant to this Part shall be confidential and not subject to disclosure in any judicial or administrative proceeding.

* * * * *

Section 160.5 is hereby amended to read as follows:

Following consultation with local bar associations and, as appropriate, with others, including but not limited to the Chief Judge's Advisory Committee on ADR, the UCS Commercial Division Advisory Council, and the Office of Court Administration Office of ADR Division of ADR, and with the approval of the appropriate Deputy Chief Administrative Judge, each District Administrative Judge shall develop local rules for the implementation of this Part in the courts of the Judicial District over which such District Administrative Judge exercises jurisdiction. These local rules may include a proposal for such local rules of court as may be necessary for their implementation.