

INSTRUCTIONS FOR THE PROGRAM APPLICATION AND RE-APPLICATION PROCESS

1. **Eligibility.** A court-connected referral for dispute resolution services can be made only to a program approved by the Chief Justice of the Trial Court Department in which the referral is made. A “program” is defined in Rule 2 of the Uniform Rules on Dispute Resolution as: “An organization with which neutrals are affiliated, through membership on a roster or a similar relationship, which administers, provides and monitors dispute resolution services. A program may be operated by a court employee or by an organization independent of the court, including a corporation or a governmental agency . . .” The commentary to Rule 2 makes clear that a program must consist of a group of people.

2. **Approval of Programs.** All programs currently approved to provide court-connected alternative dispute resolution services in the Trial Court must reapply, and any new programs seeking approval to provide court-connected dispute resolution services must apply for approval. There are two versions of the program application, one for existing programs and for new programs.
 - A. **Existing Programs.** An “existing program” is a program that was approved in the previous application process (**January 1, 2019 to December 31, 2021**) and remains in good standing to receive referrals in the Trial Court Department(s) in which it was approved to provide services. The application for existing programs is streamlined to allow programs to update information supplied in the previous application process **except** the Probate and Family Court requires complete responses rather than “No Changes.”

If you are re-applying for approval, you must provide a copy of your Dispute Resolution Program Report for the period of July 1, 2020 to June 30, 2021 for each court division served.

- B. **New Programs.** A “new program” is:
 - i. A program seeking approval for the first time; or
 - ii. A program previously approved in one department and seeking to provide services in another department; or
 - iii. A program previously approved in a department and seeking to provide a different ADR process to be used in that department.

District Court. If the District Court Department specifically requests that a program approved to provide mediation services expand to provide conciliation services within a court division, it is **NOT** considered a new program. Such programs are required to update its roster of qualified neutrals and submit the list of new conciliators with the application or within 30 days following the approval to provide conciliation services.

3. **Application Dates.**

- A. All programs seeking approval shall, no later than Monday, **November 15, 2021**, submit the Program Application form to the Trial Court Department or Departments in which the program seeks to receive referrals.
- B. The Departmental Chief Justices will make approval decisions and notify programs by **December 31, 2021**.
- C. An approved program will be eligible to provide court-connected dispute resolution services commencing on **Monday, January 3, 2022**.
- D. Once approved to provide dispute resolution services, a program in good standing retains its approval for a period of three years ending on **December 31, 2024**.
- E. **Re-application Process.** Except for cases of demonstrated court need, the next approval period to provide court-connected dispute resolution services will be from **January 1, 2025 to December 31, 2027**.

Demonstrated court need, is defined as a court division or department without a program to serve a particular type of case, a vacancy due to the removal of a program from the current approved list, or, a need for additional services. **Note:** If any **interim approvals** were made pursuant to the “demonstrated court need” criterion since the last approval process, they will **expire on December 31, 2021, requiring re-application in accordance with the uniform application process, as an existing program.**

4. **Completing the Application.**

- A. Please type or print all answers.
- B. An Application will be approved or disapproved based on its contents alone. All applicants should, therefore, answer the questions as completely and descriptively as possible.
- C. The application has the following parts:
 - i. The Cover Sheet, which includes the Certification
 - ii. Extension of Services for Existing Programs, if applicable
 - iii. Fifteen Narrative Questions
 - iv. List of Neutrals who satisfy the qualification standards in the Uniform Rules on Dispute Resolution (Forms 1 & 2)

Please see the Program Application Checklist in the Application material.

- D. A program **may** append letters of support to its application.

5. **Application of the Fee Policy for Dispute Resolution Services:**

A. Fee Policy: The Trial Court approved a new fee policy in January 2019 for court-connected dispute resolution services. This policy addresses whether programs may charge fees after a free service has been provided. This policy allows approved programs to charge fees for continuation or subsequent services for the same case or dispute after a free service as long as the program is approved to charge fees by the Departmental Chief Justice, and the fees for continuation or subsequent services are agreed to in writing by the parties prior to the initial free dispute resolution service. The Fee Policy for Dispute Resolution Services is attached to the application materials as **Appendix D**.

B. Departmental Implementation of the Fee Policy. The Trial Court Departments have implemented the policy as follows:

- i. Boston Municipal Court:** The Boston Municipal Court does not approve programs to charge fees for dispute resolution services and will not approve programs to charge fees for continuation or subsequent services after a free service as provided by the policy.
- ii. District Court:** The District Court does not approve programs to charge fees for dispute resolution services and will not approve programs to charge fees for continuation or subsequent services after a free service as provided by the policy.
- iii. Housing Court:** The Housing Court approves programs to provide either free or fee-based services but will not approve programs to charge fees for continuation or subsequent services after a free service as provided by the policy.
- iv. Juvenile Court:** The Juvenile Court does not approve programs to charge fees for dispute resolution services and will not approve programs to charge fees for continuation or subsequent services after a free service as provided by the policy.
- v. Land Court:** The Land Court does approve programs to charge fees for dispute resolution services and will approve programs to charge fees for continuation or subsequent services after a free service as provided by the policy.
- vi. Probate and Family Court:** The Probate and Family Court approves programs to provide either free or fee-based services and will consider approving programs to charge fees for continuation or subsequent services after a free service as provided by the policy.
- vii. Superior Court:** The Superior Court approves programs to provide either free or fee-based services but will not approve programs to charge fees for continuation or subsequent services after a free service as provided by the policy.

6. Additional Departmental Requirements. The Trial Court Departments have the following additional requirements to the Program Application:

A. District Court: The District Court Department is not approving programs that charge fees for dispute resolution services for court referred cases. If you are NOT currently

approved and are seeking approval to provide services in one or more District Court divisions, you must obtain and include with your application a letter from the first justice of each court division reflecting his or her intention to utilize the type of dispute resolution service you intend to provide.

- B. Housing Court:** The Housing Court Department is taking applications for court-connected dispute resolution services. The Housing Court Department will continue to offer mediation and dispute intervention services in all types of cases through its “in-house” Housing Specialist Department. However, the Housing Court Department will also consider applications from other programs that have subject matter expertise in the areas of personal injury, including lead paint, mold and asbestos, zoning litigation, foreclosure litigation and environmental litigation in determining the need for court-connected dispute resolution options.
- C. Juvenile Court:** When determining program approval, the Juvenile Court Department will consider relevant subject matter expertise including, but not limited to, education and training in the areas of child and family welfare, guardianships, open adoption agreements, parenting/visitation agreements in care in protection cases and permanency mediation.
- D. Land Court:** The Land Court will be seeking programs with mediators who by reason of their past experience in private practice or practice with public agencies, or as jurists have particular skills relative to real estate law, including but not limited to title issues, environmental and land use permitting and/or disputes concerning the same, and who otherwise comply with S.J.C. Rule 1:18, Uniform Rules on Dispute Resolution.
- E. Probate and Family Court:** When determining program approval, the Probate and Family Court Department will consider relevant subject matter expertise including but not limited to training specifically in the areas of: family law; family dynamics; child development issues; non-traditional families; complex financial issues (e.g., business evaluation, retirement benefits, financial consequences of divorce); permanency mediation; guardianship; and estate, probate and related laws under the Massachusetts Uniform Probate Code and the Massachusetts Uniform Trust Code. Please indicate which neutrals on your roster have such subject matter expertise, and the dates and providers of the relevant specialized training.

Existing Programs: The Probate and Family Court Department requires **all programs** to complete the full application process. Therefore, all existing programs are prohibited from replying to the questions in the Program Application as “No Changes” and are required to provide full responses.

- 7. Decision-making process.** The decision of the Trial Court Departmental Chief Justice is final as to whether or not a program is approved in that department.

8. **Submission of Applications.**

- A. **Email Applications accepted by all seven (7) Trial Court Departments.** All Trial Court Departments are requiring that their Program Applications be submitted electronically via email. Please see Section 12, Submission of Applications.
- B. **E-mail copy to Office of Court Management.** In addition to sending the applications via email to each Trial Court Department, one copy of the application must be emailed to the Office of Court Management for the Trial Court, at adr@jud.state.ma.us.
- C. The completed Program Application material must be **received on** or before **Monday, November 15, 2021** by the Chief Justice of the Department or Departments in which the program seeks eligibility to receive referrals.

9. **Qualifications Standards for Neutrals.** All neutrals must satisfy the qualification standards found in Rule 8 of the Uniform Rules on Dispute Resolution in order to perform court-connected dispute resolution services. Rule 8 of the Uniform Rules of Dispute Resolution took effect January 1, 2005. The rule establishes requirements for training, evaluation, mentoring, continuing education, and evaluation for the following seven categories of neutrals: mediators, arbitrators, case evaluators, conciliators, mini-trial neutrals, summary jury trial neutrals and dispute interveners. In addition, Rule 8 provides an alternative method for meeting these requirements.

10. **List of Neutrals.**

- A. **Standard Training Requirement or the Alternative Method.** A program seeking approval or re-approval must complete and submit with its application a list of its neutrals who meet the standard training requirement, or the alternative method. Please see **Form 1** found in the Program Application.
- B. **Limited Exemption.** In addition to the list of neutrals who meet the standard training requirement or the alternative method, some neutrals in **existing programs** remain qualified under the limited exemption. The Limited Exemption was created as a one-time exemption for mediators, arbitrators, case evaluators and conciliators from the training, mentoring and evaluation requirements of Rule 8. This exception is based on certain experience-based criteria found in Rule 8(k) (iii). **This exemption has now expired for all new programs.** However, a program that previously qualified its neutrals pursuant to Rule 8(k) (iii) is still required to list those neutrals on **Form 2** found in the Program Re-application.
- C. **Roster.** In addition to submitting an application, programs must submit annually to the Departmental Chief Justice a list of neutrals in the applicable categories from Forms 1 & 2 above.

11. **Certification.** A program seeking to be approved must certify in the application that its neutrals meet the requirements of Rule 8 and the accompanying Guidelines promulgated by the Chief Justice for Administration and Management. A summary of the requirements of

Rule 8 and the Guidelines are enclosed with the Program Application. Rule 8 of the Uniform Rules of Dispute Resolution and the Guidelines for implementation of qualification standards for neutrals can be found on the Trial Court Website at [\[https://www.mass.gov/lists/adr-resources-forms-and-documents\]](https://www.mass.gov/lists/adr-resources-forms-and-documents)

12. **Submission of Applications:** Please submit your Program Application(s) using the email addresses below for each Trial Court Department:

<p>Hon. Roberto Ronquillo, Jr. Chief Justice Boston Municipal Court Department Edward W. Brooke Courthouse, 6th Floor 24 New Chardon Street Boston, MA 02114-4703 Note: All Applications must be submitted via email to: caitlin.reddy@jud.state.ma.us</p>	<p>Hon. Gordon H. Piper Chief Justice Land Court Department Suffolk County Courthouse, 5th Floor Three Pemberton Square Boston, MA 02108 Note: All Applications must be submitted via email to: kyra.agen@jud.state.ma.us</p>
<p>Hon. Paul C. Dawley Chief Justice District Court Department Administrative Office of the District Court Edward W. Brooke Courthouse, 1st Floor 24 New Chardon Street Boston, MA 02114-4703 Note: All Applications must be submitted via email to: sarah.adamson@jud.state.ma.us</p>	<p>Honorable John D. Casey Chief Justice Probate and Family Court Department Three Center Plaza, Suite 210 Boston, MA 02108 Note: All Applications must be submitted via email to: matthew.abraham@jud.state.ma.us</p>
<p>Hon. Timothy F. Sullivan Chief Justice Housing Court Department Edward W. Brooke Courthouse, 6th Floor 24 New Chardon Street Boston, MA 02114-4703 Note: All Applications must be submitted via email to: jorge.ghazal@jud.state.ma.us</p>	<p>Hon. Heidi E. Brieger Chief Justice Superior Court Department Suffolk County Courthouse, 13th Floor 3 Pemberton Square Boston, MA 02108 Note: All Applications must be submitted via email to: maria.pena@jud.state.ma.us</p>
<p>Hon. Amy L. Nechtem Chief Justice Juvenile Court Department One Center Plaza, 7th Floor Boston, MA 02108 Note: All Applications must be submitted via email to: martha.gill@jud.state.ma.us</p>	