

Additions are shown in **bold, underlined, and brackets** and deletions in *[italics and braces]*.

Chapter 12—Mediation

REPORTER'S NOTE: Effective August 1, 2022, **Chief Justice Order No. 22-009 moved the** mediator qualifications~~{,}~~ formerly housed in *[Chief Justice Order (CJO)]* No. 05-028~~{,}~~ *[were moved]* into UTCR chapter 12. Guidelines **for** implementing UTCR 12.100 *[formerly section 3.2)]*~~{,}~~ *[and]*UTCR 12.110 *[formerly section 3.3)]*~~{,}~~ **and UTCR 12.120** can be found at <https://www.courts.oregon.gov/rules/Pages/other.aspx> under "Court-Connected Mediator Qualifications."~~{,}~~

[A mediator qualifications workgroup is currently meeting to consider proposed amendments to this chapter. Once the workgroup has completed its work, the UTCR Committee plans to consider recommendations for amendments to UTCR chapter 12 (Mediation). For questions regarding the workgroup or the adoption of these rules, please contact the UTCR Reporter.]

12.010 APPLICABILITY

UTCR chapter 12:

- (1) Establishes minimum qualifications, obligations, and mediator disclosures, including education, training, experience, and conduct requirements, applicable to:
 - (a) General civil mediators as provided by ORS 36.200(1).
 - (b) Domestic relations custody and parenting **plan** mediators as provided by ORS 107.775(2).
 - (c) Domestic relations financial mediators as provided by ORS 107.755(4).
- (2) Provides that a mediator approved to provide one type of mediation may not mediate another type of case unless the mediator is also approved for the other type of mediation.
- (3) Does not:
 - (a) In any way alter the requirements pertaining to personnel who perform conciliation services under ORS 107.510 to 107.610.
 - (b) Allow mediation of proceedings under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040, or 163.738, as provided in ORS 107.755(2).
 - (c) *[In any way e]~~st~~*ablish any requirements for compensation of mediators.
 - (d) Limit *[in any way]*the ability of mediators or qualified supervisors to be compensated for their services.

12.020 DEFINITIONS

As used in UTCR chapter 12:

- (1) "Approved Mediator" means a mediator who a circuit court or judicial district of this state officially recognizes and shows by appropriate official documentation as being approved within that court or judicial district as a general civil mediator, domestic relations custody and parenting {plan }mediator, or domestic relations financial mediator for purposes of the one or more mediation programs operated *[under the auspices of that {by the }court or judicial district that is subject to UTCR 12.010.*
- {2} "Case" means an actual dispute between parties that has been filed in court, or whose subject matter is such that if the issues were not resolved in mediation, the parties could file a complaint in circuit court. It does not include roleplays done in any educational setting.}**
- ~~{2}~~**{3}** "Basic Mediation Curriculum" means the curriculum set out in UTCR 12.100.
- ~~{3}~~**{4}** "Continuing Education Requirements" means the requirements set out in UTCR 12.140.
- ~~{4}~~**{5}** "Court-System Training" means a curriculum or combination of courses set out in UTCR 12.130.
- ~~{5}~~**{6}** "Determining Authority" means an entity that acts under UTCR 12.030*[concerning qualification to be an approved mediator].*
- ~~{6}~~**{7}** "Domestic Relations Custody and Parenting {Plan }Mediation Curriculum" means the curriculum set out in UTCR 12.110.
- ~~{7}~~**{8}** "Domestic Relations Custody and Parenting Mediation {Plan }Supervisor" means a person who is qualified at the level described in UTCR 12.070.
- ~~{8}~~**{9}** "Domestic Relations Custody and Parenting {Plan }Mediator" means a mediator for domestic relations, custody, parenting time, or parenting plan matters in circuit court under ORS 107.755 who meets qualifications under UTCR 12.070.
- ~~{9}~~**{10}** "Domestic Relations Financial Mediation Supervisor" means a person who is qualified at the level described in UTCR 12.080.
- ~~{10}~~**{11}** "Domestic Relations Financial Mediation Training" means *[a/{the} curriculum/ or combination of courses]* set out in UTCR 12.120.
- ~~{11}~~**{12}** "Domestic Relations Financial Mediator" means a mediator for domestic relations financial matters in circuit court under ORS 107.755 who meets qualifications under UTCR 12.080.
- ~~{12}~~**{13}** "General Civil Mediator" means a mediator for civil matters in circuit court under ORS 36.185 to 36.210, including small claims and forcible entry and detainer cases, who meets qualifications under UTCR 12.060.

~~(13)~~**(14)** “General Civil Mediation Supervisor” means a person who is qualified at the level described in UTCR 12.060.

~~(14)~~**(15)** “Independent Qualification Review” means the process described in UTCR 12.090.

{(16) “Lead Trainer” means a person that conducts training under UTCR 12.100(4) (basic mediation curriculum), UTCR 12.110(4) (domestic relations custody and parenting plan mediation curriculum) or UTCR 12.120(4) (domestic relations financial mediation training).}

~~(15)~~**(17)** “Mediation” is defined ~~[at]~~**{in }**ORS 36.110.

12.030 DETERMINING AUTHORITY, DETERMINING MEDIATOR QUALIFICATIONS, OTHER RESPONSIBILITIES AND AUTHORITY

(1) The determining authority:

- (a) Is the entity within a judicial district with authority to ~~[determine]~~**{decide}** whether applicants to become an approved mediator for courts within the judicial district meet the qualifications ~~[as described]~~in these rules and whether approved mediators meet any continuing qualifications or obligations required by these rules.
- (b) Is the presiding judge of the judicial district unless the presiding judge has delegated the authority to be the determining authority as provided or allowed by statute. Delegation under this paragraph may be made to an entity chosen by the presiding judge to establish a mediation program as allowed by law or statute. A delegation must be in writing and, if it places any limitations on the presiding judge’s ultimate authority to review and change decisions made by the delegatee, must be approved by the State Court Administrator before the delegation can be ~~[made]~~**{finalized}**.

(2) Authority over qualifications. Subject to the following, a determining authority, for good cause, may allow **{conditional approval or }**appropriate substitutions~~[, or obtain waiver,]~~ for any of the minimum qualifications ~~[for an approved mediator]~~**{as set forth below}**.

[(a) Except as provided in paragraph (b) of this subsection, a determining authority that allows a substitution must, as a condition of approval, require the applicant to commit to a written plan to meet the minimum qualifications within a specified reasonable period of time. A determining authority that is not a presiding judge must notify the presiding judge of substitutions allowed under this subsection.

(b) For good cause, a determining authority, other than the presiding judge for the judicial district, may petition the presiding judge for a waiver of specific minimum qualification requirements for a specific person to be an approved mediator. A presiding judge may waive any of the qualifications to be an approved mediator in an individual case with the approval of the State Court Administrator.]

{(a) Conditional approval. For good cause, a determining authority may authorize conditional approval to allow an applicant additional time to meet the minimum requirements while allowing the applicant to serve as a mediator under the supervision of a person who is qualified as a mediation supervisor in the respective area of practice set out in 12.060, 12.070, and 12.080. A determining authority that allows a conditional approval must, as a condition of approval,

require the applicant to commit to a written plan to meet the minimum qualifications within a specified reasonable period of time.

(i) If a determining authority authorizes conditional approval for a General Civil Mediator, the mediator may not mediate without an approved mediator present in the mediation session until the qualification requirements described in 12.060 are met.

(ii) Conditional approval may not be granted for:

(A) A custody and parenting plan mediator who has not met the custody and parenting plan curriculum training outlined in UTCR 12.070(2) unless the applicant has completed the basic mediation training described in UTCR 12.100.

(B) A domestic relations financial mediator who has not met the domestic relations financial mediation training requirements in UTCR 12.080(2) unless the applicant has completed the basic mediation training described in UTCR 12.100 or if the applicant has completed the custody and parenting plan curriculum training.

(b) Substitution. A determining authority may authorize a substitution when an applicant does not meet the strict requirements of the rule but has other experience, education or training that is the functional equivalent of the minimum requirement that is being substituted. Beginning August 1, 2026, a determining authority may not authorize a substitution of the following minimum requirements:

(i) For Domestic relations custody and parenting plan mediator applicants:

(A) The Domestic Relations Custody and Parenting Plan mediation curriculum training required in 12.070(2); and

(B) The mediation experience required in 12.070(3).

(ii) For Domestic Relations financial issues mediator applicants:

(A) The Domestic Relations Custody and Parenting Plan mediation curriculum training required in 12.080(2);

(B) The Domestic Relations Financial Mediation curriculum training required in 12.080(2); and

(C) The mediation experience required in 12.080(3).

(c) A determining authority that is not a presiding judge must notify the presiding judge of conditional approvals and substitutions allowed under 12.030(2)(a) and 12.030(2)(b).

(d) Record Keeping: Presiding Judges will notify the State Court Administrator if a substitution is allowed under this subsection for a custody and parenting plan

mediator or a domestic relations financial issues mediator, including the name of the applicant, and the functional equivalent of the minimum requirement that is being substituted.

(3) The determining authority shall retain a record of each mediator application that is approved for public inspection for as long as the mediator is actively serving as an approved mediator. The determining authority must redact personal contact information of the mediator before providing it to the public unless the mediator consents to the disclosure.

~~(3)(4)~~ The determining authority may revoke a mediator's **conditional or** approved status at the determining authority's discretion, including in the event that the mediator no longer meets the requirements set forth in these rules.

~~(4)(5)~~ The determining authority may authorize the use of *[an]evaluation{s}* to be completed by the parties, for the purpose of monitoring program and mediator performance.

~~(5)(6)~~ In those judicial districts where a mediator is assigned to a case by the court, or where mediators are assigned to a case by a program sponsored or authorized by the court, the determining authority shall ensure that parties to a mediation have access to information on:

- (a) How mediators are assigned to cases.
- (b) The nature of the mediator's affiliation with the court.
- (c) The process~~[, if any,]~~ that a party can use to comment on, or object to the assignment or performance of a mediator.

~~(6)(7)~~ The minimum qualifications of these rules have been met by an individual who is an approved mediator at the time these rules become effective if the individual has met the minimum requirements of Chief Justice Order 05-028, in effect prior to August 1, 2022.

{(8) An individual who was approved under the rules in this chapter, in effect from August 1, 2022 to July 31, 2025, or Chief Justice Order 05-028 in effect prior to August 1, 2022, will continue to be considered an approved mediator unless the approval is revoked by the determining authority.}

~~(7)(9)~~ The State Court Administrator may approve the successful completion of a standardized performance-based evaluation to substitute for formal degree requirements under UTCR 12.070 or 12.080 upon determining an appropriate evaluation process has been developed and can be used at reasonable costs and with reasonable efficiency.

12.040 MEDIATOR ETHICS

An approved mediator, when mediating under ORS 36.185 to 36.210 or ORS 107.755 to 107.795, is required to:

- (1) Disclose to the determining authority and the participants at least one of the relevant codes of mediator ethics, standards, principles, and disciplinary rules of the mediator's relevant memberships, licenses, or certifications. It is not the court's responsibility to enforce any relevant codes of mediator ethics, standards, principles, and/or rules **{, other than its own}**;
- (2) Comply with relevant laws relating to confidentiality, inadmissibility, and nondiscoverability of mediation communications including, but not limited to, ORS 36.220, 36.222, and 107.785; *[and]*
- (3) Inform **{and provide as soon as reasonably practical in written form to}** the participants **{and in an ongoing manner as appropriate}** *[prior to or at the commencement of the mediation of]* each of the following:
 - (a) The nature of mediation, the role and *[style]* **{approach}** of the mediator, and the process that will be used;
 - (b) The extent to which participation in mediation is voluntary and the ability of the participants and the mediator to suspend or terminate the mediation;
 - (c) The commitment of the participants to participate fully and to negotiate in good faith;
 - (d) The extent to which *[disclosures in]* mediation **{communications }** are confidential, including during private caucuses **{and any exceptions and limitations to confidentiality}**;
 - (e) *[Any]* **{All actual and}** potential conflicts of interest that the mediator may have *[i.e., any circumstances or relationships that may raise a question as to the mediator's impartiality and fairness]* **{that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartial regard}**;
 - (f) The need for the informed consent of the participants *[to any decisions]*;
 - (g) The right of the parties to seek independent legal advice, including review of the proposed mediation agreement before execution;
 - [(h) In appropriate cases, the advisability of proceeding with mediation under the circumstances of the particular dispute;]*
{(h) The procedure for expressing a concern or filing a complaint regarding the mediator or the mediation process, and;}
 - [(i) The availability of public information about the mediator pursuant to UTCR 12.050; and]*
 - [(j)]* **{i}** If applicable, the nature and extent to which the mediator is being supervised.
- {(4) The mediator shall create a written record of the parties' agreements to the items listed in subsection (3); and}**

(5) The mediator shall have information regarding their respective training, education and experience readily available for review and will provide such information to parties upon request.

[12.050 PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION

- (1) *Information for court use and public dissemination: all approved mediators must provide the information required to the determining authority of each court at which the mediator is an approved mediator. Reports must be made in substantially the form provided at www.courts.oregon.gov/forms, or any substantially similar form authorized by the determining authority.*
- (2) *All approved mediators must update the information provided in UTCR 12.050 at least once every two calendar years.*
- (3) *The information provided in UTCR 12.050 must be made available to all mediation parties and participants upon request.]*

12.060 QUALIFICATION AS AN APPROVED GENERAL CIVIL MEDIATOR, ONGOING OBLIGATIONS

To become an approved general civil mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described **{in this section}**:

- (1) Training. An applicant must have completed training, including all the following:
 - (a) The basic mediation curriculum described in UTCR 12.100, or substantially similar training; and
 - (b) **{The c}/C**ourt-system training in UTCR 12.130, or substantially similar training**{,}***[or] education **{, or experience}**.*
- (2) Experience. An applicant must have **{participated as an observer, or as a co-mediator under the supervision of a general civil mediation supervisor, in at least six distinct cases for a minimum total of 10-hours as follows}**:
 - (a) *[Observed three actual mediations]***{The applicant must observe at least one hour of mediation in a case before acting as a co-mediator or mediator in a case. The applicant may observe by being physically present, by remote means (defined by UTCR 1.110(1)), or by viewing a recorded mediation session of a case, subject to the applicant's agreement to adhere to the confidentiality provisions of ORS 36.220}**; and
 - (b) *[Participated as a mediator or co-mediator in at least three cases that have been or will be filed in court, observed by a person qualified as a general civil mediation supervisor under this section and performed to the supervisor's satisfaction.]***{Must mediate or co-mediate at least the first three cases for a minimum total of five**

hours under the supervision of a general civil mediation supervisor under this section;

(c) The mediation must be performed to the qualified general civil mediation supervisor's satisfaction.

(3) Continuing Education. **{General civil mediators must complete at least 12 hours of continuing education as described in UTCR 12.140 every two years beginning January 1 of the year after the mediator's approval by the determining authority.}**

[(a) During the first two calendar years beginning January 1 of the year after the mediator's approval by the determining authority, general civil mediators must complete at least 12 hours of continuing education as follows:

(i) If the approved mediator's basic mediation training was 36 hours or more, 12 hours of continuing education as described in UTCR 12.140.

(ii) If the approved mediator's basic mediation training was between 30 and 36 hours, then one additional hour of continuing education for every hour of training fewer than 36 (i.e., if basic mediation training was 30 hours, then 18 hours of continuing education; if the basic mediation training was 32 hours, then 16 hours of continuing education).

(b) Thereafter, as an ongoing obligation, an approved general civil mediator must complete 12 hours of continuing education requirements every two calendar years as described in UTCR 12.140.]

(4) Conduct. An applicant and, as an ongoing obligation, an approved general civil mediator must subscribe to **{and comply with}** the mediator ethics **{provisions found }**in UTCR 12.040.

[(5) Public information. An applicant and, as an ongoing obligation, an approved general civil mediator must comply with requirements to provide and maintain information as provided in UTCR 12.050.]

[(6){5}] Supervision. A qualified general civil mediation supervisor is an individual who has:

(a) Met the qualifications of a general civil mediator as defined in this section[, and]{:}

*(b) Mediated at least 35 **{separate }**cases to conclusion [or completed]{for a minimum total of} [at least 3]{1}50 hours of mediation [experience]beyond the experience required of an approved general civil mediator in this section[.]{:} and*

(c) An understanding of court-connected civil mediation services.

12.070 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING **{PLAN }**MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations custody and parenting **{plan }**mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements

as described { in this section }. { A domestic relations custody and parenting plan mediator applicant does not need to be approved as a general civil mediator. }

For the purposes of 12.070: “Substantive Experience” means the performance of responsibilities in the professional fields outlined in Section 12.070 to create competency sufficient for initial practice as a custody and parenting plan mediator under the supervision of a qualified custody and parenting plan mediation supervisor. }

- (1) Education. An applicant must possess at least one of the following:
 - (a) A master’s or doctoral degree in {conflict resolution,} counseling, { marriage and family therapy, mental health,} psychiatry, psychology, {or }social work, *[marriage and family therapy, or mental health]* from an accredited college or university.
 - (b) A law degree from an accredited law school {,} with course work *[and/]or* Continuing Legal Education credits in family law.
 - (c) A master’s or doctoral degree in a subject relating to children and family dynamics, education, {or }communication *[, or conflict resolution]* from an accredited college or university, with coursework in human behavior, plus at least {2080 hours (or)}one year {in a }full-time {role)}*[equivalent]* post-degree {substantive }experience in providing social work, mental health, or conflict resolution services to families.
 - (d) A bachelor’s degree in a behavioral science related to *[family relationships,]child development[,]* or *[conflict resolution]*{family relationships}, with coursework in a behavioral science, and at least *[seven]*{4160 hours (or two)} years {in a } full-time {role)}*[equivalent]* post-bachelor’s {substantive } experience in providing social work, mental health, or conflict resolution services to families.
- {(e) 12,480 hours (or six years in a full-time role) of substantive experience in one of the following roles. Substantive experience must be in addition to the domestic relations mediation experience outlined in section 12.070(3) and 12.080(3). }
 - (i) As a mediator;
 - (ii) As a professional in a family law field working directly with family law litigants in a public facing setting (for example, but not limited to the following: family law facilitators, paralegals, family law court clerks, or other professionals with experience working directly with family law litigants in a public facing setting);
 - (iii) As a professional in family system settings or mental health settings with experience working directly with families (e.g., child welfare, juvenile justice, family educators or skill builders, or other professionals with experience working directly with families, etc.).
 - (iv) Or similar substantive experience consistent with any guidelines promulgated by the State Court Administrator.

(v) One academic year of education in pursuit of a related degree (outlined in 12.070(a), 12.070(b), 12.070(c), or 12.070(d)) may be substituted for 2080 hours (one year in a full-time role) of substantive experience.

(2) Training. An applicant must have completed training in each of the following areas:

(a) The basic mediation curriculum **{described}** in UTCR 12.100**{, or substantially similar training}**;

(b) The domestic relations custody and parenting **{plan}** mediation curriculum **{described}** in UTCR 12.110; and

(c) **{The c}/C**ourt-system training **{described}** in UTCR 12.130, or substantially similar training**{, education or experience}**.

(3) Experience. An applicant must have completed **{both (a) and (b):}***[one of the following types of experience:*

(a) *Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or co-mediated with a person qualified as a domestic relations custody and parenting mediation supervisor under this section. At least 10 cases and 50 hours of the supervised cases must be in domestic relations custody and parenting mediation. At least three of the domestic relations custody and parenting mediation cases must have direct observation by the qualified supervisor; or]*

(b) *At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:*

(i) *Participated as a mediator or comediator in a total of at least 10 cases including a total of at least 50 hours of domestic relations custody and parenting mediation, and*

(ii) *An understanding of court-connected domestic relations programs.]*

{(a) Observations: An applicant must observe and debrief at least five separate domestic relations custody and parenting plan mediation cases for a minimum total of 10 observed hours before acting as a co-mediator or mediator in a case.

(b) Mediation Cases Under Supervision: An applicant must complete one of the following:

(i) If an applicant qualifies under section 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d) and does not have the substantive experience listed in 12.070(3)(b)(iii), the applicant must mediate 30 separate domestic relations custody and parenting plan mediation cases for a minimum total of 100 hours under the supervision of a qualified domestic relations

custody and parenting plan mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations custody and parenting plan mediation supervisor.

(ii) If an applicant qualifies under section 12.070(1)(e), the applicant must mediate 30 separate domestic relations custody and parenting plan mediation cases for a minimum total of 100 case hours under the supervision of a qualified domestic relations custody and parenting plan mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations custody and parenting plan mediation supervisor.

(iii) If an applicant qualifies under section 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d), and has at least 4160 hours (2 full-time years) substantive experience beyond any substantive experience used to qualify under section 12.070(1) in any of the following: mediation, family and/or couples therapy experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. The applicant must mediate 15 separate domestic relations custody and parenting plan mediation cases for a minimum total of 50 case hours under the supervision of a qualified domestic relations custody and parenting plan mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations custody and parenting plan mediation supervisor.

(c) Mediation experience cases and hours met under 12.080(3) that included custody and parenting plan mediation may also be counted to satisfy the experience requirements of 12.070(3).}

(4) Continuing education. As an ongoing obligation, an approved domestic relations custody and parenting {plan }mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in UTCR 12.140.

(5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting {plan }mediator must subscribe to {and comply with }the mediator ethics {provisions found }in UTCR 12.040.

[(6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must comply with requirements to provide and maintain information in UTCR 12.050.]

~~[(7)(6)]~~Supervision. A qualified domestic relations custody and parenting {plan }mediation supervisor is an individual who has:

(a) Met the qualifications of a domestic relations custody and parenting {plan }mediator as defined in UTCR 12.070;

(b) ~~[Completed]~~{Mediated} at least ~~[35]~~{60 separate domestic relations custody and parenting plan} cases ~~[including]~~{for} a ~~[total of at least 350]~~{minimum total of 200 total }hours of domestic relations custody and parenting {plan }mediation beyond

the experience required of a domestic relations custody and parenting { plan } mediator in this section; and

- (c) An understanding of court-connected domestic relations *[programs]* { services }.

12.080 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS FINANCIAL MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations financial mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and continue { s } to meet all ongoing requirements as described { in this section }. { A domestic relations financial mediator applicant does not need to be approved as a general civil mediator. }

For the purposes of 12.080: “Substantive Experience” means the performance of responsibilities in the professional fields outlined in Section 12.070 and 12.080 to create competency sufficient for initial practice as a domestic relations financial mediator under supervision. }

- (1) Education. An applicant must meet the education requirements under UTCR 12.070 applicable to an applicant to be approved as a domestic relations custody and parenting { plan } mediator.
- (2) Training. An applicant must have completed training in each of the following areas:
 - (a) The basic mediation curriculum { described } in UTCR 12.100 {, or substantially similar training};
 - (b) The domestic relations custody and parenting { plan } mediation curriculum { described } in UTCR 12.110;
 - (c) { The d }/D domestic relations financial mediation training { described } in UTCR 12.120; and
 - (d) { The c }/Court-system training { described } in UTCR 12.130, or substantially similar training {, education or experience}.
- (3) Experience. An applicant must have completed { both (a) and (b) } *[one of the following types of experience:*
 - (a) *Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or co-mediated with a person qualified as a domestic relations financial mediation supervisor under this section. At least 10 cases and 50 hours of the supervised cases in this paragraph must be in domestic relations financial mediation. At least three of the domestic relations financial mediation cases must have direct observation by the qualified supervisor; or*
 - (b) *At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:*

- (i) *Participated as a mediator or co-mediator in a total of at least 10 cases including a total of at least 50 hours of domestic relations financial mediation; and*
- (ii) *An understanding of court-connected domestic relations programs.]*

{(a) Observations: An applicant must observe and debrief at least five separate actual domestic relations financial mediation cases for a minimum total of 10 observed hours before acting as a co-mediator or mediator in a case.

(b) Mediation Cases Under Supervision: An applicant must complete one of the following:

(i) If an applicant qualifies under section 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d) and does not have the substantive experience listed in 12.080(3)(b)(iii), the applicant must mediate 30 separate domestic relations financial mediation cases for a minimum total of 100 hours under the supervision of a qualified domestic relations financial mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations financial mediation supervisor.

(ii) If an applicant qualifies under section 12.070(1)(e), the applicant must mediate 30 separate domestic relations financial mediation cases for a minimum total of 100 case hours under the supervision of a qualified domestic relations financial mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations financial mediation supervisor.

(iii) If an applicant qualifies under section 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d), and has at least 4160 hours (2 full-time years) substantive experience beyond any substantive experience used to qualify under section 12.070(1) in any of the following: domestic relations arbitrator, domestic relations judge, Certified Divorce Financial Analyst, mediator, family and/or couples therapy with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. The applicant must mediate 15 separate domestic relations financial mediation cases for a minimum total of 50 case hours under the supervision of a qualified domestic relations financial mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations financial mediation supervisor.

(c) The cases or hours outlined in 12.080(3)(b) should involve mediation of financial matters in the areas the applicant intends to practice (e.g., division of property, spousal support, or child support, etc.).

(d) The applicant must demonstrate proficiency in mediation of financial issues prior to the applicant mediating without an approved mediator or supervisor present in the mediation session.

(e) Mediation experience cases and hours met under 12.070(3) that included mediation of domestic relations financial issues may also be counted to satisfy the requirements of 12.080(3).

- (4) Continuing education. As an ongoing obligation, an approved domestic relations financial mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in UTCR 12.140.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must subscribe **and comply with** the mediator ethics **provisions found** in UTCR 12.040.
- [(6) Public information. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must comply with requirements to provide and maintain current information in UTCR 12.050.*
- (7) Insurance. As an ongoing obligation, an approved domestic relations financial mediator shall have in effect at all times the greater of:
- (a) \$100,000 in malpractice insurance or self-insurance with comparable coverage; or
- (b) Such greater amount of coverage as the determining authority requires.

~~(8)~~**(6)** Supervision. A qualified domestic relations financial mediation supervisor is an individual who has:

- (a) Met the qualifications of a domestic relations financial mediator as defined in this section;
- (b) *[Completed]***Mediated** at least *[35]***60 separate domestic relations financial mediation** cases *[including]***for** a *[total of at least 350]***minimum total of 200** hours of domestic relations financial mediation beyond the experience required in this section; and
- (c) *[Malpractice insurance coverage for the supervisory role in force]***An understanding of court-connected domestic relations services**.

12.090 INDEPENDENT **CONTRACTOR DOMESTIC RELATIONS FINANCIAL MEDIATOR** QUALIFICATION REVIEW

- (1) In *[programs]***courts** where domestic relations financial mediators are independent contractors, the determining authority must appoint a panel consisting of at least:
- (a) A representative of the determining authority;

- (b) A domestic relations financial mediator; and
 - (c) An attorney who practices domestic relations law locally.
- (2) The panel shall interview each applicant to be an approved domestic relations financial mediator solely to determine whether the applicant meets the requirements for being approved **{, conditionally approved,}** or whether it is appropriate to substitute *[or waive]* some minimum qualifications. The review panel shall report its recommendation to the determining authority in writing.
 - (3) Nothing in this section *[affects]* **{limits}** the authority under UTCR 12.030 to make sole and final determinations about whether an applicant has fulfilled the requirements to be approved or whether an application for substitution should be granted.

12.100 BASIC MEDIATION CURRICULUM

The basic mediation curriculum is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The basic mediation curriculum shall:

- (1) Be at least *[3]***{4}**0 hours*[, or substantially similar training or education]* **{consistent with any guidelines promulgated by the State Court Administrator}**.
- (2) Include *[training techniques that closely simulate the interactions that occur in a mediation]* **{multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation}** and that provide effective feedback to trainees, including, but not be limited to, at least six hours participation by each trainee in role plays with trainer feedback to the trainee and trainee self-assessment. **{The trainee must play the role of a mediator or co-mediator for at least three of the six hours.}**
- (3) Include instruction to help the trainee **{effectively}**:
 - (a) Gain an understanding of conflict resolution and mediation theory;
 - (b) Effectively prepare for mediation;
 - (c) *[Create]* **{Support}** a safe **{, accessible,}** and comfortable environment for the mediation **{including understanding and applying trauma-informed practices in mediation}**;
 - (d) Facilitate effective communication between the parties and between the mediator and the parties;
 - {(e) Understand and apply the protections of mediation confidentiality and its exceptions;}**
 - ([e]/[f])* Use techniques that help the parties solve problems and seek agreement;
 - [[f) Conduct the mediation in a fair and impartial manner,]*

- (g) Understand **and apply** *[mediator confidentiality and]* ethical standards for mediator conduct adopted *[by/in]* Oregon *[and national organizations]; [and]*
- (h) Conclude a mediation and **effectively** memorialize **any** understandings and agreements *].*

(i) Effectively navigate power dynamics in mediation; and

(j) Appropriately embed principles of equity, diversity and inclusion into mediation.

(4) Be conducted by a lead trainer who has:

- (a) The qualifications of a general civil mediator as defined in UTCR 12.060 *[, except the requirement in UTCR 12.060(1)(a) to have completed the basic mediation curriculum];*
- (b) Mediated at least 35 **separate** cases to conclusion *[or completed at least]* **for a minimum total of** *3* **1** 50 hours of mediation *[experience]* beyond the experience required of a general civil mediator in UTCR 12.060; and either **:**

[(c)] **(i) Served as a co-trainer [or an assistant trainer] for the basic mediation curriculum outlined in this section at least three times. A co-trainer must be present for the majority of a training and lead sections of curriculum delivery under the direct observation of a lead trainer. Someone serving only as a basic mediation role play coach will not be considered a co-trainer for purposes of this section;** or

[(d)] **(ii) Served as a teacher for at least 250 hours of accredited education or training for adults.** *[Have experience in adult education and mediation as follows:*

- (i) Served as a teacher for at least 1000 hours of accredited education or training for adults; and*
- (ii) Completed the basic mediation curriculum outlined under this section.]*

12.110 DOMESTIC RELATIONS CUSTODY AND PARENTING **PLAN** MEDIATION CURRICULUM

The domestic relations custody and parenting **plan** mediation curriculum **is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The domestic relations custody and parenting plan mediation curriculum** shall:

- (1) Include at least 40 hours *[in a domestic relations custody and parenting mediation curriculum]* consistent with any guidelines promulgated by the State Court Administrator.

- (2) Include multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees *[.]* **including, but not be limited to, at least six hours participation by each trainee in role plays with trainer feedback to the trainee and trainee self-assessment. The trainee must play the role of a mediator or co-mediator for at least three of the six hours.**
- (3) Provide instruction *[with the goal of creating competency sufficient for initial practice as a family mediator and must include the following topics]* **to help the trainee effectively:**
- (a) *[General family mediation knowledge and skills]* **Prepare for domestic relations custody and parenting plan mediation;**
 - (b) *[Knowledge and skill with families and children]* **Practice within current Oregon law, professional standards of practices, codes of ethics, and local court rules, policies, and procedures;**
 - (c) *[Adaptations and modifications for special case concerns; and]* **Manage safety before, during, and after mediation;**
 - (d) *[Specific family, divorce, and parenting information.]* **Mediate custody and parenting plan mediation cases;**
 - Help parties develop parenting plans based on relevant factors;**
 - Identify how different case scenarios may impact mediation and the parties' abilities to mediate; implement tools and techniques for mediating cases involving such experiences; and**
 - Access mediator tools, resources, and continuing education opportunities in the future, and connect with other custody and parenting plan mediators for continued development.**
- (4) Be conducted by a lead trainer who has all of the following:
- (a) The qualifications of a domestic relations custody and parenting **plan** mediator as defined in UTCR 12.070;
 - (b) *[Completed]* **Mediated** at least *[35]* **60 separate domestic relations custody and parenting plan** cases *[including]* **for** a *[total of at least 350]* **minimum total of 200** hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in UTCR 12.070. **Mediation experience cases and hours required of a domestic relations custody and parenting mediator in UTCR 12.070 that included domestic relations financial issues may also be counted to satisfy the requirements of 12.110(4);**
 - (c) Served as a *[mediation]* **co-**trainer *[or an assistant mediation trainer]* for the domestic relations custody and parenting **plan** mediation curriculum outlined in this section at least three times. **A co-trainer must be present for the majority of a**

training and lead sections of curriculum delivery under the direct observation of a lead trainer; and

- (d) An understanding of court-connected domestic relations *[programs]***services**.

12.120 DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING

*[(1)]***The d***[D]*omestic relations financial mediation *[training shall include at least 40 hours of training or education that covers the topics relevant to the financial issues the mediator will be mediating, including:]***curriculum is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The domestic relations financial mediation curriculum shall:**

- [(a)]* Legal and financial issues in separation, divorce, and family reorganization in Oregon, including property division, asset valuation, public benefits law, domestic relations income tax law, child and spousal support, and joint and several liability for family debt;
- [(b)]* Basics of corporate and partnership law, retirement interests, personal bankruptcy, ethics (including unauthorized practice of law), drafting, and legal process (including disclosure problems); and
- [(c)]* The needs of self-represented parties, the desirability of review by independent counsel, recognizing the finality of a judgment, and methods to carry out the parties' agreement.

[(2)] Of the training required in subsection (1) of this section:

- [(a)]* Twenty-four of the hours must be in an integrated training (a training designed as a single cohesive curriculum that may be delivered over time);
- [(b)]* Six hours must be in three role plays in financial mediation with trainer feedback to the trainee; and
- [(c)]* Fifteen hours must be in training accredited by the Oregon State Bar.]

{(1) Include at least 40 hours consistent with any guidelines promulgated by the State Court Administrator.

(2) Include multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation including and that provide effective feedback to trainees including, but not be limited to, at least six hours participation by each trainee in role plays with trainer feedback to the trainee and trainee self-assessment. The trainee must play the role of a mediator or co-mediator for at least three of the six hours.

(3) Provide instruction to help the trainee effectively:

- (a) Prepare for domestic relations financial mediation.**

- (b) Assist parties in allocating marital assets and debts within Oregon standards.**
 - (c) Facilitate discussion of:**
 - (i) Child support and costs potentially not covered by child support;**
 - (ii) Federal and state taxes;**
 - (iii) Medical insurance coverage for the children;**
 - (iv) Spousal support;**
 - (v) Real property;**
 - (vi) Business allocation;**
 - (vii) Personal property allocation; and**
 - (viii) Allocation of responsibility for debts.**
 - (d) Describe finality of judgments and any applicable post-judgment options.**
- (4) Be conducted by a lead trainer who has all of the following:**
- (a) The qualifications of a domestic relations financial mediator as defined in UTCR 12.080;**
 - (b) Mediated at least 60 separate domestic relations financial mediation cases including a minimum total of 200 hours of domestic relations financial mediation beyond the experience required of a domestic relations financial mediator in UTCR 12.080. Mediation experience cases and hours required of a domestic relations financial mediator in UTCR 12.080 that included domestic relations custody and parenting plan mediation may also be counted to satisfy the requirements of 12.110(4);**
 - (c) Served as a co-trainer for the domestic relations financial mediation curriculum outlined in this section at least three times. A co-trainer must be present for the majority of a training and lead sections of curriculum delivery under the direct observation of a lead trainer; and**
 - (d) An understanding of court-connected domestic relations mediation services.}**

12.130 COURT-SYSTEM TRAINING

When court-system training under this section is required, the training shall include, but not be limited to:

- (1) At least ~~[six]~~**eight** hours including, but not limited to, the following subject areas:
 - (a) Instruction on the court system including, but not limited to:

- (i) Basic legal vocabulary;
- (ii) How to read a court file;
- (iii) Confidentiality and disclosure;
- (iv) Availability of jury trials;
- (v) Burdens of proof;
- (vi) Basic trial procedure;
- (vii) The effect of a mediated agreement on the case including, but not limited to, finality, appeal rights, remedies, and enforceability;
- (viii) Agreement writing;

{(ix) Mediator opening statements;}

~~[(ix)]~~ Working with interpreters; and

~~[(x)]~~ **{Working with people who have disabilities including but not limited to o}[/O]**bligations under the Americans with Disabilities Act.

- (b) Information on the range of available administrative and other dispute resolution processes.
- (c) Information on the process that will be used to resolve the dispute if no agreement is reached, such as judicial or administrative adjudication or arbitration, including entitlement to jury trial and appeal, where applicable.
- (d) How the legal information described in this subsection is appropriately used by a mediator in mediation, including avoidance of the unauthorized practice of law.

[(2) For mediators working in contexts other than small claims court, at least two additional hours including, but not limited to, all of the following:

~~(a)]~~ **{e}** Working with represented and unrepresented parties, including:

[(i) The role of parties' attorneys in the mediation process;

[(ii) Attorney-client relationships, including privileges;

[(iii) Working with attorneys, including understanding of Oregon State Bar disciplinary rules; and

[(iv) Attorney fee issues.]

{(i) Available resources for unrepresented parties who have legal questions, and

(ii) Issues that arise when working with attorneys.

[(b) Understanding motions, discovery, and other court rules and procedures;

(c) Basic rules of evidence; and

(d) Basic rules of contract and tort law.]

{f) Local court programs and procedures. Topics may include:

(i) Scheduling of mediation sessions;

(ii) Submitting mediator reports and mediated agreements to the court;

(iii) Process for parties to complain about the mediation process;

(iv) Expectations around professional engagement with the court and the parties; and

(v) Anything else the local court determines to be appropriate.}

12.140 CONTINUING EDUCATION REQUIREMENTS

(1) Of the **{12}** continuing education hours required of approved **{civil}** mediators **{under UTCR 12.060}** every two calendar years:

[(a) If the mediator is an approved general civil mediator:

(i){a} One hour must relate to confidentiality;

[(ii){b} One hour must relate to mediator ethics; [and]

*[(iii){c} **One hour must relate to equity, diversity, inclusion, and access; and***

{d} Six hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation.

*[(b){2} **{Of the 24 continuing education hours required of}** [If the mediator is an] approved domestic relations custody and parenting **{plan mediators under 12.070 and of}** [or] domestic relations financial mediator **{s under 12.080 every two calendar years}**]:*

*[(i){a} [Two]{Three} hours must relate to **{mediator ethics in the context of domestic relations mediation, including one hour related to}** confidentiality;*

*[(ii){b} [Two hours must relate to mediator ethics]{**One hour must relate to domestic violence or intimate partner violence}**};*

{c) One hour must relate to equity, diversity, inclusion, and access;}

~~(iii)~~**(d)** Twelve hours must be on the subject of either custody and parenting issues or financial issues, respectively;

~~(iv)~~**(e)** Twelve hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation; and

~~(v)~~**(f)** *The hours required in subparagraphs (i) and (ii) can be met in the hours required in subparagraph (iii) if confidentiality or mediator ethics is covered in the context of domestic relations.* **Domestic Relations Mediator Report to the Court training:**

(i) An approved domestic relations mediator must complete the Domestic Relations Mediator Report to the Court training within six months of becoming an approved mediator.

(ii) When a training is offered by the Oregon Judicial Department regarding updates to the domestic relations mediator report to the court, the approved mediator must complete the training within six months of the training being offered.

~~(2)~~**(3)** Continuing education topics may include, but are not limited to, the following examples:

(a) Those topics outlined in UTCR 12.100, 12.110, ~~and~~ 12.120~~;~~ **12.130, and in any corresponding curriculum guidelines issued by the State Court Administrator;**

(b) Practical skills-based training in mediation or facilitation;

(c) Court processes;

(d) Confidentiality laws and rules;

(e) Changes in the subject matter areas of law in which the mediator practices;

(f) Mediation ethics;

(g) Domestic violence;

(h) Power dynamics;

~~(h)~~**(i)** Sexual assault;

~~(i)~~**(ii)** Child abuse and elder abuse;

~~(j)~~ *Gender, ethnic, and cultural diversity;*

(k) Psychology and psychopathology;

(l) Organizational development;

(m) Communication;

- (n) Crisis intervention;
- (o) Program administration and service delivery;
- (p) Practices and procedures of state and local social service agencies; *[and]*

{(q) Trauma-informed practices;

{(r) The use of technology in mediation;}

{(q/s) Safety issues for mediators.}, and

{(t) Suicide prevention.}

{(3/4)} Continuing education shall be conducted by an individual or group qualified by practical or academic experience. For purposes of this section, an hour is defined as 60 minutes of instructional time or activity and may be completed in a variety of formats, including but not limited to:

- (a) Attendance at a live lecture or seminar;
- (b) Attendance at an audio or video playback of a lecture or seminar with a group where the group discusses the materials presented;
- (c) Listening or viewing audio, video, or internet presentations;
- (d) Receiving supervision as part of a training mentorship;
- (e) Formally debriefing mediation cases with mediator supervisors and colleagues following the mediation **{, but not to exceed two hours per reporting period};**
- (f) Lecturing or teaching in qualified continuing education courses; and
- (g) Reading, authoring, or editing written materials submitted for publication that have significant intellectual or practical content directly related to the practice of mediation.

{(4/5)} Continuing education classes should enhance the participant's competence as a mediator and provide opportunities for mediators to expand upon existing skills and explore new areas of practice or interest. To the extent that the mediator's prior training and experience do not include the topics listed above, the mediator should emphasize those listed areas relevant to the mediator's practice.

{(5/6)} Where applicable, continuing education topics should be coordinated with, reported to, and approved by the determining authority of each court at which the mediator is an approved mediator and reported at least every two calendar years via the electronic Court-Connected Mediator Continuing Education Credit Form available on the Oregon Judicial Department's webpage or other reporting form authorized by the appropriate determining authority.