



UTCRC Chapter 12 – Proposed Changes to Court-Connected Mediator Qualifications

Court-Connected Mediator Qualifications Advisory Committee

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UTCRC Chapter 12:

Establishes minimum qualifications, obligations, and mediator disclosures, including education, training, experience, and conduct requirements, applicable to:

1. General civil mediators as provided by ORS 36.200(1).
2. Domestic relations custody and parenting plan mediators as provided by ORS 107.775(2).
3. Domestic relations financial mediators as provided by ORS 107.755(4).



Approved Mediator

*Paraphrased definition
(12.020)*

- A mediator who is approved by an Oregon circuit court or judicial district to mediate certain case types.
- Specific to mediation services operated by the court or judicial district, subject to UTCR 12.010.

Why do court-connected mediator qualifications matter?

The quality of a court's mediation services can impact:

- Court user satisfaction
- Public trust in the judicial system
- Judicial caseloads
- Court workloads
- Case outcomes for court users
- How much time and money a dispute may cost someone

HISTORY OF COURT-CONNECTED MEDIATOR QUALIFICATIONS

Qualifications first adopted by Oregon Dispute Resolution Commission (ODRC).

Qualification rules removed from Uniform Trial Court Rules (UTCRC) and adopted under Chief Justice Order 05-028.

State Court Administrator received qualification rules recommendations. Scope of project and stakeholders became clear.

2003

2017

2022

1992-1998

2005

2021

Responsibility for qualifications transferred from ODRC to Judicial Department. Qualification rules adopted into UTCRC Chapter 12.

State Court Administrator received qualification rules recommendations and facilitated stakeholder discussions.

Qualification rules moved into UTCRC Chapter 12 under Chief Justice Order 22-009.

In the Matter of the Adoption of
Amendments to the Uniform Trial
Court Rules

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CHIEF JUSTICE ORDER
No. 22-009

ADOPTION OF AMENDMENTS TO THE
UNIFORM TRIAL COURT RULES

I HEREBY ORDER, pursuant to ORS 1.002, UTCR 1.030, and UTCR 1.050, the following:

1. The Uniform Trial Court Rules, as amended below, are adopted and are effective August 1, 2022, pursuant to ORS 1.002.
2. **The court-connected mediator qualifications in new UTCR 12.010 – UTCR 12.140 replace and supersede CJO 05-028.**



The Assignment



- Review existing rules.
- Gather input from broad group of stakeholders.
- Determine whether amendments are needed.
- Develop final recommendations for proposed amendments to Chapter 12 for the UTCR Committee's consideration.

COURT-CONNECTED MEDIATOR QUALIFICATIONS ADVISORY COMMITTEE

Court-based
mediation
coordinators

Community
Dispute
Resolution
Centers

Domestic relations
mediators employed
and contracted by
counties

Mediation Trainers

Private mediators

Volunteer
mediators

Trial Court
Administrators

Attorneys

Oregon Mediator
Diversity Project

SFLAC Mediation
Subcommittee

Oregon Mediation
Association

ADR higher
education
programs


Rural and urban
stakeholders

Oregon State Bar
ADR Section
Executive
Committee

Mediators from
different
professional
backgrounds



Initial Stakeholder Input and Areas of Discussion

- Education requirements
 - Experience hours and supervision levels
 - Training topics and length
 - Outdated sections and practices
 - Opportunities for clarification
- 

Court- Connected Mediator Qualifications Advisory Committee's Goals

- Adequately tailor qualification requirements for each service areas.
- Create strong foundation for court-connected mediation for people in all areas of the state, including underserved populations.
- Diversify the demographic representation of mediators by removing unnecessary barriers.
- Ensure sufficient mediators while providing appropriate training and education requirements.
- Reflect the needs of all stakeholders, including parties, programs, mediators, courts, lawyers, and state agencies.



Court-Connected Mediator Qualifications Advisory Committee




Domestic Relations Mediation
Qualifications Subcommittee



Workgroup on Domestic
Relations Financial Issues
Training



Mediation Training
Subcommittee

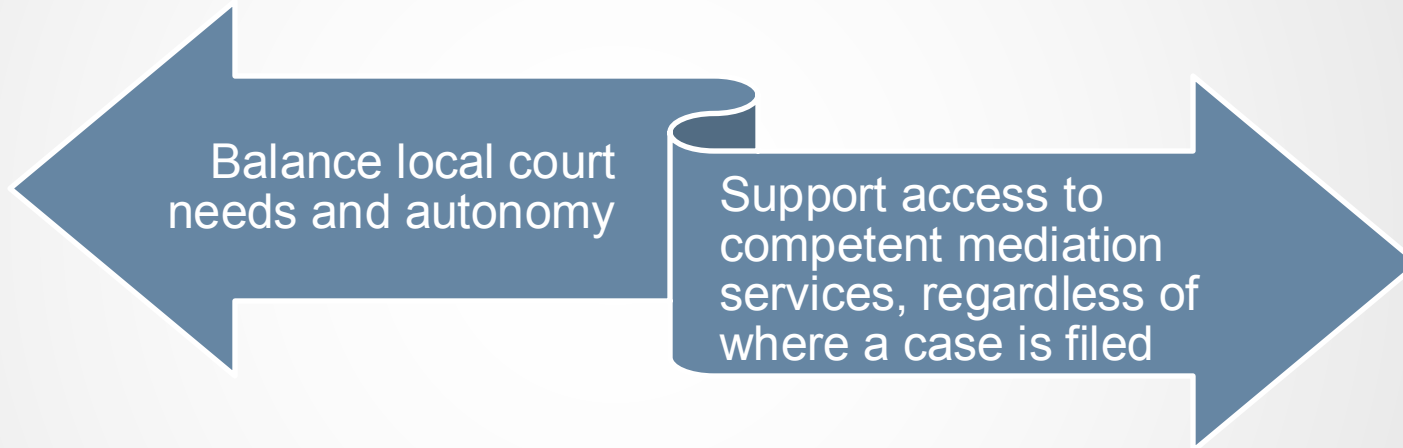
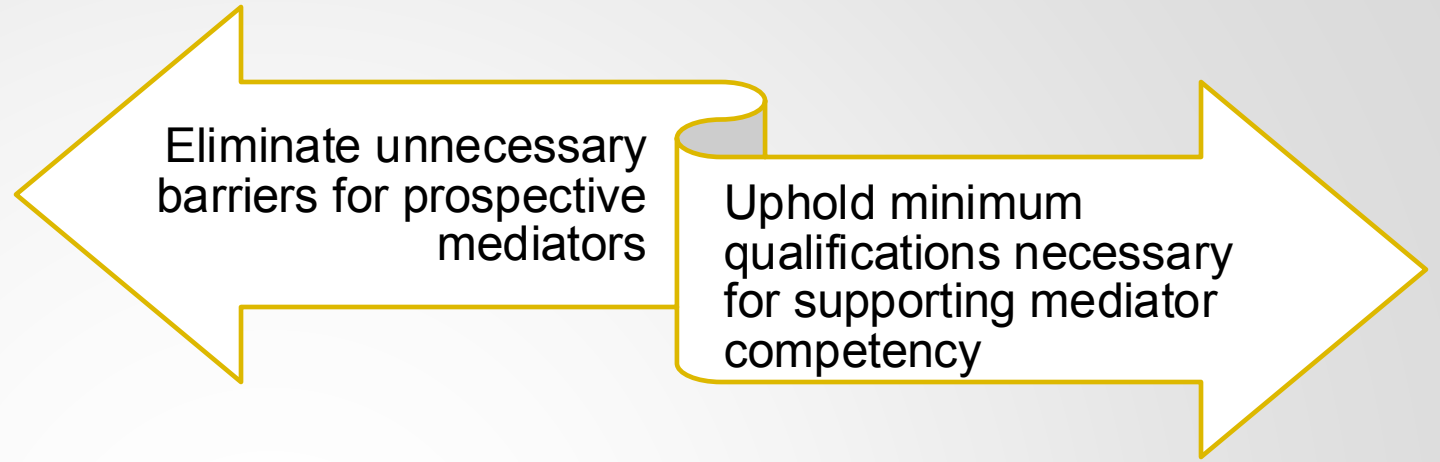


Workgroup on Diversity,
Equity, and Inclusion Training



**“I’m trying to organize a stampede,
but everybody has their own agenda.”**

Tensions



Materials To Help Guide Your Discussion Today

*Pages from the UTCR Committee's October 10 meeting agenda

Chapter 12 with
proposed
revisions

Pages 1196-1225

Memorandum
from Advisory
Committee to
UTCR Committee

Pages 1161-1168

Chart 1:
Substantive
amendments and
reasoning

Pages 1169-1179

Chart 2: Outlines
qualification
requirements by
mediator type

Pages 1180-1183

Chart 3: Outlines the
various mediation
training requirements

Pages 1184-1185

Flowchart 1: Clarifies
mediation experience
pathways: domestic
relations mediators

Page 1186

Three draft OSCA
training guidelines
from Chapter 12

Pages 1187-1195


Summary of Proposed Amendments

- Add definitions: “case” & “lead trainer.”
- Amend the process for conditional approval and substitution of qualification requirements.
- Amend mediator ethics requirements
- Repeal 12.050. Amend related sections.
- Amend the training, experience, and ongoing obligations requirements for:
 - General civil mediators
 - Domestic relations custody and parenting mediators
 - Domestic relations financial mediators
- Amend training requirements and applicable training curriculums:
 - Basic Mediation Training
 - Custody and Parenting Time Mediation Training
 - Domestic Relations Financial Mediation training
 - Court-system training requirements
- Amend continuing education requirements for mediators.
- Modify the rule for readability and clarity.

CHAPTER 12 AND THE BROADER DISPUTE RESOLUTION SCHEME

The committee considered each amendment:

- As an individual proposal
- In relation to the other Chapter 12 sections
- In the context of:
 - The full chapter
 - Oregon statutes
 - Mediator ethical standards
 - Best practice recommendations
 - Equity lens
 - The broader dispute resolution scheme



The Court-Connected Mediator Qualifications Advisory Committee recommends the UTCR Committee make a preliminary recommendation to post the Advisory Committee's package of proposed amendments for public comment.

CHAPTER 12 AND THE BROADER DISPUTE RESOLUTION SCHEME

Exercise caution before making further amendments. If you wish to consider further amendments, consider the impact of the proposal:

- In relation to the other Chapter 12 sections
- In the context of:
 - The full chapter
 - Oregon statutes
 - Mediator ethical standards
 - Best practice recommendations
 - An equity lens
 - The broader dispute resolution scheme

Future Recommendations

Next Round Of Chapter 12 Revisions

- 1) The development of layered mediator qualification requirements for specialized case areas:
 - Civil cases involving higher dispute amounts and topics other than small claims/FED cases
 - Probate, conservatorship, and guardianship cases
- 2) An amendment to Chapter 12 to address the rapid evolution of technology and subsequent impacts for mediator ethical standards.

Other Initiatives

Determine an appropriate venue for exploring compensation for civil court-connected mediators.

Acknowledgments

- Court-Connected Mediator Qualifications Advisory Committee members, subcommittee members, and workgroup participants
- Megan Hassen and Amy Benedum
- UTCR Court Reporter, Rachel Trickett
- Former UTCR Court Reporter, Aja Holland

Thank you. Questions?



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<https://www.courts.oregon.gov/programs/adr>