

1 Rule 4-510.03. Qualification of ADR providers.

2 Intent:

3 To establish eligibility and qualification requirements for inclusion on the Utah Court  
4 Approved ADR Roster including additional requirements for designation as a Divorce  
5 Roster Mediator, Master Mediator and Domestic Mentor.

6 Applicability:

7 This rule applies in the district court.

8 Statement of the Rule:

9 ~~(3) Qualification of providers.~~

10 ~~(3)(A)(1)~~ To be eligible for the roster, an applicant must:

11 ~~(3)(A)(i)-(1)(A)~~ submit a written application to the Director setting forth:

12 ~~(3)(A)(i)(a)-(1)(A)(i)~~ a description of how the applicant meets, or will meet within a  
13 reasonable time, the requirements specified in paragraph (3)(B)(i), if applicable;

14 ~~(3)(A)(i)(b)-(1)(A)(ii)~~ the major areas of specialization and experience of the  
15 applicant, such as real estate, estates, trusts and probate, family law, personal injury or  
16 property damage, securities, taxation, civil rights and discrimination, consumer claims,  
17 construction and building contracts, corporate and business organizations,  
18 environmental law, labor law, natural resources, business transactions/commercial law,  
19 administrative law and financial institutions law;

20 ~~(3)(A)(i)(c)-(1)(A)(iii)~~ the maximum fees the applicant will charge for service as a  
21 provider under the ADR program; and

22 ~~(3)(A)(i)(d)-(1)(A)(iv)~~ the judicial districts in which the applicant is offering to provide  
23 services and the location and a description of the facilities in which the applicant intends  
24 to conduct the ADR proceedings;

25 ~~(3)(A)(ii)-(1)(B)~~ agree to complete and annually complete up to six hours of ADR  
26 training as required ~~and offered~~ by the Judicial Council;

27 ~~(3)(A)(iii)-(1)(C)~~ submit an annual report to the Director indicating the number of  
28 mediations and arbitrations the ADR provider has conducted that year; and

29 ~~(3)(A)(iv)-(1)(D)~~ be ~~recertified~~ re-qualified annually.

30 ~~(3)(B)-(2)~~ To be included on the roster as a mediator:

31 ~~(3)(B)(i)-(2)(A)~~ all new applicants to the court roster must also have successfully  
32 completed at least 40 hours of court-approved basic formal mediation training in the last  
33 three years. This training shall be under a single training course from a single, court-  
34 approved training provider. The applicant must also complete 10 hours of experience in  
35 observing a court qualified mediator conduct mediation, and 10 hours in either  
36 conducting mediations singly or co-mediating with a court qualified mediator, or meet  
37 such other education, training and experience requirements as the Council finds will  
38 promote the effective administration of the ADR program;

39 ~~(3)(B)(ii)-(2)(B)~~ successfully pass an examination on the Code of Ethics for ADR  
40 providers;

41 ~~(3)(B)(iii)-(2)(C)~~ agree to conduct at least three pro bono mediations each year as  
42 referred by the Director; and

43 ~~(3)(B)(iv)-(2)(D)~~ be of good moral character in that the provider has not been  
44 convicted of a felony, a misdemeanor involving moral turpitude, or any other serious  
45 crime, and has not received professional sanctions that, when considered in light of the  
46 duties and responsibilities of an ADR provider, are determined by the Director to  
47 indicate that the best interests of the public are not served by including the provider on  
48 the roster.

49 ~~(3)(C)-(3)~~ To be included on the court roster for qualified divorce mediators:

50 ~~(3)(C)(i)-(3)(A)~~ All new applicants to the roster of divorce mediators must also have  
51 an additional 32 hours of court-approved training specific to the skills, Utah laws, and  
52 information needed to conduct divorce mediation. This training shall be under a single  
53 training course from a single, court-approved provider.

54 ~~(3)(C)(ii)-(3)(B)~~ All applicants must have a minimum of 6 hours of training specific to  
55 domestic violence and screening for domestic violence which may be included in the  
56 court approved 32 hour training referred to above.

57 ~~(3)(C)(iii)-(3)(C)~~ New applicants to the court roster of divorce mediators are required  
58 to have acquired experience specific to divorce mediation. This is in addition to the 20  
59 hours of experience required for the court roster of basic mediators. The additional  
60 experience includes having observed a minimum of two divorce mediations, co-  
61 mediating two divorce mediations and having been observed conducting two divorce

62 mediations. Each of these includes debriefing and analysis afterward with a mediator  
63 who has Domestic Mentor status. The Domestic Mentor may charge a fee for this  
64 service.

65 ~~(3)(C)(iv)~~ ~~(3)(D)~~ The Director will maintain and make available a list of those  
66 mediators who have Domestic Mentor status.

67 ~~(3)(D)~~ ~~(4)~~ To be included on the roster as a Master Mediator, the provider must also  
68 have completed 300 hours in conducting mediation sessions.

69 ~~(3)(E)~~ ~~(5)~~ To be included on the roster as a Domestic Mentor, the provider must also  
70 have completed 300 hours in conducting mediation in domestic cases and completed a  
71 domestic mentor orientation.

72 ~~(3)(F)~~ ~~(6)~~ To be included on the roster as an arbitrator, the provider must also:

73 ~~(3)(F)(i)~~ ~~(6)(A)~~ have been a member in good standing of the Utah State Bar for at  
74 least ten years, or meet such other education, training and experience requirements as  
75 the Council finds will promote the effective administration of the ADR program;

76 ~~(3)(F)(ii)~~ ~~(6)(B)~~ be of good moral character in that the provider has not been  
77 convicted of a felony, a misdemeanor involving moral turpitude, or any other serious  
78 crime, and has not received professional sanctions that, when considered with the  
79 duties and responsibilities of an ADR provider are determined by the Director to indicate  
80 that the best interests of the public are not served by including the provider on the  
81 roster; and

82 ~~(3)(F)(iii)~~ ~~(6)(C)~~ agree to conduct at least one pro bono arbitration each year as  
83 referred by the Director.

84 ~~(3)(G)~~ ~~(7)~~ To be ~~recertified~~ ~~re-qualified~~ as a mediator, the provider must, unless  
85 waived by the Director for good cause, demonstrate that the provider has conducted at  
86 least six mediation sessions or conducted 24 hours of mediation during the previous  
87 year.

88 ~~(3)(H)~~ ~~(8)~~ To be ~~recertified~~ ~~re-qualified~~ as an arbitrator, the provider must, unless  
89 waived by the Director for good cause, demonstrate that the provider has conducted at  
90 least three arbitration sessions or conducted 12 hours of arbitration during the previous  
91 year.

92 ~~(3)(I)(9)~~ A provider may be sanctioned for failure to comply with the code of ethics  
93 for ADR providers as adopted by the Supreme Court or for failure to meet the  
94 requirements of this rule or state statute. The committee shall inform the public of public  
95 sanctions against a provider promptly after imposing the sanction. Private sanctions  
96 may include singly or with other sanctions:

97 ~~(3)(I)(i)~~ admonition;

98 ~~(3)(I)(ii)~~ re-take and successfully pass the ADR ethical exam.

99 (9)A Public sanctions may include singly or with other sanctions:

100 ~~(3)(I)(iii)~~ a written warning and requirement to attend additional training;

101 ~~(3)(I)(iv)~~ (9)(A)(i) require the mediator to allow the Director or designee to observe a  
102 set number of mediation sessions conducted by the mediator;

103 ~~(3)(I)(v)~~ (9)(A)(ii) suspension for a period of time from the court roster; and

104 ~~(3)(I)(vi)~~ (9)(A)(iii) removal from the court roster.

105 (9)(B) Private sanctions may include singly or with other sanctions:

106 (9)(B)(i) admonition;

107 (9)(B)(ii) re-take and successfully pass the ADR ethical exam.

108 ~~(3)(J)~~ (10) The committee shall approve and publish procedures consistent with this  
109 rule to be used in imposing the sanction. The complainant shall file a written and signed  
110 complaint with the director. The director shall notify the provider in writing of the  
111 complaint and provide an opportunity to respond. The director may interview the  
112 complainant, the provider and any parties involved. Upon consideration of all factors,  
113 the director may impose a sanction and notify the complainant and the provider. If the  
114 provider seeks to challenge the sanction, the provider must notify the director within 10  
115 days of receipt of the notification. The provider may request reconsideration by the  
116 director or a hearing by the Judicial Council's ad hoc committee on ADR. The decision  
117 of the committee is final.

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