

1 **Rule 4-510.03. Qualification of ADR providers.**

2 Intent:

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

7 Applicability:

8 This rule applies in the district court.

9 Statement of the Rule:

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

11 (1)(A) submit a written application to the Director setting forth:

12 (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)~~(2)(A), if
14 applicable;

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

21 (1)(A)(iii) the maximum fees the applicant will charge for service as a
22 provider under the ADR program; and

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

26 (1)(B) agree to complete and annually complete up to six hours of ADR
27 training as required by the Judicial Council;

28 (1)(C) submit an annual report to the Director indicating the number of
29 mediations and arbitrations the ADR provider has conducted that year; and

30 (1)(D) be re-qualified annually.

31 (2) To be included on the roster as a mediator:

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

41 (2)(B) successfully pass an examination on the Code of Ethics for ADR
42 providers;

43 (2)(C) agree to conduct at least three pro bono mediations each year as
44 referred by the Director; and

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

51 (3) To be included on the court roster for qualified divorce mediators:

52 (3)(A) All new applicants to the roster of divorce mediators must also have
53 an additional 32 hours of court-approved training specific to the skills, Utah

54 laws, and information needed to conduct divorce mediation. This training shall
55 be under a single training course from a single, court-approved provider.

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

59 (3)(C) New applicants to the court roster of divorce mediators are required
60 to have acquired experience specific to divorce mediation. This is in addition
61 to the 20 hours of experience required for the court roster of basic mediators.
62 The additional experience includes having observed a minimum of two divorce
63 mediations, co-mediating two divorce mediations and having been observed
64 conducting two divorce mediations. Each of these includes debriefing and
65 analysis afterward with a mediator who has Domestic Mentor status. The
66 Domestic Mentor may charge a fee for this service.

67 (3)(D) The Director will maintain and make available a list of those
68 mediators who have Domestic Mentor status.

69 (4) To be included on the roster as a Master Mediator, the provider must
70 also have completed 300 hours in conducting mediation sessions.

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

74 (6) To be included on the roster as an arbitrator, the provider must also:

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

79 (6)(B) be of good moral character in that the provider has not been
80 convicted of a felony, a misdemeanor involving moral turpitude, or any other

81 serious crime, and has not received professional sanctions that, when
82 considered with the duties and responsibilities of an ADR provider are
83 determined by the Director to indicate that the best interests of the public are
84 not served by including the provider on the roster; and

85 (6)(C) agree to conduct at least one pro bono arbitration each year as
86 referred by the Director.

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

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

95 (9) A provider may be sanctioned for failure to comply with the code of
96 ethics for ADR providers as adopted by the Supreme Court or for failure to
97 meet the requirements of this rule or state statute. The committee shall inform
98 the public of public sanctions against a provider promptly after imposing the
99 sanction.

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

101 a written warning and requirement to attend additional training;

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

104 (9)(A)(ii) suspension for a period of time from the court roster; and

105 (9)(A)(iii) removal from the court roster.

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

107 (9)(B)(i) admonition;

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

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