

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

2 **Intent:**

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

6 **Applicability:**

7 This rule applies in the district court.

8 **Statement of the Rule:**

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

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

11 (1)(A)(i) a description of how the applicant meets, or will meet within a reasonable time, the requirements  
12 specified in paragraph (2)(A), if applicable;

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

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

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

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

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

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

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

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

35 (2)(B) successfully pass an examination on the ~~Code of Ethics for ADR providers~~ ethical requirements for  
36 mediators on the Utah Court Roster;

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

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

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

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

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

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

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

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

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

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

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

66 (6)(B) be of good moral character in that the provider has not been convicted of a felony, a misdemeanor  
67 involving moral turpitude, or any other serious crime, and has not received professional sanctions that,  
68 when considered with the duties and responsibilities of an ADR provider are determined by the Director to  
69 indicate that the best interests of the public are not served by including the provider on the roster; and

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

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

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

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

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

82 a written warning and requirement to attend additional training;

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

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

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

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

88 (9)(B)(i) admonition;

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

90 (10) The committee shall approve and publish procedures consistent with this rule to be used in imposing  
91 the sanction. The complainant shall file a written and signed complaint with the director. The director shall  
92 notify the provider in writing of the complaint and provide an opportunity to respond. The director may  
93 interview the complainant, the provider and any parties involved. Upon consideration of all factors, the  
94 director may impose a sanction and notify the complainant and the provider. If the provider seeks to  
95 challenge the sanction, the provider must notify the director within 10 days of receipt of the notification.  
96 The provider may request reconsideration by the director or a hearing by the Judicial Council's ad hoc  
97 committee on ADR. The decision of the committee is final.

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99 Effective November 1, 2018