

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
4 ADR Roster including additional requirements for designation as a Divorce Roster Mediator,
5 Master Mediator 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
12 requirements 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,
14 estates, trusts and probate, family law, personal injury or property damage, securities, taxation,
15 civil rights and discrimination, consumer claims, construction and building contracts, corporate
16 and business organizations, environmental law, labor law, natural resources, business
17 transactions/commercial law, 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
19 program; and

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

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

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

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

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

29 (2)(A) all new applicants to the court roster must also have successfully completed at least 40
30 hours of court-approved basic formal mediation training in the last three years. This training
31 shall be under a single training course from a single, court-approved training provider. The
32 applicant must also complete 10 hours of experience in observing a court qualified mediator
33 conduct mediation, and 10 hours in either conducting mediations singly or co-mediating with a

34 court qualified mediator, or meet such other education, training and experience requirements as
35 the Council finds will promote the effective administration of the ADR program;

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

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

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

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

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

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

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

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

62 (4) To be included on the roster as a Master Mediator, the provider must also have completed
63 300 hours in conducting mediation sessions.

64 (5) To be included on the roster as a Domestic Mentor, the provider must also have completed
65 300 hours in conducting mediation in domestic cases and completed a domestic mentor
66 orientation.

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

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

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

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

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

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

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

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

88 a written warning and requirement to attend additional training;

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

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

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

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

94 (9)(B)(i) admonition;

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

96 (10) The committee shall approve and publish procedures consistent with this rule to be used in
97 imposing the sanction. The complainant shall file a written and signed complaint with the
98 director. The director shall notify the provider in writing of the complaint and provide an
99 opportunity to respond. The director may interview the complainant, the provider and any parties
100 involved. Upon consideration of all factors, the director may impose a sanction and notify the
101 complainant and the provider. If the provider seeks to challenge the sanction, the provider must
102 notify the director within 10 days of receipt of the notification. The provider may request

- 103 reconsideration by the director or a hearing by the Judicial Council's ad hoc committee on ADR.
- 104 The decision of the committee is final.