

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

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3 **Intent:**

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

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8 **Applicability:**

9 This rule applies ~~to~~ in the district courts.

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11 **Statement of the Rule:**

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(1) **Application.** To be eligible for the roster, an applicant must:

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

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

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

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

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

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

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

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

(2) **Mediator eligibility.** To be included on the roster as a mediator:

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

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

(2)(B) **Examination.** New applicants must successfully pass an examination on the ethical requirements for mediators on the Utah Court Roster ~~;~~

(2)(C) **Pro bono mediation.** New applicants and providers must agree to conduct at least three pro bono mediations each year as referred by the Director ~~;~~ ~~and~~

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

(3) **Divorce mediator eligibility.** To be included on the court roster for qualified divorce mediators:

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

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

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

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

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

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

(6) **Arbitrator eligibility.** To be included on the roster as an arbitrator, the provider must also:

98 (6)(A) Utah Bar. ~~h~~Have been a member in good standing of the Utah State Bar for at
 99 least ten years; ~~or meet such other education, training and experience requirements as~~
 100 ~~the Council finds will promote the effective administration of the ADR program;~~

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 102 (6)(B) Good moral character. ~~b~~Be of good moral character in that the provider has not
 103 been convicted of a felony, a misdemeanor involving moral turpitude, or any other
 104 serious crime, and has not received professional sanctions that, when considered with
 105 the duties and responsibilities of an ADR provider are determined by the Director to
 106 indicate that the best interests of the public are not served by including the provider on
 107 the roster; and

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 109 (6)(C) Pro bono arbitration. ~~a~~Agree to conduct at least one pro bono arbitration each
 110 year as referred by the Director.

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

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

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 120 (9) Sanctions. A provider may be sanctioned for failure to comply with the code of ethics for
 121 ADR providers as adopted by the Supreme Court or for failure to meet the requirements of this
 122 rule or state statute. The Judicial Council's ad hoc committee on ADR ("Committee") ~~shall will~~
 123 inform the public of public sanctions against a provider promptly after imposing the sanction.

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

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 127 (9)(A)(i) a written warning and requirement to attend additional training;

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 129 (9)(A)(ii) ~~require the mediator to allow the Director or designee to observation by~~
 130 ~~the Director, or the Director's designee, of~~ a set number of mediation sessions
 131 conducted by the mediator;

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 133 (9)(A)(iii) suspension for a period of time from the court roster; ~~and~~

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 135 (9)(A)(iv) ~~removal from the court roster.~~

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

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 139 (9)(B)(i) admonition; ~~or~~

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 141 (9)(B)(ii) a requirement to re-take and successfully pass the ADR ethical exam.

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 143 ~~(9)(C)~~ Procedures. The ~~C~~committee ~~shall will~~ approve and publish procedures
 144 consistent with this rule to be used in imposing the sanction.

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 146 (10) Complaints. The complainant ~~shall must be submitted to the Director in writing file a~~
 147 ~~written~~ and signed by the complainant with the director. The ~~D~~director ~~shall will~~ notify the
 148 provider in writing of the complaint and provide an opportunity to respond. The ~~d~~Director may

149 interview the complainant, the provider and any parties involved. Upon consideration of all
150 factors, the ~~d~~Director may impose a sanction, with notice to ~~and notify~~ the complainant and the
151 ~~p~~Provider. If the ~~p~~Provider seeks to challenge the sanction, the ~~p~~Provider must notify the
152 ~~D~~irector within 10 days of receipt of the notification. The ~~p~~Provider may request
153 reconsideration by the ~~d~~Director or a hearing by the ~~Judicial Council's ad hoc C~~committee ~~on~~
154 ADR. The decision of the Ccommittee is final.

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156 *Effective: ~~11/1/2018~~ May 1, 2025*