

## **NOTICE SEEKING PUBLIC COMMENT ON PROPOSED UNIFORM TRIAL COURT RULES CHANGES FOR 2025**

### **I. INTRODUCTION**

This notice is provided pursuant to Uniform Trial Court Rule (UTCRC) 1.020(3), which requires official notice of proposed rule changes to be posted on the Oregon Judicial Department (OJD) website ([www.courts.oregon.gov/utcr](http://www.courts.oregon.gov/utcr)) for at least 49 days to allow submission of public comment.

The UTCRC Committee makes recommendations to the Chief Justice of the Oregon Supreme Court and to the full Supreme Court where required by rule, statute, or the constitution. At its fall meeting on October 10, 2024, the committee made preliminary recommendations on proposed changes and voted to send out other proposals for public comment without committee recommendation of approval or disapproval. The committee will review public comment and make final recommendations at its next meeting on March 20, 2025.

The committee encourages you to submit comments on these proposals, recommendations (whether for approval, disapproval, or without recommendation), and any other UTCRC action taken by the committee or the Chief Justice. To be considered by the committee, public comment must be received by the UTCRC Reporter by 5:00 p.m. on February 18, 2025.

### **SUBMISSION OF WRITTEN COMMENTS**

You can submit written comments by clicking on the button next to the item of interest. You can also submit written comments by email or traditional mail:

[utcr@ojd.state.or.us](mailto:utcr@ojd.state.or.us)

or

UTCRC Reporter  
Supreme Court Building  
1163 State Street  
Salem, Oregon 97301-2563

If you wish to appear at the spring meeting, please contact the UTCRC Reporter, Rachel Trickett, at [utcr@ojd.state.or.us](mailto:utcr@ojd.state.or.us) to schedule a time for your appearance.

Following adoption, the rules will be posted on the [OJD website](#) listed above. Additional information on the UTCRC process can be found at the same web address.

## **II. FUTURE MEETINGS**

The committee plans to meet twice in 2025.

**SPRING MEETING:** Thursday, March 20, 2025, at 9:00 a.m., at the OJD Juvenile and Family Court Programs Division in Salem, Oregon. The committee will review public comment on the proposals and preliminary recommendations described in this notice and will make final recommendations to the Chief Justice on changes to the UTCR to take effect August 1, 2025 (unless otherwise noted). The committee may reconsider these proposals, the corresponding recommendations, out-of-cycle amendments, and any other UTCR action taken by the committee.

**FALL MEETING:** Friday, October 24, 2025, 9:00 a.m., at the OJD Enterprise Technology Services Division in Salem, Oregon. The committee will review existing and proposed Supplementary Local Rules (SLR) and may make recommendations to the Chief Justice on disapproval of SLR pursuant to UTCR 1.050. The committee will also consider proposals for changes to the UTCR to take effect August 1, 2026. This is the only meeting at which the committee intends to accept proposals for that cycle. Committee meeting dates for the following year will be scheduled at the fall meeting.

## **III. SYNOPSIS OF FALL 2024 ACTIONS**

### **A. RECOMMENDATIONS OF APPROVAL**

These are brief descriptions of UTCR changes the committee has preliminarily recommended for approval. See section IV.A for detailed explanations.

1. 5.010 – CONFERRING ON MOTIONS UNDER ORCP 21, 23, AND 36–46  
Amend the rule to add a conferral requirement for disputes relating to ORCP 55 (subpoenas).
2. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS  
Amend the rule to require certification of the advance service date, add a new exemption regarding waivers of appearance, and make conforming amendments to the certificate of readiness.
3. 5.180 – CONSUMER DEBT COLLECTION  
Amend to simplify the rule language and clarify requirements regarding the consumer debt collection disclosure statement.
4. 6.080 – MARKING EXHIBITS  
Amend subsection (3) to require a list of premarked exhibits to be submitted to the court as ordered by the assigned judge to align with the time for submitting exhibits under UTCR 6.050(3).

5. 8.010 – ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT  
Amend UTCR 8.010(4) to simplify the terminology used regarding required “attachments” to a Uniform Support Declaration (USD) and USD-related “schedules and attachments required by the schedules.”
6. 9.010 – MAILING PROBATE MATERIALS TO THE COURT  
Repeal the rule regarding the mailing of probate documents to the court. See related items A.7–A.18.
7. 9.020 – APPROVAL OF BONDS  
Amend to require that bond change requests be made by motion or by request in an annual accounting to conform with local court practices. See related items A.6 and A.8–A.18.
8. 9.040 – SETTLEMENT OF PERSONAL INJURY CLAIMS IN PROBATE CASES  
Amend to require probate court approval of settlements of personal injury claims on behalf of protected persons. See related items A.6–A.7 and A.9–A.18.
9. 9.050 – RESTRICTED ACCOUNTS  
Amend to require that a depository’s signed writing include a statement acknowledging the consequences of unauthorized withdrawals. See related items A.6–A.8 and A.10–A.18.
10. 9.060 – FEES IN ESTATES, GUARDIANSHIPS AND CONSERVATORSHIPS  
Amend to require that affidavits supporting a request for attorney fees also include a fee itemization in the manner provided in UTCR 5.080. See related items A.6–A.9 and A.11–A.18.
11. 9.160 – FORM OF ACCOUNTINGS  
Amend to add prefatory language addressing important components of required accountings and add a new section to create a beginning total balance requirement to the form of accountings. See related items A.6–A.10 and A.12–A.18.
12. 9.170 – FIDUCIARY DISCLOSURE IN ACCOUNTINGS  
Amend to add a new disclosure requirement regarding advancements and reimbursements made to fiduciaries. See related items A.6–A.11 and A.13–A.18.
13. 9.180 – VOUCHERS AND DEPOSITORY STATEMENTS  
Amend to allow fiduciaries to file vouchers and depository statements as confidential documents under a separately captioned court filing. See related items A.6–A.12 and A.14–A.18.

14. 9.200 – AUDIT OF ACCOUNTING AND RELATED DOCUMENTS  
Adopt a new rule governing a court’s authority to audit case filings regarding a fiduciary’s administration of estates, guardianships, and conservatorships. See related items A.6–A.13 and A.15–A.18.
15. 9.300 – APPOINTMENT OF GUARDIANSHIPS IN ADOPTIONS  
Amend to clarify language regarding appointment procedures. See related items A.6–A.14 and A.16–A.18.
16. 9.330 – GUARDIAN’S REPORT IN MINOR GUARDIANSHIPS  
Adopt a new rule requiring the appointed guardian of a minor to file an annual written report with the court. See related items A.6–A.15 and A.17–A.18.
17. 9.400 – APPOINTMENT OF COURT VISITOR  
Adopt a new rule in place of the current UTCR 9.400 (current UTCR 9.400 – Court Visitor’s Report) to be renumbered as 9.420) to create a standard process to appoint court visitors. See related items A.6–A.16 and A.18.
18. 9.420 – COURT VISITOR’S REPORT  
Renumber current UTCR 9.400 to 9.420 and amend to mandate that a visitor’s report is a confidential filing and to identify persons who must receive a copy of the report. See related items A.6–A.17.

## **B. RECOMMENDATIONS OF DISAPPROVAL**

These are brief descriptions of UTCR proposals the committee has preliminarily recommended for disapproval. See section IV.B for a detailed explanation.

1. 1.110 – DEFINITIONS  
Amend the rule to remove the requirement to include a fax number as part of an attorney’s court contact information.
2. 5.010 – CONFERRING ON MOTIONS UNDER ORCP 21, 23, AND 36–46  
Amend the rule to add a new exception from the conferral requirement for motions to dismiss based on a failure to commence the action within the statute of limitations.

## **C. PROPOSALS SENT OUT FOR PUBLIC COMMENT WITHOUT RECOMMENDATION**

These are brief descriptions of UTCR proposals the committee has sent out for public comment without recommendation. See section IV.C for a detailed explanation.

1. 6.210 – JUROR REQUEST TO REVIEW AUDIO RECORD OF TRIAL TESTIMONY  
Adopt a new rule allowing a judge to grant a juror request to review a portion of the audio record of oral trial proceedings during jury deliberations.
2. 12.010 – APPLICABILITY  
Modify the rule language for readability. See related items C.3–C.15.
3. 12.020 – DEFINITIONS  
Amend the rule to add definitions of “case” and “lead trainer.” See related items C.2 and C.4–C.15.
4. 12.030 – DETERMINING AUTHORITY, DETERMINING MEDIATOR QUALIFICATIONS, OTHER RESPONSIBILITIES AND AUTHORITY  
Amend the process for conditional approval of mediators. See related items C.2–C.3 and C.5–C.15.
5. 12.040 – MEDIATOR ETHICS  
Amend the mediator ethics requirements. See related items C.2–C.4 and C.6–C.15.
6. 12.050 – PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION  
Repeal the rule to conform with proposed amendments to UTCR 12.030 and 12.040 regarding information about a mediator’s qualifications. See related items C.2–C.5 and C.7–C.15.
7. 12.060 – QUALIFICATION AS AN APPROVED GENERAL CIVIL MEDIATOR, ONGOING OBLIGATIONS  
Amend the basic training and ongoing obligations requirements for mediators. See related items C.2–C.6 and C.8–C.15.
8. 12.070 – QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATOR, ONGOING OBLIGATIONS  
Amend the training and ongoing obligations requirements for domestic relations custody and parenting mediators. See related items C.2–C.7 and C.9–C.15.
9. 12.080 – QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS FINANCIAL MEDIATOR, ONGOING OBLIGATIONS  
Amend the training and ongoing obligations requirements for domestic relations financial mediators. See related items C.2–C.8 and C.10–C.15.

10. 12.090 – INDEPENDENT QUALIFICATION REVIEW  
Change the title and revise the rule to conform with proposed amendments to UTCR 12.030. See related items C.2–C.9 and C.11–C.15.
11. 12.100 – BASIC MEDIATION CURRICULUM  
Amend the basic mediation training curriculum. See related items C.2–C.10 and C.12–C.15.
12. 12.110 – DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATION CURRICULUM  
Amend to change the rule title and revise the domestic relations custody and parenting mediation training curriculum. See related items C.2–C.11 and C.13–C.15.
13. 12.120 – DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING  
Amend the domestic relations financial mediation training curriculum. See related items C.2–C.12 and C.14–C.15.
14. 12.130 – COURT-SYSTEM TRAINING  
Amend the court-system training curriculum. See related items C.2–C.13 and C.15.
15. 12.140 – CONTINUING EDUCATION REQUIREMENTS  
Amend the continuing education requirements for general civil, domestic relations custody and parenting, and domestic relations financial mediators. See related items C.2–C.14.
16. 21.140 – MANDATORY ELECTRONIC FILING  
Amend to require the electronic filing of documents submitted in an action to which ORS chapter 90 applies.

#### **D. OTHER COMMITTEE ACTIONS**

These are brief descriptions of other UTCR Committee actions (see section IV.D for detailed explanations).

1. Committee Membership  
The committee received an update on membership.
2. Spring 2025 Meeting  
Scheduled spring meeting (March 20, 2025).
3. Fall 2025 Meeting  
Scheduled fall meeting (October 24, 2025).

4. OJD Law and Policy Ad Hoc Contempt Work Group Update  
The committee received an update on potential out-of-cycle amendments, to be effective January 1, 2025, to UTCR chapters 19 and 21, relating to contempt proceedings in the circuit courts.
5. Future UTCR Proposal to Address Filing Dates  
A UTCR Committee member sought input about the efficacy of, and options for, a potential future proposal regarding the “filed date” of certain conventionally filed pleadings.

## IV. DESCRIPTION OF FALL 2024 ACTIONS

Proposed deletions are in [*brackets and italics*]. Proposed additions are in **{braces, underline, and bold}**. A proposed revision (in lieu of a simpler amendment) consists of a complete rewriting of a rule or form so there is no use of [*brackets and italics*] or **{braces, underline, and bold}**. The same is true of a new rule.

### A. RECOMMENDATIONS OF APPROVAL

#### 1. 5.010 – CONFERRING ON MOTIONS UNDER ORCP 21, 23, AND 36–46

Amend the rule to add a conferral requirement for disputes relating to motions filed pursuant to ORCP 55 (subpoenas).

#### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

#### EXPLANATION

This proposal was submitted by Rachel D. Trickett, UCTR Reporter, on September 9, 2024. The proposal was based on a recommendation from the Council on Court Procedures—the public body that is most directly involved in creating, reviewing, and amending the Oregon Rules of Civil Procedure.

The UTCR Committee modified the proposed language by adding the phrase “to quash or to modify filed by a party.” The modification is intended to clarify that the conferral requirement applies only to disputes regarding a motion that is filed by a party to quash or to modify a subpoena (and not to any other requirement within the scope of ORCP 55). This change is reflected in the proposed amendment below.

#### PROPOSED AMENDMENT

5.010 CONFERRING ON MOTIONS UNDER ORCP 21, 23, [*and*]  
36–46{, **AND 55**}

(1) \* \* \*

\* \* \* \* \*

**{(3) The court will deny any motion made to quash or to modify filed by a party pursuant to ORCP 55, unless the moving party, before filing the motion, makes a good faith effort to confer with the other parties concerning the issues in dispute.}**

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([3]{4}) The moving party must file a certificate of compliance with the rule at the same time the motion is filed. The certificate will be sufficient if it states either that the parties conferred or contains facts showing good cause for not conferring.

([4]{5}) Upon certification that a motion is unopposed, it may be submitted *ex parte*.

## 2. 5.100 – SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS

Amend the rule to require certification of the advance service date, add a new exemption regarding waivers of appearance, and make conforming amendments to the certificate of readiness.

### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

### EXPLANATION

This proposal was submitted by Lisa Norris-Lampe, Chair of the OJD Law and Policy Work Group (LPWG), on behalf of LPWG. It would amend UTCR 5.100 to (1) require certification of the advanced service date; (2) create a new exception to the advance service requirement; and (3) make a conforming update to the certificate of readiness requirement.

UTCR 5.100(1) requires advance service on opposing parties of proposed orders and judgments (subsection (1)) in civil cases; requires a certification of compliance with the advance service requirement (subsection (2)(a)); and requires that all proposed orders and judgments include a “certificate of readiness” explaining why the submitted document is “ready” for the judge’s signature or resolution of any outstanding objections (subsection (2)(b)).

### Certification of Date of Compliance with Advance Service Requirements.

UTCR 5.100(2) requires a party submitting a proposed order or judgment to certify the “manner” in which they completed advance service but not the “date” of compliance.

There are practical difficulties regarding that lack of a “date” requirement. Namely:

- When proposed orders and judgments are submitted with no certification of the date on which advance service was accomplished, court staff and judges have no way of knowing whether the submitted document is in fact “ready” for signature, because they do not know when the opposing party was “advance” served, and so they also do not know if the requisite number of days have elapsed. For reference, UTCR 5.100(1)(a) requires advance service on an attorney not less than three days prior to submission to the court, and UTCR 5.100(1)(c) requires advance service on self-represented parties not less than seven days prior to submission to the court (accompanied by notice of the time period to object).

- Relatedly, parties often do not include separate certificates of service on proposed orders and judgments, so the date information cannot be gleaned from such a certificate.

Advance Service Requirement, Waiver of Appearance. UTCR 5.100(1) requires advance service unless an exception set out in subsection (3) applies. Those exceptions currently include proposed orders and judgments presented in open court (with parties present); those for which service is not required by statute, rule, or otherwise; and those subject to unique statutory provisions.

In working on changes to OJD’s Family Law forms, the LPWG discussed that advance service should not be required as to a party who previously filed a waiver of appearance. Notably, the Oregon Rules of Civil Procedure (ORCP) still require service in the event of a filed waiver of appearance (that is, waiver is not an exception to the service rules). However, the issue here is that advance service should not be required under UTCR 5.100(1).

Certificate of Readiness, Conforming Update. If a new exception is created as to parties previously filing waivers of appearance, then a conforming amendment to UTCR 5.100(2)(b) is necessary. That conforming amendment would add to the certificate of readiness a new “reason” that a submitted document is “ready” for signature, i.e., that the opposing party (or all opposing parties, if multiple) previously filed a waiver of appearance.

The UTCR Committee discussed that in addition to the amendments proposed by the LPWG, the certificate of readiness should require parties to provide the date on which service was completed. Doing so would allow the judge to determine whether the advance service requirement was met even if a party fails to file or provide any other required certification that such service was completed. By consensus, the committee added the phrase “on date \_\_,” to 5.100(2)(b)(3). This change is reflected in the proposed amendment below.

#### PROPOSED AMENDMENT

#### 5.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENT

- (1) Except as provided in subsection (3) of this rule, any proposed judgment or proposed order submitted to the court for signature must be:
  - (a) Served on each attorney not less than three days prior to submission to the court, or

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- (b) Accompanied by a stipulation by each attorney that no objection exists as to the judgment or order, or
  - (c) Served on a self-represented party not less than seven days prior to submission to the court and be accompanied by notice of the time period to object.
- (2) Except as provided in subsection (4) of this rule, any proposed judgment or order submitted to the court must include, following the space for judicial signature, a dated and signed certificate that describes:

- (a) The manner **{and date}** of compliance with any applicable service requirement under this rule; and
- (b) The reason that the submission is ready for judicial signature or otherwise states that any objection is ready for resolution, identifying the reason in substantially the following form:

“This proposed order or judgment is ready for judicial signature because:

- “1. [ ] Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party’s signature on the document being submitted.
- “2. [ ] Each party affected by this order or judgment has approved the order or judgment, as shown by each party’s signature on the document being submitted or by written confirmation of approval sent to me.
- “3. [ ] I have served a copy of this order or judgment on each party entitled to service**{, on date \_\_\_\_\_}** and:
  - “a. [ ] No objection has been served on me.
  - “b. [ ] I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
  - “c. [ ] After conferring about objections, [role and name of objecting party] agreed to independently file any remaining objection.
- “4. [ ] Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
- “5. [ ] **{Each other party previously filed a waiver of appearance.}***[This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims’ Assistance Section as required by subsection (5) of this rule.]*
- “6. [ ] **{This is a proposed judgment that includes an award of punitive damages and notice has been**

**served on the Director of the Crime Victims’ Assistance Section as required by subsection (5) of this rule.**

“7. [ 1 ]}Other: \_\_\_\_\_.”

- (3) The requirements of subsection (1) of this rule do not apply to:
- (a) A proposed order or judgment presented in open court with the parties present;
  - (b) A proposed order or judgment for which service is not required by statute, rule, or otherwise;
  - {(c) A proposed order or judgment in a proceeding in which all other parties previously filed waivers of appearance;}**
  - [(c){d}] A proposed judgment subject to UTCR 10.090;
  - [(d){e}] An uncontested probate or protective proceeding, or a petition for appointment of a temporary fiduciary under ORS 125.605(2); [and]
  - [(e){f}] Matters certified to the court under ORS 25.515, ORS 25.550, ORS 25.552, and ORS 25.531, unless the proposed order or judgment is ready for judicial signature without hearing[.]{; **and**}
  - [(f){g}] A proposed order allowing attorney resignation under UTCR 3.140.
- (4) The requirements of subsection (2) of this rule do not apply to a proposed order or judgment presented and signed in open court with the parties present.
- (5) Any proposed judgment containing an award of punitive damages shall be served on the Director of the Crime Victims’ Assistance Section, Oregon Department of Justice, 1162 Court Street NE, Salem, OR 97301, not less than three days prior to submission to the court.
- (6) The certificate required under subsection (2) may be combined with any certificate of service required by another statute or rule.

### 3. 5.180 – CONSUMER DEBT COLLECTION

Amend to simplify the rule language and clarify requirements regarding the consumer debt collection disclosure statement.

#### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

#### EXPLANATION

This proposal was submitted by Danielle Ramos, Civil Law Policy Advisor, on behalf of the Chief Justice’s Advisory Committee on Civil Justice Consumer Debt Litigation Workgroup on September 30, 2024.

The purpose of UTCR 5.180 is to provide consumers and the court with necessary information about consumer debt collection cases that are filed by debt buyers. Members of the advisory committee who were present at the meeting discussed that as currently worded, UTCR 5.180 can cause unnecessary confusion for parties to a case. For example:

- Almost all defendants in such cases are self-represented. Yet the rule requires plaintiffs to include the following in the case title: “SUBJECT TO ORS 646A.670(1) and UTCR 5.180(2).” These statutory and rule citations have no meaning for nonlawyers. In fact, court staff have reported that they receive many questions from parties on both sides who are confused about the relevance of the citations. In particular, self-represented small claims plaintiffs often find the citations to be very confusing.
- The following rule language that distinguishes the two categories of collection cases (those filed by debt buyers and those filed by debt collectors acting on a debt buyer’s behalf) is also confusing, even for attorneys: “This subsection applies to an action for collection of a debt under ORS 646A.670, when the plaintiff is either a debt buyer as defined in ORS 646.639(1)(g) or is a debt collector as defined in ORS 646.639(1)(h) bringing the action on a debt buyer’s behalf.”
- Currently, parties are allowed to file their own form of disclosure statement. The lack of uniformity among such filings makes it difficult for court staff to scan and confirm compliance with the rule (e.g., required information may be imbedded in the initiating pleading, provided in a different order, or in different fonts and layouts).

For these reasons, the advisory committee proposed amending the rule to simplify the rule language and clarify requirements regarding the disclosure statement. Specifically:

- Change the name of the required disclosure statement to clarify that it is required in cases where debt is owned by a debt buyer.

- Require plaintiffs to use OJD’s form disclosure statement to ensure uniformity, assist court staff to quickly confirm compliance with the rule, and help judges quickly find required information as they review a proposed judgment.
- Replace “an action” with “a lawsuit,” because lawsuit is a more commonly used and understood word.
- Replace “initial pleading” with “complaint,” because the word complaint is more commonly known and is also included in the case caption.
- Require original creditors to state in the initial pleading that information about debt collection laws is available on OJD’s website.

The UTCR Committee discussed the following:

- Regarding subsection (2)(b)(iii), the proposal would:
  - Remove the requirement that “a statement that plaintiff has complied with ORS 646A.670(1)” be included in the initiating pleading; and
  - Relatedly, amend the form disclosure statement on OJD’s website to state: “**{By including the Disclosure Statement with the Complaint,}** I, Plaintiff, have complied with ORS 646A.670(1).”

However, the requirement to include a statement that plaintiff has complied with ORS 646A.670(1) must be set forth by UTCR in order to be included in OJD’s form disclosure statement (a form required by UTCR). Thus, the existing rule language should be retained.

- The words “lawsuit” and “complaint” don’t apply to all relevant case types covered under UTCR 5.108 (e.g., small claims cases). Thus, the existing rule language—“an action” and “initial pleading”—should be retained.
- Whether the committee should first receive public comment from interested parties before recommending that debt buyers must use OJD’s form.

A member of the advisory committee who was present at the meeting to testify responded that a debt collections professional who served on the committee supported the proposal and believed that other interested parties would similarly support it. This is primarily because statewide uniformity would lead to more efficient resolution of cases, which benefits all parties.

Based on these discussions, the UTCR Committee modified the proposal as follows. These changes are reflected in the proposed amendment below.

- Retain the existing rule language in UTCR 5.180(2)(b)(iii) regarding ORS 646A.670(1).
- Retain the words “an action” and “initial pleading” instead of replacing them with “a lawsuit” and “initial pleading,” respectively.
- Replace “Disclosure Statement” (uppercase) with “disclosure statement” (lowercase) as appropriate.

## PROPOSED AMENDMENT

### 5.180 CONSUMER DEBT COLLECTION

(1) Definitions. As used in this rule, unless otherwise indicated:

- “Consumer” means a natural person who purchases or acquires property, services, or credit for personal, family, or household purposes.
- “Debt” means an obligation or alleged obligation that arises out of a consumer transaction.

(2) Debt[-]{\_}Buyer Collection Actions

- This subsection applies to an action for collection of a debt under ORS 646A.670, when the plaintiff is either a debt[-]{\_}buyer as defined in ORS 646.639(1)(g) or is a debt collector [as defined in]{**suing on behalf of a debt buyer under**} ORS 646.639(1)(h)[ bringing the action on a debt-buyer’s behalf].
- {The following must be included in t}**[ T]he initiating pleading in an action described in subsection (a)[ *must*]:
  - {The title must}**[In the title], contain the words[, ] **{“Debt Buyer Initiated Action to Collect Consumer Debt (Subject to)}** [“SUBJECT TO] ORS 646A.670(1) and UTCR 5.180(2){}”;
  - [In t]{T}he body[, ] **{must}** include a statement to the following effect: “See the Oregon Judicial Department’s website for information about debt[-]{\_}collection cases **{(courts.oregon.gov)}**”; and
  - {Plaintiff must complete, attach,}**[ Attach] and incorporate by reference [a completed Consumer Debt] **{the}** Collection **{by Debt Buyer}** Disclosure Statement **{found on the}**[in substantially the form as set out on the] Oregon Judicial Department website

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(www.courts.oregon.gov), including a statement that the plaintiff has complied with ORS 646A.670(1). **{Plaintiff may not draft or use their own disclosure statement. Plaintiff may attach additional information, but that information is not a substitute for the required disclosure statement.}**

- (c) If the initiating pleading does not **{include the disclosure statement required by}***[comply with]* subsection (2)(b)(iii) of this rule, **{the court must give the plaintiff}** written notice *[shall be given to the plaintiff]* that the case will be dismissed 30 days from the date **{the notice was sent}***[of mailing of the notice]*, unless the plaintiff complies *[with subsection (2)(b)(iii)]* by that time.
  - (d) If the plaintiff moves for *[entry of]* a **{default}** judgment *[ of default]*, the motion must include a declaration, under penalty of perjury, that the initial pleading complied with ORS 646A.670(1).
- (3) Other Consumer Debt Collection Actions
- (a) This subsection applies to an action **{to collect}***[for collection of]* a consumer debt when the **{plaintiff is not a debt buyer or a collector acting on behalf of a}** action otherwise does not satisfy the requirements of subsection (2)(a).
  - (b) The **{following must be included in the initiating pleading in an action described in subsection (a):}***[initiating pleading must, in the title, contain the words, “SUBJECT TO UTCR 5.180(3)”.]*
    - {(i) The title must contain the words “Action to Collect Consumer Debt (Subject to UTCR 5.180(3))”; and**
    - {(ii) The body must include a statement to the following effect: “See the Oregon Judicial Department website for information about debt collection cases (courts.oregon.gov).”}**

4. **6.080 – MARKING EXHIBITS**

Amend subsection (3) to require that a list of premarked exhibits be submitted to the court as ordered by the assigned judge to align with the time for submitting exhibits under UTCR 6.050(3).

**ACTION TAKEN**

Motion to preliminarily recommend approval of the proposed amendment passed by consensus.

**EXPLANATION**

The following amendment to UTCR 6.080 was proposed by UnCha Kim, Trial Court Administrator for Polk County Circuit Court. Currently, UTCR 6.080(3) requires parties to submit a list of premarked exhibits at the time of trial. The proposal would require parties to instead submit the exhibit list as ordered by the assigned judge to align with the time required to submit trial exhibits under UTCR 6.050(3). At present, the lack of timing parity between UTCR 6.050(3) and 6.080(3) has led to confusion for parties. For example, under the current UTCR 6.080(3), if a judge orders that exhibits be submitted two days *before trial*, a party may comply with the judge’s order but submit the exhibit list at the *time of trial*. The proposed amendment is intended to create timing parity between the rules and resolve the confusion.

**PROPOSED AMENDMENT**

6.080 MARKING EXHIBITS

(1) \* \* \*

\* \* \* \* \*

(3) The parties must submit to the court [*at the time of trial*] a list of premarked exhibits{**as ordered by the assigned judge**}.

\* \* \* \* \*

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**5. 8.010 – ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT**

Amend UTCR 8.010(4) to simplify the terminology used regarding required “attachments” to a Uniform Support Declaration (USD) and USD-related “schedules and attachments required by the schedules.”

**ACTION TAKEN**

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

**EXPLANATION**

This proposal was submitted by Lisa Norris-Lampe, Chair of the OJD Law and Policy Workgroup (LPWG), on behalf of LPWG. The proposal would update the rule language to eliminate confusion about exactly what must be filed and also would prompt a conforming update to OJD’s statewide USD form.

UTCR 8.010(4) requires each party to file a USD in proceedings where either child support or spousal support is requested. Per the rule, the USD itself requires a variety of information as well as several “attachments” (e.g., recent pay stubs, benefit statements, tax information, and other documentation). The rule also requires additional filings (“schedules and the attachments required by the schedules”) if either party requests spousal support or child support (the latter only if the amount requested deviates from uniform support guidelines). These “schedules” and their attachments (if any), essentially request a list of fixed expenses and debts, together with other factors the filer wants the court to consider.

The wording quoted above (the “attachments” to the USD, and USD-related “schedules and attachments required by the schedules”) is confusing for filers and risks noncompliance with the rule. The LPWG recommends simplifying and clarifying the terminology, as follows:

- The “attachments” to the USD (e.g., recent pay stubs, benefit statements, tax information, and other documentation) would be called “Required Attachments.” A conforming change to the USD form would also be made to similarly refer to such documentation as “Required Attachments.”
- The “schedules and the attachments required by the schedules” would be simplified to a “USD Supplement,” which would be a single document capturing all the information formerly captured on the schedules and their attachments. A conforming change to the USD form would also be made to include the “USD Supplement.”

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## PROPOSED AMENDMENT

### 8.010 ACTIONS FOR DISSOLUTION OF MARRIAGE, SEPARATE MAINTENANCE AND ANNULMENT, AND CHILD SUPPORT

(1) \* \* \*

\* \* \* \* \*

(4) Except as provided in paragraph (c) of this subsection, in all proceedings under ORS chapter 107, 108, or 109 wherein child support or spousal support is requested by either party, each party must file a Uniform Support Declaration (USD) in the form specified at [www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms) and serve it on the other party. A USD required by this subsection must be completed as follows:

(a) In all such cases, the parties must complete the [*declaration*] **{USD}** and [*r*]{**R**}equired [*a*]{**A**}ttachments.

(b) [*In all such cases,* ][*f*]{**T**}he parties must also complete the **{USD Supplement}**[*schedules and the attachments required by the schedules*] if:

(i) Spousal support is requested by either party; or

(ii) Child support is requested by either party in an amount that deviates from the uniform support guidelines.

(c) A USD is not required if the parties have stipulated to all judgment terms.

\* \* \* \* \*

## 6. 9.010 – MAILING PROBATE MATERIALS TO THE COURT

Repeal the rule regarding the mailing of probate documents to the court. See related items A.7–A.18.

### ACTION TAKEN

Motion to preliminarily recommend repeal passed by consensus.

### EXPLANATION

Background. In 2022, OJD’s Juvenile and Family Courts Program Division completed a statewide self-assessment of the monitoring systems and practices utilized by Oregon circuit courts in protective proceedings. That assessment yielded several recommendations (based on surveys and data collected from judges, court staff, and external stakeholders) that included standardizing fiduciary expectations and improving uniformity of court practices to achieve reliable outcomes and better monitoring of these types of cases. The OJD State Protective Proceeding Advisory Committee (SPPAC) was formed to work on projects that would facilitate such improvements based on the SPPAC members’ training, experience, and input. As part of that effort, the SPPAC UTCR Subcommittee (comprised of judges, trial court administrators (TCAs), probate commissioners, elder law attorneys, and community partners) was formed to review and recommend changes to the UTCR.

On August 30, 2024, the following suite of related proposed amendments to UTCR chapter 9 was submitted by Jeffrey Petty, OJD Probate Legal Policy Advisor, on behalf of the SPPAC UTCR Subcommittee. The proposals are intended to update and standardize court practices and monitoring regarding protective proceedings.

UTCR 9.010. Court staff on the SPPAC UTCR Subcommittee have reported that they do not remember a time when they received a postcard or self-addressed stamped envelope since the advent of attorney eFiling. Also, self-represented parties typically email or call the court to check on the status of filed materials rather than use a postcard or self-addressed stamped envelope. The subcommittee therefore recommends repealing the rule because it is outdated.

### PROPOSED AMENDMENT

9.010 MAILING PROBATE MATERIALS TO THE COURT

**{UTCR 9.010 was repealed effective August 1, 2025.}**

*[Except for a document that is electronically filed, any petition, motion, order, or judgment not requiring a court appearance may be mailed to*

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*the trial court administrator, with a self-addressed stamped envelope or postcard for response.]*

## 7. 9.020 – APPROVAL OF BONDS

Amend to require that bond change requests be made by motion or by request in an annual accounting to conform with local court practices. See related items A.6 and A.8–A.18.

### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would require that requests to change a surety bond be made by motion or by request in an annual accounting. The proponent discussed that a change in circumstances during the administration of an estate or a conservatorship may result in a request to change a surety bond. In practice, such requests are commonly made by motion or by request in annual accounting filings. This proposal would therefore conform the rule to what is the common practice in Oregon circuit courts.

The UTCR Committee, by consensus, modified the proposal as reflected in the proposed amendment below. Specifically:

- In the first sentence of the proposed additional language, the committee replaced “will be made” with “shall be made;” and
- In the second sentence, “annual accounting” was changed to “accounting” to reflect that a change request may be made in other accountings and not just in the annual accounting.

### PROPOSED AMENDMENT

#### 9.020 APPROVAL OF BONDS

A supporting affidavit, signed by the guardian, conservator, personal representative, or attorney of record, must be filed if there is a request for approval of a surety bond in an amount less than the aggregate value of the property in the estate as disclosed by the petition. The requirement of this section may be satisfied by a statement in the petition for appointment.

**{Subsequent requests for approval of a surety bond in an amount less than the aggregate value of the property of the estate shall be made by motion and supporting declaration, or by request made in an accounting. The proposed order on the motion or the proposed order approving the accounting shall include the change in bond amount.}**

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**8. 9.040 – SETTLEMENT OF PERSONAL INJURY CLAIMS IN PROBATE CASES**

Amend to require probate court approval of settlements of personal injury claims on behalf of protected persons. See related items A.6–A.7 and A.9–A.18.

**ACTION TAKEN**

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

**EXPLANATION**

See also the [background](#) explanation for related item A.6.

This proposal would:

- Require the probate court to approve settlements of personal injury (PI) claims that are made on behalf of protected persons.
- Permit confidential filing of the petition for approval and the accompanying affidavit.

The proponent discussed that approval by the probate court is required in other types of cases. Under ORS 114.447, for example, the probate court is required to approve the settlement of a PI injury claim by a personal representative in the administration of an estate. Amending UTCR 9.040 to impose the same approval requirement with regard to settlements made on behalf of protected persons would ensure that such settlements are fair and appropriate. To that end, multiple circuit courts have already implemented Supplementary Local Rules to require probate court approval in protective proceedings.

The UTCR Committee discussed the following concerns about stating that “the petition and affidavit may be filed as confidential documents.” First, an affidavit in support of a petition to approve settlement of a PI claim on behalf of a minor must, by statute, be filed as a confidential document. The committee pointed out that under the proposed amendment, however, confidential filing would be permissive, not mandatory. Second, this part of the proposal is too broad. Confidential filing of a document is permitted or required by UTCR when the case type and/or document is deemed confidential by statute, which is not the case in all instances that would be covered under UTCR 9.040.

Based on this discussion, the UTCR Committee made the following changes, as reflected in the proposed amendment below.

- Changed the word “may” to “shall;” and
- Added the phrase “if, and as required by law,” to clarify the parameters of confidential filing.



The committee also discussed that other small changes would improve the readability of the rule. Based on this discussion, the committee changed “shall not be finalized in the personal injury matter prior to approval by a probate judge in the protective proceeding” to “are subject to approval by the probate court” to improve readability, as reflected in the proposed amendment below.

#### PROPOSED AMENDMENT

#### 9.040 SETTLEMENT OF PERSONAL INJURY CLAIMS IN PROBATE CASES

A petition for approval of a settlement of a personal injury claim must be accompanied by an affidavit setting forth all relevant information concerning the settlement, including medical reports covering the nature and extent of the injuries sustained and the prognosis. **{The petition and affidavit shall be filed as confidential documents if, and as, required by law.}** The court may require further information. **{Settlements on behalf of a protected person are subject to approval by the probate court.}**

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## 9. 9.050 – RESTRICTED ACCOUNTS

Amend to require that a depository’s signed writing include a statement acknowledging the consequences of unauthorized withdrawals. See related items A.6–A.8 and A.10–A.18.

### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposed amendment would specify the consequences of a depository withdrawing assets from an estate or conservatorship without a court order and require the depository to acknowledge those consequences in writing. The proposal is intended to better protect the assets of an estate or protected person. Judges and courts have reported losses to both estates and protected persons from unauthorized withdrawals from allegedly “restricted” accounts.

### PROPOSED AMENDMENT

#### 9.050 RESTRICTED ACCOUNTS

{(1)} When assets of an estate or conservatorship are placed with a depository subject to withdrawal only on order of the court, a writing signed by the depository showing the assets held and that they are subject to withdrawal only on further order must be filed with the court within 30 days of entry of the order unless the order allows a longer period of time.

{(2) **The writing signed by the depository must include language that acknowledges that if assets are removed from the restricted account without prior court order, the institution may be required to pay the value of the inappropriately withdrawn funds to the estate or conservatorship.**}

{(3)} Prompt procurement of the writing is the responsibility of the attorney for the fiduciary. Any asset restricted by court order shall be identified in the inventory or annual accountings as restricted with reference to the date and title of the order imposing the restriction.

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**10. 9.060 – FEES IN ESTATES, GUARDIANSHIPS AND CONSERVATORSHIPS**

Amend to require that affidavits supporting a request for attorney fees also include a fee itemization in the manner provided in UTCR 5.080. See related items A.6–A.9 and A.11–A.18.

**ACTION TAKEN**

Motion to preliminarily recommend approval of the proposed amendment passed by consensus.

**EXPLANATION**

See also the [background](#) explanation for related item A.6.

This proposal would require that affidavits supporting a request for attorney fees must include a fee itemization in the manner provided in UTCR 5.080. The proponent discussed that though a request for attorney fees must include an affidavit setting out the justification for the amount requested, judges who review these affidavits often need more specific information about the attorney’s time billed than what is typically provided. A standardized fee itemization in the manner provided in UTCR 5.080, which is already familiar to attorneys and required by Supplementary Local Rule in multiple circuit courts, would provide judges with the information needed to review such requests.

**PROPOSED AMENDMENT**

**9.060 FEES IN ESTATES, GUARDIANSHIPS AND CONSERVATORSHIPS**

- (1) Attorney fees requested in protective proceedings under ORS chapter 125 must be supported by affidavit **{including a fee itemization as required by UTCR 5.080, }** setting out the justification for the amount requested.
- (2) Attorney fees requested for a decedent’s estate must be supported by affidavit in compliance with ORS 116.183.
- (3) Personal representative fees requested in excess of the statutory amounts provided in ORS 116.173(1) must be supported by affidavit setting out justification for the additional claimed amount.
- (4) All fiduciary and attorney fee applications and accountings in decedents’ estates, guardianships and conservatorships must be served in the manner and on the persons described in ORS 116.093, 125.475, and acts amendatory thereof.

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## 11. 9.160 – FORM OF ACCOUNTINGS

Amend to add prefatory language addressing important components of required accountings and add a new section to create a beginning total balance requirement to the form of accountings. See related items A.6–A.10 and A.12–A.18.

### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would amend the prefatory language to mandate that important components of accountings cannot be waived by Supplementary Local Rule (SLR). It would also create a new requirement that an accounting must include the beginning total balance reported in the inventory of the estate.

The proponent discussed that:

- Some circuit courts have used designated SLR 9.161 to make OJD’s statewide form of accounting mandatory while other courts have, by SLR, waived important components of accountings (e.g., depository statements and vouchers) that provide documentary proof of representations made in the accounting. This in turn hinders the court’s audit and review of the administration of an estate and increases the likelihood that the court will miss abusive transactions or embezzlement by a fiduciary.
- The proposed amendment to the prefatory language is meant to ensure that even if a court does not mandate use of OJD’s statewide form of accounting, the court cannot waive important components of accountings (i.e., those included in ORS 116.083 and ORS 125.475)
- Trial court administrators and probate commissioners have requested:
  - A new requirement that accountings must include the beginning total balance reported in the inventory of the estate. By requiring matching balances of assets carrying over between accountings, the year-to-year status of estate assets can be more easily verified.
  - Adding language in subsection (3)(a) to clarify that both a separate chronological list of receipts and a separate chronological list of disbursements must be filed because the existing rule language is ambiguous in that regard. For purposes of review and audit, separate lists are easier to track and

reconcile, and the UTCR form of accounting in UTCR 9.160 is already formatted in the manner of this proposed change.

The UTCR Committee modified the proposal as reflected in the proposed amendment below. Specifically:

- In the first sentence of proposed new subsection (1)(b), “The beginning total balance of the accounting” was changed to “The beginning balance.”
- In the second sentence of the proposed new subsection (1)(b):
  - “For first annual accountings” was changed to “For first accountings” (to broaden the requirement to all accountings); and
  - “For second and subsequent annual accountings” was changed to “For subsequent accountings ” (removing “annual” to broaden the requirement to all accountings and removing “second” as superfluous).
- The proposed new language in subsection (3)(a) was slightly modified to improve readability.

#### PROPOSED AMENDMENT

#### 9.160 FORM OF ACCOUNTINGS

Accountings substantially in the form provided at [www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms), as further explained in this rule, must be accepted by all judicial districts. Accountings in this format may be made mandatory by SLR. **{The accounting provisions of ORS 116.083 and ORS 125.475 may not be waived by SLR. }** SLR 9.161 is reserved for purposes of making such format mandatory in the judicial district:

- (1) Preliminary Information. The beginning of the accounting shall state:
  - (a) The first and last date of the accounting period. For annual accountings, the last day of the accounting period shall be within 30 days of the anniversary of appointment.
  - {(b) The beginning balance. For first accountings, the beginning balance must match the balance reported in the inventory. For subsequent accountings the beginning balance must match the ending balance of the previous accounting.}**
  - ~~(b)~~**{c}** If no bond is required, the date of the court order waiving the bond or a reference to the statute exempting the fiduciary

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from filing a bond. If a bond is required, the accounting shall state the current amount of the total bond. If a bond is required, an accounting shall also provide the following information.

\* \* \* \* \*

(2) \* \* \*

(3) Receipts and Disbursements. The accounting of receipts and disbursements shall meet the following requirements for each depository account:

(a) For each account, **a list of all** receipts **in chronological order** and **a separate list of all** disbursements [*shall be separately listed*] in chronological order, with the date and value of each transaction **provided**. For each account, the total of each list of receipts and disbursements shall be provided at the end of each list.

(b) \* \* \*

\* \* \* \* \*

## 12. 9.170 – FIDUCIARY DISCLOSURE IN ACCOUNTINGS

Amend to add a new disclosure requirement regarding advancements and reimbursements made to fiduciaries. See related items A.6–A.11 and A.13–A.18.

### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would require the fiduciary to explain and provide documentary proof of expenses for which the fiduciary claims reimbursement. An appointed fiduciary is allowed to reimburse or advance funds to the fiduciary or to others for goods, support, or services that were provided for the benefit of the estate or protected person. The proponent discussed that the intent of requiring a fiduciary to provide an explanation and documentary proof for expenses for which the fiduciary claims reimbursement is to ensure that reimbursement is not claimed for expenses that did not benefit the estate or protected person, which would be a breach of the fiduciary’s duty.

The UTCR Committee made a clarifying modification to the proposal by deleting the word “themselves” and replacing it with “the fiduciary.” This change is reflected in the proposed amendment below.

### PROPOSED AMENDMENT

#### 9.170 FIDUCIARY DISCLOSURE IN ACCOUNTINGS

The narrative of an accounting shall specifically disclose and explain all of the following transactions during the accounting period unless previously approved by the court:

(1) \* \* \*

\* \* \* \* \*

**{(4) Fiduciary advancements and reimbursements to the fiduciary or others shall be included in a separate exhibit with a narrative explanation for the purpose of each advancement or reimbursement, with written proof of the amount and purpose included with the accounting.}**

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### 13. 9.180 – VOUCHERS AND DEPOSITORY STATEMENTS

Amend to allow fiduciaries to file vouchers and depository statements as confidential documents under a separately captioned court filing. See related items A.6–A.12 and A.14–A.18.

#### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

#### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would allow fiduciaries to file vouchers and depository statements as confidential documents under a separately captioned court filing. The proponent discussed that vouchers and depository statements often contain sensitive financial and/or medical information that is needed to corroborate the fiduciary’s activity during an accounting period. Providing the option to file such documents confidentially under a separately captioned filing would protect the information from public disclosure and still permit the court to review and corroborate any transactions at issue. Importantly, these documents are not part of the copy of the accounting that is provided as part of the interested persons’ notice.

The UTCR Committee discussed concerns about stating broadly that “vouchers and depository statements may be filed confidentially.” Specifically, confidential filing of a document is permitted or required by UTCR when the case type and/or document is deemed confidential by statute, which is not the case in all instances that would be covered under UTCR 9.180. Based on this discussion, the committee added the phrase “as permitted by law” to the proposed amended language to clarify the parameters of confidential filing.

#### PROPOSED AMENDMENT

##### 9.180 VOUCHERS AND DEPOSITORY STATEMENTS

- (1) Unless otherwise provided by statute, SLR, or order of the court, a voucher for each disbursement reported in the accounting must accompany the accounting as a separate exhibit or shall be attached to a cover page showing the case caption. Vouchers required by statute or order of the court must be documents evidencing each disbursement and showing the name of the payee, date, and amount.
- (2) Unless the fiduciary is excused from the requirement of filing vouchers, the accounting shall include depository statements for

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each account. An opening depository statement must evidence the account beginning balance, unless one was submitted with a previous accounting. A closing depository statement must evidence the balance in the account within 30 days of the close of the accounting period or on the date of closing of an account closed during the accounting period.

- (3) For purposes of this rule, a “depository” is an entity holding assets of the estate or conservatorship, including a bank, stock and bond broker, mutual fund, or similar entity.
- (4) Copies of vouchers and depository statements need not be served on persons entitled to copies of the accountings or on persons who have requested notice in the proceedings. **{If submitted with the accounting as a separately captioned filing, vouchers and depository statements may be filed confidentially, as permitted by law.}**

#### 14. 9.200 – AUDIT OF ACCOUNTING AND RELATED DOCUMENTS

Adopt a new rule governing a court’s authority to audit case filings regarding a fiduciary’s administration of estates, guardianships, and conservatorships. See related items A.6–A.13 and A.15–A.18.

##### ACTION TAKEN

Motion to preliminarily recommend adoption of the proposed new rule, as modified by the committee, passed by consensus.

##### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would adopt a new rule governing a court’s authority to audit case filings regarding a fiduciary’s administration of estates, guardianships, and conservatorships. The proponent discussed that under ORS 111.085, 111.095, and 125.025, probate courts are granted broad authority and latitude regarding methods used for reviewing and monitoring estate and protective proceedings cases. This statutory authority also provides a nonexclusive list of ways in which courts may supervise cases, including but not limited to appointing experts, compelling attendance or production, and supervising personal representatives, guardians, and conservators.

This proposed new rule seeks to enhance the court’s case monitoring within the scope of the statutory authority cited above. Specifically:

- Section (1) specifies that an “auditor” is within the scope of “experts” that a court may appoint (ORS 125.025(3)(c)) to “aid the court’s investigation” (ORS 125.025(1)) acting “in any manner it deems appropriate to determine the condition and welfare of the respondent or protected person and to inquire into the proper performance of the duties of a fiduciary appointed” under ORS chapter 125.
- Section (2) more explicitly describes the court’s review and audit authority over filings submitted to the court regarding a fiduciary’s administration of estates, guardianships, and conservatorships.
- Section (3) would provide that any review or audit reports prepared by the Oregon Judicial Department’s Conservatorship Audit Program will redact confidential or sensitive personal or financial information but provide the redacted report in a publicly available document. UTCR 2.130 does not directly apply to protective proceedings, but the definition included will be used as the standard for redacting information included within reports.

The UTCR Committee modified the proposal, as reflected in the proposed new rule below. Specifically, the committee:

- Inserted “Oregon Judicial Department’s” before “Conservatorship Audit Program” (for clarification), and
- Changed “made available in court records as public documents” to “filed in the case” (believing it redundant to say that filed documents that become part of the court record would be available as public documents).

## PROPOSED NEW RULE

### 9.200 AUDIT OF ACCOUNTING AND RELATED DOCUMENTS

- (1) A court may appoint an auditor to review a fiduciary’s case filings in the same manner as it appoints investigators, visitors, and other experts to aid in the court’s investigation.
- (2) Guardian reports, inventories, accountings, and other court filings containing information about the financial affairs of an estate or protected person are subject to review and audit by judges and court staff.
- (3) Any finalized review report or audit report prepared by the Oregon Judicial Department’s Conservatorship Audit Program shall be filed in the case. These reports shall have confidential personal information, as defined by UTCR 2.130, redacted.

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## 15. 9.300 – APPOINTMENT OF GUARDIANSHIPS IN ADOPTIONS

Amend to clarify language regarding appointment procedures. See related items A.6–A.14 and A.16–A.18.

### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would clarify language regarding procedures for the appointment of guardianships in adoptions. The proponent discussed that ORS 125.030 directs that the appointment of a fiduciary in a protective proceeding shall be made by a limited judgment. Court orders are not used for appointment purposes. Oregon law also does not distinguish between guardianship of the person and guardianship of the estate. Rather, it uses the word guardianship for persons and the word conservatorships for estates. This proposed amendment therefore requires that an appointment be made by a limited judgment, as opposed to a court order, and removes the phrase “the person of” to eliminate unnecessarily confusing language.

### PROPOSED AMENDMENT

#### 9.300 APPOINTMENT OF GUARDIANS IN ADOPTIONS

Except in cases when one or more of the petitioners, or a state or private agency, is the legal or natural guardian of the minor child, when a petition is filed for leave to adopt a minor child and the required consent thereto has been filed, the attorney for the petitioner must prepare and submit to the court [*an order*]{**a limited judgment**} providing for the appointment of the petitioner, or other suitable person, as guardian of [*the person of*]the minor child pending further order of the court or entry of a judgment.

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## 16. 9.330 – GUARDIAN’S REPORT IN MINOR GUARDIANSHIPS

Adopt a new rule requiring the appointed guardian of a minor to file an annual written report with the court. See related items A.6–A.15 and A.17–A.18.

### ACTION TAKEN

Motion to preliminarily recommend adoption of the proposed new rule passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would adopt a new rule to require that the appointed guardian of a minor must file an annual written report with the court. The proponent discussed that ORS 125.325 requires an annual report to be filed by the guardian in adult guardianships, but there is no related statutory provision for guardianships of minors. The subcommittee reported that more than half of circuit courts do require an annual report from the guardians of minors, though not all of these courts have codified the expectation through Supplementary Local Rule. Many judges, in both courts that require the report and those that do not, have expressed concern about charging a fiduciary with protecting a child without any regular court supervision or monitoring. In courts that do not require annual (or other periodic) reporting, guardianships remain open without any way for the court to locate or check on the condition of the minor or the appointed guardian. The lack of reporting creates the potential that concerning conditions will remain unknown to the court.

This proposed new rule is intended to establish a statewide annual reporting requirement (mirroring adult guardianship expectations) and provide for the creation of a statewide OJD form for reporting. Statewide uniformity would improve monitoring of minor guardianships and facilitate consistency between courts—a chief concern among community partners, self-assessment findings, and SPPAC members.

### PROPOSED NEW RULE

#### 9.330 GUARDIAN’S REPORT IN MINOR GUARDIANSHIPS

Not later than 30 days following each anniversary of appointment, a guardian for a minor shall file with the court a written report. The report must include a declaration under penalty of perjury in the form required by ORCP 1 E, or an unsworn declaration under ORS 194.800 through ORS 194.835, if the declarant is physically outside of the boundaries of the United States. Copies of the guardian’s report must be given to those persons specified in ORS 125.060(3). The guardian must file the report in substantially the form provided at [www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms)

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unless the judicial district in which the report will be filed has adopted another form by SLR or by Presiding Judge Order.

## 17. 9.400 – APPOINTMENT OF COURT VISITOR

Adopt a new rule in place of the current UTCR 9.400 (current UTCR 9.400 – Court Visitor’s Report) to be renumbered as 9.420) to create a standard process to appoint court visitors. See related items A.6–A.16 and A.18.

### ACTION TAKEN

Motion to preliminarily recommend adoption of the proposed new rule, as modified by the committee, passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would adopt a new rule to create a standard process for appointing court visitors. The proponent discussed that ORS 125.150 through ORS 125.170 describe, generally, the parameters of court visitor qualifications, appointments, and fee systems, but defer to the courts to specify the requirements by Presiding Judge Order (PJO). Some circuit courts provide clear descriptions of each requirement, while others do not have (or else cannot find) signed PJOs that specify the requirements.

The proposed new rule seeks to standardize, within the existing statutory framework, the process for appointing court visitors to reduce statewide variability and uncertainty. Specifically:

- Section (1) would standardize the initial appointment of a visitor. Currently, some courts direct the petitioner or their attorney to “nominate” a visitor to appoint rather than choose a qualified, known visitor. In some instances, courts direct the petitioner to choose a nominee from a preapproved list of visitors; in other instances, any nominee may be suggested. Almost universally, court visitors, attorneys, professional fiduciaries, and community partners have shared concerns around bias in allowing the nomination of a visitor where one party choosing the “neutral and objective” visitor is preferred to the party pursuing the protective proceeding.
- Section (1) would also require use of a standardized form of order for appointment but allow courts to adopt a local form. Currently, in courts with no standardized form of order, the petitioner or their attorney may submit their own order, which often creatively interprets the visitor’s responsibilities. A standardized form of order, whether at the statewide or local level, would provide uniformity and greater legitimacy and authority. Moreover, a form already exists in Odyssey (the courts’ case management system) for the appointment of visitors.
- Section (2) seeks to provide additional uniformity and standardization by requiring courts to provide a copy of the order of

appointment to the visitor along with a copy of the initial petition if the visitor is appointed at the outset of the case. ORS 125.150(2) directs the court to provide a copy of the petition to the visitor. Currently, some courts require the petitioner to provide a copy of the petition to the visitor, which has raised concerns among some judges that the communication between the petitioner and visitor, without the respondent, could be perceived as biased. The court could email the appointed visitor a copy of the petition through Odyssey, which is efficient and within the statutory scheme.

- Section (3) would require courts to complete any remaining statutory obligations by addressing visitor qualifications and fee systems by PJO.

By consensus, the UTCR Committee changed “for appointment from visitors qualified by the Presiding Judge Order required under ORS 125.165(1) rather than appointing a visitor nominated by a petitioner or the petitioner’s attorney” to “based on the requirements set out in the Presiding Judge Order required under ORS 125.165(1),” to improve readability. This change is reflected in the proposed new rule below.

#### PROPOSED NEW RULE

#### 9.400 [COURT VISITOR’S REPORT]{APPOINTMENT OF COURT VISITOR}

*[A court visitor must file the court visitor’s report in an adult guardianship in substantially the form provided at [www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms) unless the judicial district in which the report will be filed has adopted another form by SLR or by Presiding Judge Order pursuant to ORS 125.165(1)(b) and the form adopted by that judicial district includes all of the information required.]*

**{(1) When appointing a court visitor under ORS 125.150 or ORS 125.160, the court shall select the individual visitor based on the requirements set out in the Presiding Judge Order required under ORS 125.165(1). The visitor shall be appointed by a standardized statewide order unless the judicial district in which the visitor is appointed has adopted another form by SLR or by Presiding Judge Order.**

**{(2) Upon entry of the order appointing the visitor, the court shall provide the appointed visitor with a copy of the order appointing and, if appointed pursuant to ORS 125.150, a copy of the petition.**

**{(3) Every court exercising probate jurisdiction must establish, by Presiding Judge Order or by SLR, qualifications and standards**

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**for visitors under ORS 125.165 and payment and reimbursement for visitor services under ORS 125.170.}**

## 18. 9.420 – COURT VISITOR’S REPORT

Renumber current UTCR 9.400 to 9.420 and amend to mandate that a visitor’s report is a confidential filing and to identify persons who must receive a copy of the report. See related items A.6–A.17.

### ACTION TAKEN

Motion to preliminarily recommend approval of the proposed amendment, as modified by the committee, passed by consensus.

### EXPLANATION

See also the [background](#) explanation for related item A.6.

This proposal would mandate that a visitor’s report is a confidential filing and to identify persons who must receive a copy of the report. Specifically, it would:

- Create a new subsection (2) to designate the visitor’s report as a confidential court filing. The proponent discussed that doing so is intended to address the concerns of court visitors, professional fiduciaries, and community partners, as reported by the SPPAC UTCR Subcommittee, that the visitor’s report often contains significant, personal medical and financial information that may be embarrassing if made public. The court would continue to be obligated by statute to provide a copy of the report to required persons who request a copy.
- Create a new subsection (3) that would require the court to provide a copy of the visitor’s report to the person who is subject to the protective proceeding for the following reasons:
  - It is a report about the person who is at the center of the proceeding.
  - A copy of the report provides the person who is subject to the proceeding with information that the court is using to determine whether to appoint a fiduciary or take other action.
- Relatedly, the proponent discussed that court visitors recommended that the court, rather than visitors, be required to provide the copy of the report because at the time it is submitted, the court visitor’s role is complete.

The UTCR Committee discussed the following:

- Concerns about stating that broadly “the visitor’s report shall be filed confidentially.” Specifically, confidential filing of a document is permitted or required by UTCR when the case type and/or document is deemed confidential by statute, which is not the case in all instances that would be covered under UTCR 9.420.

- If the court is required by statute to provide a copy of the visitor’s report, then the court is obligated to do so regardless of whether the report is designated as confidential by UTCR.

Based on this discussion, the committee made the following changes, as reflected in the proposed amendment below.

- Replaced “shall” with “may,” and added the phrase “as permitted by law” to the proposed amended language to clarify the parameters of permitting confidential filing.
- Deleted the second sentence (“This provision does not limit the court’s obligation to provide a copy of the report to required persons under ORS 125.155(4) or UTCR 9.420(3)”).

#### PROPOSED AMENDMENT

#### [9.400]{9.420} COURT VISITOR’S REPORT

- {(1)} A court visitor must file the court visitor’s report in an adult guardianship in substantially the form provided at [www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms) unless the judicial district in which the report will be filed has adopted another form by SLR or by Presiding Judge Order pursuant to ORS 125.165(1)(b) and the form adopted by that judicial district includes all of the information required.
- {(2) **To avoid public disclosure of sensitive medical or mental health information, or detailed financial records of the person subject to the protective proceeding, the visitor’s report may be filed confidentially, as permitted by law.**}
- {(3) **In addition to any persons requesting a copy of the visitor’s report under ORS 125.155(4), the court shall provide a copy of the report to the respondent or protected person within five days of the report being filed.**}

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## B. RECOMMENDATIONS OF DISAPPROVAL

### 1. 1.110 – DEFINITIONS

Amend the rule to remove the requirement to include a fax number as part of an attorney’s court contact information.

#### ACTION TAKEN

Motion to preliminarily recommend disapproval of the proposed amendment passed by consensus.

#### EXPLANATION

This proposal was submitted by Tracy Ickes White, Department of Justice Senior Assistant Attorney General, in her individual capacity. It would remove the requirement to include an attorney’s fax number as an outdated requirement.

The UTCR Committee discussed that as written (“a facsimile transmission number, *if any, ...*”) (emphasis added), the rule requires an attorney to provide a fax number only if the attorney maintains a fax line. An attorney who does not maintain a fax line is not required to provide a fax number. Importantly, one committee member also noted that some attorneys still prefer to (and do) communicate via fax.

#### PROPOSED AMENDMENT

### 1.110 DEFINITIONS

As used in these rules:

(1) \* \* \*

\* \* \* \* \*

(2) “Court Contact Information” means the following information about a person submitting a document: the person’s name, a mailing address, a telephone number, and an email address [*and a facsimile transmission number*], if any, sufficient to enable the court to communicate with the person and to enable any other party to the case to serve the person under UTCR 2.080(1). Court contact information can be other than the person’s actual address or telephone [*or fax*] number, such as a post office box or message number, provided that the court and adverse parties can contact the person with that information.

(3) \* \* \*

\* \* \* \* \*

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2. **5.010 – CONFERRING ON MOTIONS UNDER ORCP 21, 23, AND 36–46**

Amend the rule to add a new exception from the conferral requirement for motions to dismiss based on a failure to commence the action within the statute of limitations.

**ACTION TAKEN**

Motion to preliminarily recommend disapproval of the proposed amendment passed by consensus.

**EXPLANATION**

This proposal was submitted by Tracy Ickes White, Department of Justice Senior Assistant Attorney General, in her individual capacity. It would remove the requirement for parties to confer on motions to dismiss that are based on a failure to commence the action within the statute of limitation, as it is unlikely to be beneficial.

The UTCR Committee discussed that there are instances in which requiring the parties to confer about such motions is beneficial, and that generally, conferral may save the parties time and money, increase judicial economy, and facilitate access to justice.

**PROPOSED AMENDMENT**

5.010 CONFERRING ON MOTIONS UNDER ORCP 21, 23, and 36–46

- (1) The court will deny any motion made pursuant to ORCP 21 and 23, except a motion to dismiss: (a) for failure to state a claim; [*or,*] (b) for lack of jurisdiction[*;*]; **or, (c) for failure to commence an action within the time limited by statute,** unless the moving party, before filing the motion, makes a good faith effort to confer with the other party(ies) concerning the issues in dispute.

\* \* \* \* \*

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## C. PROPOSALS SENT OUT FOR PUBLIC COMMENT WITHOUT RECOMMENDATION

### 1. 6.210 – JUROR REQUEST TO REVIEW AUDIO RECORD OF TRIAL TESTIMONY

Adopt a new rule allowing a judge to grant a juror request to review a portion of the audio record of oral trial proceedings during jury deliberations.

#### ACTION TAKEN

Prior to the UTCR Committee meeting on October 10, 2024, the Chief Justice requested that the committee refrain from making either a recommendation of approval or disapproval. Importantly, some stakeholders have expressed concerns about the additional time that is needed to evaluate current technology limitations and assess enhancements that would be required before such a change could be implemented in a timely and reliable fashion. Based on this request, the committee did not issue a recommendation of preliminary approval or disapproval at the fall meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

#### EXPLANATION

Background. At the fall 2023 UTCR Committee meeting, Senior Judge Thomas Branford (formerly of the Lincoln County Circuit Court), proposed adoption of a new rule that would allow a judge discretion to grant or deny a juror’s request to review a portion of the “For the Record” audio record of oral trial proceedings. At that meeting, the committee made changes to limit the scope of the proposed new rule to testimony (as opposed to all trial proceedings), to ensure that parties have an opportunity to object, and to give judges discretion to grant or deny a request (in whole or in part). The committee then voted 5–4 to preliminarily recommend the proposed new rule.

Following the fall 2023 UTCR Committee meeting, the committee received public comments and comments from Multnomah County Circuit Court staff regarding the proposal. At the spring 2024 meeting, the committee discussed concerns raised by those comments and heard from court staff who attended the meeting. The committee voted 11–2 to recommend approval of the rule as modified and shown below.

PROPOSED NEW RULE (Following spring 2024 UTCR Committee meeting)

6.210 JUROR REQUEST TO REVIEW AUDIO RECORD OF ORAL TRIAL TESTIMONY

During jury deliberations, a juror may request to review one or more portions of oral trial testimony from the trial proceedings. The request must be made in writing and must be conveyed through the presiding juror to the court. The court shall afford the parties the opportunity to object to the request outside the presence of the jury. The judge shall have discretion to grant or deny the request in whole or in part. The entire jury panel, during their deliberations, must be allowed to listen to the portion that the judge approves for review.

Subsequent to the spring meeting, however, the Chief Justice did not approve adoption of the rule. The Chief Justice asked the UTCR Committee to reconsider the proposed rule at its fall meeting on October 10, 2024, and discuss potential amendments to the proposal, keeping the following in mind:

- As a threshold issue, whether the rule may be more appropriate for referral to the Council on Court Procedures. The Council on Court Procedures could, for example, consider adopting the proposal as either a new ORCP or as an amendment to existing ORCP 58 B(9).
- If the committee agrees that the rule should be referred to the Council on Court Procedures, the UTCR Committee could recommend creating a new UTCR to prescribe procedures for implementing the ORCP if it goes into effect.
- Whether the proposed rule should be amended to clarify that only admitted testimony will be replayed for the jury (for example, sidebar conversations and testimony that was offered but stricken would be redacted) and that objections must be based on the Oregon Evidence Code (ORS chapter 40).
- Clarify that determining which portions of the testimony will be replayed for the jury is a responsibility of the judge and the parties and not court staff.

Fall 2024. Accordingly, the UTCR Reporter modified the proposal, as shown below, and included it in the agenda for the fall 2024 UTCR Committee meeting. Judge Branford submitted a letter to the committee, responding to the UTCR Reporter's proposed modifications. By consensus, the committee agreed to send the proposed new rule, as modified by the UTCR Reporter, out for public comment.

## MODIFIED PROPOSED NEW RULE

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### 6.210 JUROR REQUEST TO REVIEW AUDIO RECORD OF TRIAL TESTIMONY

During jury deliberations, a juror may request to review one or more portions of the oral trial testimony **{that is admitted in evidence during [from] the trial proceedings. The request must be made in writing and must be conveyed through the presiding juror to the court. The court shall afford the parties the opportunity to object to the request outside the presence of the jury. {Such objection must be based on and adhere to the requirements of ORS chapter 40. The presiding judge and the parties are solely responsible for determining which portions of the testimony will be replayed for the jury. }** The judge shall have the discretion to grant or deny the request in whole or in part. The entire jury panel, during their deliberations, must be allowed to listen to the portion that the judge approves for review.



## 2. 12.010 – APPLICABILITY

Modify the rule language for readability. See related items C.3–C.15.

### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

### EXPLANATION

Background. The following suite of related proposed amendments to UTCR chapter 12 (Mediation) were submitted by Caitlyn Jackson, OJD Alternative Dispute Resolution (ADR) Analyst, on behalf of the OJD Court-Connected Mediator Qualifications Advisory Committee.

The advisory committee was formed in 2022 and was comprised of mediators, mediation trainers, and stakeholders representing each type of court-connected mediation that is addressed under the UTCR and the different court-connected mediation structures that are in place across Oregon, including:

- Court-based and community dispute resolution center-based mediation coordinators;
- Domestic relations mediators employed by county programs and contracted by panel counties;
- Private mediators; and
- Volunteer mediators.

Committee participants included stakeholders from Oregon-based alternative dispute resolution higher education programs, Community Dispute Resolution Centers, circuit courts, the Department of Justice, the Mediation Subcommittee of the State Family Law Advisor Committee, the Oregon Mediation Association, the Oregon Mediator Diversity Project, and the Oregon State Bar Alternative Dispute Resolution Section Executive Committee.

Prior to the meeting on October 10, 2024, the advisory committee requested that the UTCR Committee refrain from making either a recommendation of approval or disapproval until the proposals could be considered in conjunction with public comments. Based on this request, the UTCR Committee did not issue a preliminary recommendation of approval or disapproval at the fall meeting and, by consensus, agreed to send the proposed amendments out for public comment in their proposed form. The UTCR Committee also formed a workgroup to carefully evaluate the proposals and consider additional changes, in

conjunction with public comments (if any), for consideration by the committee at its spring meeting on March 20, 2025.

Workgroup members include Judge James C. Edmonds (Marion County Circuit Court), Shelly Perkins (Attorney), Caitlyn Jackson (OJD ADR Analyst), Chris Westfall (Trial Court Administrator, Benton County Circuit Court), John Powell (Trial Court Administrator, Klamath and Lake County Circuit Courts), and Rachel Trickett (Oregon Judicial Department, UTCR Reporter).

UTCR 12.010. This proposal would make nonsubstantive changes that are intended to clarify and improve readability of the rule.

## PROPOSED AMENDMENT

### 12.010 APPLICABILITY

UTCR chapter 12:

- (1) Establishes minimum qualifications, obligations, and mediator disclosures, including education, training, experience, and conduct requirements, applicable to:
  - (a) General civil mediators as provided by ORS 36.200(1).
  - (b) Domestic relations custody and parenting {plan} mediators as provided by ORS 107.775(2).
  - (c) Domestic relations financial mediators as provided by ORS 107.755(4).
- (2) Provides that a mediator approved to provide one type of mediation may not mediate another type of case unless the mediator is also approved for the other type of mediation.
- (3) Does not:
  - (a) In any way alter the requirements pertaining to personnel who perform conciliation services under ORS 107.510 to 107.610.
  - (b) Allow mediation of proceedings under ORS 30.866, 107.700 to 107.735, 124.005 to 124.040, or 163.738, as provided in ORS 107.755(2).
  - (c) *[In any way e]*~~E~~stablish any requirements for compensation of mediators.

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- (d) Limit [*in any way*] the ability of mediators or qualified supervisors to be compensated for their services.

### 3. 12.020 – DEFINITIONS

Amend the rule to add definitions of “case” and “lead trainer.” See related items C.2 and C.4–C.15.

#### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

#### EXPLANATION

See also the [background](#) explanation for related item C.2.

This proposal would add definitions of “case” and “lead trainer.”

#### PROPOSED AMENDMENT

##### 12.020 DEFINITIONS

As used in UTCR chapter 12:

(1) “Approved Mediator” means a mediator who a circuit court or judicial district of this state officially recognizes and shows by appropriate official documentation as being approved within that court or judicial district as a general civil mediator, domestic relations custody and parenting **{plan}** mediator, or domestic relations financial mediator for purposes of the one or more mediation programs operated [*under the auspices of that*]{**by the**} court or judicial district that is subject to UTCR 12.010.

**{(2) “Case” means an actual dispute between parties that has been filed in court, or whose subject matter is such that if the issues were not resolved in mediation, the parties could file a complaint in circuit court. It does not include roleplays done in any educational setting.}**

{[2]{3}} “Basic Mediation Curriculum” means the curriculum set out in UTCR 12.100.

{[3]{4}} “Continuing Education Requirements” means the requirements set out in UTCR 12.140.

{[4]{5}} “Court-System Training” means a curriculum or combination of courses set out in UTCR 12.130.

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- ([5]{6}) “Determining Authority” means an entity that acts under UTCR 12.030[ *concerning qualification to be an approved mediator*].
- ([6]{7}) “Domestic Relations Custody and Parenting{ Plan } Mediation Curriculum” means the curriculum set out in UTCR 12.110.
- ([7]{8}) “Domestic Relations Custody and Parenting{ Plan } Mediation Supervisor” means a person who is qualified at the level described in UTCR 12.070.
- ([8]{9}) “Domestic Relations Custody and Parenting{ Plan } Mediator” means a mediator for domestic relations, custody, parenting time, or parenting plan matters in circuit court under ORS 107.755 who meets qualifications under UTCR 12.070.
- ([9]{10}) “Domestic Relations Financial Mediation Supervisor” means a person who is qualified at the level described in UTCR 12.080.
- ([10]{11}) “Domestic Relations Financial Mediation Training” means [a]{the} curriculum[ *or combination of courses*] set out in UTCR 12.120.
- ([11]{12}) “Domestic Relations Financial Mediator” means a mediator for domestic relations financial matters in circuit court under ORS 107.755 who meets qualifications under UTCR 12.080.
- ([12]{13}) “General Civil Mediator” means a mediator for civil matters in circuit court under ORS 36.185 to 36.210, including small claims and forcible entry and detainer cases, who meets qualifications under UTCR 12.060.
- ([13]{14}) “General Civil Mediation Supervisor” means a person who is qualified at the level described in UTCR 12.060.
- ([14]{15}) “Independent Qualification Review” means the process described in UTCR 12.090.
- {(16) “Lead Trainer” means a person that conducts training under UTCR 12.100(4) (basic mediation curriculum), UTCR 12.110(4) (domestic relations custody and parenting plan mediation curriculum) or UTCR 12.120(4) (domestic relations financial mediation training).}**
- ([15]{17}) “Mediation” is defined [at]{in} ORS 36.110.

**4. 12.030 – DETERMINING AUTHORITY, DETERMINING MEDIATOR QUALIFICATIONS, OTHER RESPONSIBILITIES AND AUTHORITY**

Amend the process for conditional approval of mediators. See related items C.2–C.3 and C.5–C.15.

**ACTION TAKEN**

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

**EXPLANATION**

See also the [background](#) explanation for related item C.2.

Under the current rule, the determining authority may allow substitution of a requirement provided the applicant commits to a written plan to meet the minimum qualifications within a reasonable time. In addition, for good cause shown, the determining authority may petition the presiding judge for a waiver of a specific qualification requirement, and the presiding judge may waive that requirement with the approval of the State Court Administrator (SCA).

This proposal would:

- Continue to permit the conditional approval of mediators, subject to new requirements, and amend the process to allow substitution of requirements.
- Disallow waiver of requirements.
- Require the determining authority to notify the presiding judge of conditional approvals and substitutions. In turn, the presiding judge would be required to notify the SCA if a substitution is allowed for a domestic relations custody and parenting plan or financial issues mediator.

Proponents discussed that these proposals are intended to:

- Tighten up and provide guidance on the permitted pathways to approve mediators who do not currently meet minimum qualification requirements.
- Allow courts flexibility to approve mediators in appropriate circumstances and also protect the public.
- Ensure that the SCA is attuned to current substitution trends to prompt future revisions to the mediator qualification requirements to align with pathway trends for becoming a court-connected mediator.

## PROPOSED AMENDMENT

### 12.030 DETERMINING AUTHORITY, DETERMINING MEDIATOR QUALIFICATIONS, OTHER RESPONSIBILITIES AND AUTHORITY

- (1) The determining authority:
  - (a) Is the entity within a judicial district with authority to [*determine*]{**decide**} whether applicants to become an approved mediator for courts within the judicial district meet the qualifications [*as described*] in these rules and whether approved mediators meet any continuing qualifications or obligations required by these rules.
  - (b) Is the presiding judge of the judicial district unless the presiding judge has delegated the authority to be the determining authority as provided or allowed by statute. Delegation under this paragraph may be made to an entity chosen by the presiding judge to establish a mediation program as allowed by law or statute. A delegation must be in writing and, if it places any limitations on the presiding judge's ultimate authority to review and change decisions made by the delegatee, must be approved by the State Court Administrator before the delegation can be [*made*]{**finalized**}.
- (2) Authority over qualifications. Subject to the following, a determining authority, for good cause, may allow{ **conditional approval or** } appropriate substitutions[, *or obtain waiver,*] for any of the minimum qualifications [*for an approved mediator*]{**as set forth below**}.
  - [(a) *Except as provided in paragraph (b) of this subsection, a determining authority that allows a substitution must, as a condition of approval, require the applicant to commit to a written plan to meet the minimum qualifications within a specified reasonable period of time. A determining authority that is not a presiding judge must notify the presiding judge of substitutions allowed under this subsection.*
  - (b) *For good cause, a determining authority, other than the presiding judge for the judicial district, may petition the presiding judge for a waiver of specific minimum qualification requirements for a specific person to be an approved mediator. A presiding judge may waive any of the qualifications to be an approved mediator in an individual case with the approval of the State Court Administrator.]*

**(a) Conditional approval. For good cause, a determining authority may authorize conditional approval to allow an applicant additional time to meet the minimum requirements while allowing the applicant to serve as a mediator under the supervision of a person who is qualified as a mediation supervisor in the respective area of practice set out in UTCR 12.060, 12.070, and 12.080. A determining authority that allows a conditional approval must, as a condition of approval, require the applicant to commit to a written plan to meet the minimum qualifications within a specified reasonable period of time.**

**(i) If a determining authority authorizes conditional approval for a general civil mediator, the mediator may not mediate without an approved mediator present in the mediation session until the qualification requirements described in UTCR 12.060 are met.**

**(ii) Conditional approval may not be granted for:**

**(A) A custody and parenting plan mediator who has not met the custody and parenting plan curriculum training outlined in UTCR 12.070(2) unless the applicant has completed the basic mediation training described in UTCR 12.100.**

**(B) A domestic relations financial mediator who has not met the domestic relations financial mediation training requirements in UTCR 12.080(2) unless the applicant has completed the basic mediation training described in UTCR 12.100 or if the applicant has completed the custody and parenting plan curriculum training.**

**(b) Substitution. A determining authority may authorize a substitution when an applicant does not meet the strict requirements of the rule but has other experience, education, or training that is the functional equivalent of the minimum requirement that is being substituted. Beginning August 1, 2026, a determining authority may not authorize a substitution of the following minimum requirements:**

**(i) For domestic relations custody and parenting plan mediator applicants:**



**(A) The domestic relations custody and parenting plan mediation curriculum training required in UTCR 12.070(2); and**

**(B) The mediation experience required in UTCR 12.070(3).**

**(ii) For domestic relations financial issues mediator applicants:**

**(A) The domestic relations custody and parenting plan mediation curriculum training required in UTCR 12.080(2);**

**(B) The domestic relations financial mediation curriculum training required in UTCR 12.080(2); and**

**(C) The mediation experience required in UTCR 12.080(3).**

**(c) A determining authority that is not a presiding judge must notify the presiding judge of conditional approvals and substitutions allowed under UTCR 12.030(2)(a) and 12.030(2)(b).**

**(d) Recordkeeping: Presiding judges will notify the State Court Administrator if a substitution is allowed under this subsection for a custody and parenting plan mediator or a domestic relations financial issues mediator, including the name of the applicant, and the functional equivalent of the minimum requirement that is being substituted.**

**(3) The determining authority shall retain a record of each mediator application that is approved for public inspection for as long as the mediator is actively serving as an approved mediator. The determining authority must redact personal contact information of the mediator before providing it to the public unless the mediator consents to the disclosure.**

**([3]{4})** The determining authority may revoke a mediator's **{conditional or}** approved status at the determining authority's discretion, including in the event that the mediator no longer meets the requirements set forth in these rules.

**([4]{5})** The determining authority may authorize the use of [ an] evaluation{s} to be completed by the parties, for the purpose of monitoring program and mediator performance.

([5]{6}) In those judicial districts where a mediator is assigned to a case by the court, or where mediators are assigned to a case by a program sponsored or authorized by the court, the determining authority shall ensure that parties to a mediation have access to information on:

- (a) How mediators are assigned to cases.
- (b) The nature of the mediator's affiliation with the court.
- (c) The process, *[if any, ]*that a party can use to comment on, or object to the assignment or performance of a mediator.

([6]{7}) The minimum qualifications of these rules have been met by an individual who is an approved mediator at the time these rules become effective if the individual has met the minimum requirements of Chief Justice Order 05-028, in effect prior to August 1, 2022.

**{(8) An individual who was approved under the rules in this chapter, in effect from August 1, 2022, to July 31, 2025, or Chief Justice Order 05-028 in effect prior to August 1, 2022, will continue to be considered an approved mediator unless the approval is revoked by the determining authority.}**

([7]{9}) The State Court Administrator may approve the successful completion of a standardized performance-based evaluation to substitute for formal degree requirements under UTCR 12.070 or 12.080 upon determining an appropriate evaluation process has been developed and can be used at reasonable costs and with reasonable efficiency.

## 5. 12.040 – MEDIATOR ETHICS

Amend the mediator ethics requirements. See related items C.2–C.4 and C.6–C.15.

### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

### EXPLANATION

See also the [background](#) explanation for related item C.2.

The proposal would amend the mediator ethics requirements, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Requiring a mediator to provide information to parties in writing regarding the ethical standards listed in UTCR 12.040(3). The proponent discussed that providing parties with a written record of the ethical standards will ultimately strengthen the quality of mediation. Doing so also supports the core value of self-determination and aligns with recommended mediation practices. Requiring mediators to provide the information “in an ongoing manner as appropriate” will also encourage mediators to notify parties if matters listed in UTCR 12.040(3) arise after mediation has begun, e.g., if the mediator discovers a conflict of interest in the middle of mediation.
- Requiring a mediator to inform the parties of the extent to which “communications” are confidential. The proponent discussed that the proposed amendment is intended as a clarification to enhance the mediator’s understanding of what is required from the mediator.
- Requiring a mediator to disclose all actual and potential conflicts of interest that are reasonably known to the mediator and that could reasonably raise a question about the mediator’s impartiality. The proponent discussed that the proposed amendment is intended as a clarification to enhance the mediator’s understanding of what is required from the mediator.
- Repealing existing UTCR 12.040(3)(h), which requires a mediator to inform the participants, in appropriate cases, of the advisability of proceeding with mediation under the circumstances of the particular dispute. The proponent discussed that the advisory committee believed this was too broad and placed too much responsibility on the mediator to discern whether mediation is advisable.
- Requiring a mediator to disclose the process for filing a complaint about the mediator or mediation process. The proponent discussed

that currently, there is no formal complaint process for court-connected mediators (except if such process is outlined by a mediator's adjacent professional licensing requirements). Providing parties with information about the court's complaint process will create transparency for parties and ensure that courts are aware of any ongoing performance or ethical concerns about a mediator or court process.

- Repealing existing UTCR 12.040(3)(i), requiring a mediator to inform the parties prior to the commencement of the mediation of the availability of public information about the mediator. See related item C.6.
- Requiring the mediator to document the parties' agreement with the requirements under UTCR 12.040(3). The proponent discussed that this proposal aligns with recommended mediation practices and provides a level of protection for mediators and courts against claims of malpractice and other liability-related matters.

## PROPOSED AMENDMENT

### 12.040 MEDIATOR ETHICS

An approved mediator, when mediating under ORS 36.185 to 36.210 or ORS 107.755 to 107.795, is required to:

- (1) Disclose to the determining authority and the participants at least one of the relevant codes of mediator ethics, standards, principles, and disciplinary rules of the mediator's relevant memberships, licenses, or certifications. It is not the court's responsibility to enforce any relevant codes of mediator ethics, standards, principles, and/or rules{, **other than its own**};
- (2) Comply with relevant laws relating to confidentiality, inadmissibility, and nondiscoverability of mediation communications including, but not limited to, ORS 36.220, 36.222, and 107.785;[ and]
- (3) Inform {**and provide as soon as reasonably practical in written form to**} the participants {**and in an ongoing manner as appropriate**} [prior to or at the commencement of the mediation of] each of the following:
  - (a) The nature of mediation, the role and [style]{**approach**} of the mediator, and the process that will be used;
  - (b) The extent to which participation in mediation is voluntary and the ability of the participants and the mediator to suspend or terminate the mediation;

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- (c) The commitment of the participants to participate fully and to negotiate in good faith;
- (d) The extent to which [*disclosures in*] mediation **{communications}** are confidential, including during private caucuses **{and any exceptions and limitations to confidentiality}**;
- (e) [*Any*]{**All actual and**} potential conflicts of interest that the mediator may have[, *i.e., any circumstances or relationships that may raise a question as to the mediator's impartiality and fairness*]{**that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartial regard**};
- (f) The need for the informed consent of the participants[ *to any decisions*];
- (g) The right of the parties to seek independent legal advice, including review of the proposed mediation agreement before execution;
- (h) [*In appropriate cases, the advisability of proceeding with mediation under the circumstances of the particular dispute*]{**The procedure for expressing a concern or filing a complaint regarding the mediator or the mediation process, and**};
- [(i) *The availability of public information about the mediator pursuant to UTCR 12.050; and*]
- [(j){i}] If applicable, the nature and extent to which the mediator is being supervised.

**{(4) The mediator shall create a written record of the parties' agreements to the items listed in subsection (3); and**

**{(5) The mediator shall have information regarding their respective training, education, and experience readily available for review and will provide such information to parties upon request.}**

6. **12.050 – PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION**

Repeal the rule to conform with proposed amendments to UTCR 12.030 and 12.040 regarding information about a mediator’s qualifications. See related items C.2–C.5 and C.7–C.15.

**ACTION TAKEN**

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

**EXPLANATION**

See also the [background](#) explanation for related item C.2.

This proposal would repeal UTCR 12.050. Under the current rule, mediators must provide information about their qualifications in a court approved format and the court must make the information available to mediation parties. The proponent discussed that the current way of providing information about a mediator’s qualifications (through a required form) has not been useful in practice. Under the related proposed amendments to UTCR 12.040(5) and 12.030(3), mediators would be required to make their qualifications available to parties at the time of mediation and courts would be required to retain the mediator’s application for public inspection.

**PROPOSED AMENDMENT**

12.050 PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION

**{UTCR 12.050 was repealed effective August 1, 2025.}**

- [(1) Information for court use and public dissemination: all approved mediators must provide the information required to the determining authority of each court at which the mediator is an approved mediator. Reports must be made in substantially the form provided at [www.courts.oregon.gov/forms](http://www.courts.oregon.gov/forms), or any substantially similar form authorized by the determining authority.*
- (2) All approved mediators must update the information provided in UTCR 12.050 at least once every two calendar years.*
- (3) The information provided in UTCR 12.050 must be made available to all mediation parties and participants upon request.]*

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**7. 12.060 – QUALIFICATION AS AN APPROVED GENERAL CIVIL MEDIATOR, ONGOING OBLIGATIONS**

Amend the basic training and ongoing obligations requirements for mediators. See related items C.2–C.6 and C.8–C.15.

**ACTION TAKEN**

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

**EXPLANATION**

See also the [background](#) explanation for related item C.2.

This proposal would amend the basic training and ongoing obligations requirements for general civil mediators, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Requiring that an applicant must have participated as an observer, or as a co-mediator under the supervision of a general civil mediation supervisor, in at least six distinct cases for a minimum total of 10 hours, broken out as follows:
  - Observe at least one hour of mediation in a case before acting as a co-mediator or mediator in a case.
  - Mediate or co-mediate at least the first three cases, for a minimum total of five hours, under the supervision of a general civil mediation supervisor.
- The proponent discussed that there are times when an applicant may be ready to start co-mediating prior to observing three mediations, as required under the current rule. In addition, reducing the total observation requirement should allow increased opportunities for applicants to develop skills while co-mediating and/or mediating under supervision. The proposal should also provide courts with more flexibility. For example, applicants may observe more than one hour of mediation voluntarily or if required to do so by the local court supervisor.
- Reducing the minimum number of experience hours to become a qualified supervisor from 350 to 150 hours and requiring the individual to also have mediated at least 35 cases. Adding that an individual also must have an understanding of court-connected civil mediation services. The proponent discussed that under the existing rule, an individual must meet the requirements of a civil mediator and have mediated at least 35 cases or 350 hours beyond the experience required to be a civil mediator. However, the 350-hours requirement is out of sync with the requirement to have mediated at least 35 cases. The committee therefore recommends

establishing a minimum total hour requirement of 150 hours rather than an alternative 350-hours requirement.

- Revising the continuing education hours requirements.
- Repealing the reference to UTCR 12.050. See related item C.6.

## PROPOSED AMENDMENT

### 12.060 QUALIFICATION AS AN APPROVED GENERAL CIVIL MEDIATOR, ONGOING OBLIGATIONS

To become an approved general civil mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described **in this section**:

- (1) Training. An applicant must have completed training, including all the following:
  - (a) The basic mediation curriculum described in UTCR 12.100, or substantially similar training; and
  - (b) **{The c}**[C]ourt-system training in UTCR 12.130, or substantially similar training<sub>u</sub>[ or] education<sub>u</sub>**{, or experience}**.
- (2) Experience. An applicant must have **{ participated as an observer, or as a co-mediator under the supervision of a general civil mediation supervisor, in at least six distinct cases for a minimum total of 10 hours as follows}**:
  - (a) [*Observed three actual mediations*]**{The applicant must observe at least one hour of mediation in a case before acting as a co-mediator or mediator in a case. The applicant may observe by being physically present, by remote means (defined by UTCR 1.110(1)), or by viewing a recorded mediation session of a case, subject to the applicant's agreement to adhere to the confidentiality provisions of ORS 36.220}**; and
  - (b) [*Participated as a mediator or co-mediator in at least three cases that have been or will be filed in court, observed by a person qualified as a general civil mediation supervisor under this section and performed to the supervisor's satisfaction.*]**{Must mediate or co-mediate at least the first three cases for a minimum total of five hours under the supervision of a general civil mediation supervisor under this section}**;

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**(c) The mediation must be performed to the qualified general civil mediation supervisor's satisfaction.**

- (3) Continuing Education{. **General civil mediators must complete at least 12 hours of continuing education as described in UTCR 12.140 every two years beginning January 1 of the year after the mediator's approval by the determining authority.**}

*[(a) During the first two calendar years beginning January 1 of the year after the mediator's approval by the determining authority, general civil mediators must complete at least 12 hours of continuing education as follows:*

- (i) If the approved mediator's basic mediation training was 36 hours or more, 12 hours of continuing education as described in UTCR 12.140.*
- (ii) If the approved mediator's basic mediation training was between 30 and 36 hours, then one additional hour of continuing education for every hour of training fewer than 36 (i.e., if basic mediation training was 30 hours, then 18 hours of continuing education; if the basic mediation training was 32 hours, then 16 hours of continuing education).*

*(b) Thereafter, as an ongoing obligation, an approved general civil mediator must complete 12 hours of continuing education requirements every two calendar years as described in UTCR 12.140.]*

- (4) Conduct. An applicant and, as an ongoing obligation, an approved general civil mediator must subscribe to **and comply with** the mediator ethics **provisions found** in UTCR 12.040.

*[(5) Public information. An applicant and, as an ongoing obligation, an approved general civil mediator must comply with requirements to provide and maintain information as provided in UTCR 12.050.]*

*[(6){5} Supervision. A qualified general civil mediation supervisor is an individual who has:*

- (a) Met the qualifications of a general civil mediator as defined in this section[, and]{;}*
- (b) Mediated at least 35 {separate}cases to conclusion [or completed at least 350]{for a minimum total of 150} hours of mediation [experience ]beyond the experience required of an approved general civil mediator in this section[.]{; **and***

**(c) An understanding of court-connected civil mediation services.}**

**8. 12.070 – QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATOR, ONGOING OBLIGATIONS**

Amend the training and ongoing obligations requirements for domestic relations custody and parenting mediators. See related items C.2–C.7 and C.9–C.15.

**ACTION TAKEN**

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

**EXPLANATION**

See also the [background](#) explanation for related item C.2.

This proposal would amend the training and continuing education requirements for court-connected domestic relations custody and parenting plan mediators, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Creating alternative pathways to approval for individuals with substantive experience who do not meet the current, specific educational degree requirements under the existing rule. The proponent discussed that this proposal is intended to support efforts to increase access for individuals to become court-approved mediators while upholding the high level of knowledge and technical skill necessary to competently mediate custody and parenting plan cases. This proposal is also intended to benefit mediation clients by expanding the pool of domestic relations custody and parenting plan mediators.
- Lowering post-bachelor’s degree substantive experience requirements from seven to two years. The proponent discussed that this amendment aligns with current human resources standards for experience to education equivalency standards.
- Creating different required experience pathways depending on how the applicant meets the educational requirements under the existing rule.
- Amending the total experience hours required for becoming a qualified court-connected custody and parenting plan mediator.
- Repealing the reference to UTCR 12.050. See related item C.6.
- Amending the experience requirements to become a qualified supervisor.

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## PROPOSED AMENDMENT

### 12.070 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING **{PLAN}** MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations custody and parenting **{plan}** mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue to meet ongoing requirements as described **{ in this section. A domestic relations custody and parenting plan mediator applicant does not need to be approved as a general civil mediator. }**

**For the purposes of UTCR 12.070: “substantive experience” means the performance of responsibilities in the professional fields outlined in this section to create competency sufficient for initial practice as a custody and parenting plan mediator under the supervision of a qualified custody and parenting plan mediation supervisor}.**

- (1) Education. An applicant must possess at least one of the following:
  - (a) A master’s or doctoral degree in **{conflict resolution,}** counseling, **{marriage and family therapy, mental health,}** psychiatry, psychology, **{or}** social work[, *marriage and family therapy, or mental health*] from an accredited college or university.
  - (b) A law degree from an accredited law school{,} with course work [*and*]or Continuing Legal Education credits in family law.
  - (c) A master’s or doctoral degree in a subject relating to children and family dynamics, education, **{or}** communication[, *or conflict resolution*] from an accredited college or university, with coursework in human behavior, plus at least **{2080 hours or}** one year **{in a}** full-time **{role}**[*equivalent*] post-degree **{substantive}** experience in providing social work, mental health, or conflict resolution services to families.
  - (d) A bachelor’s degree in a behavioral science related to [*family relationships, ]*child development[,] or [*conflict resolution*]{**family relationships**}, with coursework in a behavioral science, and at least [*seven*]{**4160 hours (or two)**} years **{in a}** full-time **{role}**[*equivalent*] post-bachelor’s **{substantive}** experience in providing social work, mental health, or conflict resolution services to families.

**{(e) At least 12,480 hours (or six years in a full-time role) of substantive experience in one of the following roles. Substantive experience must be in addition to the domestic relations mediation experience outlined in UTCR 12.070(3) and 12.080(3).**

**(i) As a mediator;**

**(ii) As a professional in a family law field working directly with family law litigants in a public-facing setting (for example, but not limited to the following: family law facilitators, paralegals, family law court clerks, or other professionals with experience working directly with family law litigants in a public-facing setting);**

**(iii) As a professional in family system settings or mental health settings with experience working directly with families (e.g., child welfare, juvenile justice, family educators or skill builders, or other professionals with experience working directly with families, etc.);**  
**or**

**(iv) Similar substantive experience consistent with any guidelines promulgated by the State Court Administrator.**

**(v) One academic year of education in pursuit of a related degree (outlined in UTCR 12.070(a), 12.070(b), 12.070(c), or 12.070(d)) may be substituted for 2080 hours (one year in a full-time role) of substantive experience.**

- (2) Training. An applicant must have completed training in each of the following areas:
- (a) The basic mediation curriculum **{described}** in UTCR 12.100**{, or substantially similar training}**;
  - (b) The domestic relations custody and parenting **{plan}** mediation curriculum **{described}** in UTCR 12.110; and
  - (c) **{The c}**[C]ourt-system training **{described}** in UTCR 12.130, or substantially similar training**{, education or experience}**.
- (3) Experience. An applicant must have completed **{both (a) and (b)}****};***[one of the following types of experience:*

- (a) *Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or co-mediated with a person qualified as a domestic relations custody and parenting mediation supervisor under this section. At least 10 cases and 50 hours of the supervised cases must be in domestic relations custody and parenting mediation. At least three of the domestic relations custody and parenting mediation cases must have direct observation by the qualified supervisor; or*
- (b) *At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:*
  - (i) *Participated as a mediator or comediator in a total of at least 10 cases including a total of at least 50 hours of domestic relations custody and parenting mediation, and*
  - (ii) *An understanding of court-connected domestic relations programs.]*

**{(a) Observations. An applicant must observe and debrief at least five separate domestic relations custody and parenting plan mediation cases for a minimum total of 10 observed hours before acting as a co-mediator or mediator in a case.**

**(b) Mediation Cases Under Supervision. An applicant must complete one of the following:**

- (i) If an applicant qualifies under UTCR 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d) and does not have the substantive experience listed in UTCR 12.070(3)(b)(iii), the applicant must mediate 30 separate domestic relations custody and parenting plan mediation cases for a minimum total of 100 hours under the supervision of a qualified domestic relations custody and parenting plan mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations custody and parenting plan mediation supervisor.**
- (ii) If an applicant qualifies under UTCR 12.070(1)(e), the applicant must mediate 30 separate domestic relations custody and parenting plan mediation cases for a minimum total of 100 case hours under**

**the supervision of a qualified domestic relations custody and parenting plan mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations custody and parenting plan mediation supervisor.**

**(iii) If an applicant qualifies under UTCR 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d), and has at least 4160 hours (2 full-time years) substantive experience beyond any substantive experience used to qualify under UTCR 12.070(1) in any of the following: mediation, family and/or couples therapy experience with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. The applicant must mediate 15 separate domestic relations custody and parenting plan mediation cases for a minimum total of 50 case hours under the supervision of a qualified domestic relations custody and parenting plan mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations custody and parenting plan mediation supervisor.**

**(c) Mediation experience cases and hours met under UTCR 12.080(3) that included custody and parenting plan mediation may also be counted to satisfy the experience requirements of UTCR 12.070(3).**

- (4) Continuing education. As an ongoing obligation, an approved domestic relations custody and parenting **{plan}** mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in UTCR 12.140.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting **{plan}** mediator must subscribe to **{and comply with}** the mediator ethics **{provisions found}** in UTCR 12.040.
- [(6) *Public information. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must comply with requirements to provide and maintain information in UTCR 12.050.*]
- [(7){6}] Supervision. A qualified domestic relations custody and parenting **{plan}** mediation supervisor is an individual who has:

- (a) Met the qualifications of a domestic relations custody and parenting {plan} mediator as defined in UTCR 12.070;
- (b) [*Completed*]{**Mediated**} at least [35]{**60 separate domestic relations custody and parenting plan**} cases [*including*]{**for**} a [*total of at least 350*]{**minimum total of 200**} hours of domestic relations custody and parenting {plan} mediation beyond the experience required of a domestic relations custody and parenting {plan} mediator in this section; and
- (c) An understanding of court-connected domestic relations [*programs*]{**services**}.



**9. 12.080 – QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS FINANCIAL MEDIATOR, ONGOING OBLIGATIONS**

Amend the training and ongoing obligations requirements for domestic relations financial mediators. See related items C.2–C.8 and C.10–C.15.

**ACTION TAKEN**

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

**EXPLANATION**

See also the [background](#) explanation for related item C.2.

The proposal would amend the qualifications and ongoing obligations requirements for domestic relations financial mediators, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Requiring that individuals meet the qualification requirements in UTCR 12.070(3), as amended.
- Requiring applicants to demonstrate proficiency in mediation of financial issues prior to the applicant mediating without an approved mediator or supervisor present in the session.
- Requiring that the mediation experience requirements should involve mediation of financial matters in the areas the applicant intends to practice.
- Repealing the reference to UTCR 12.050. See related item C.6.
- Repealing the malpractice insurance coverage requirements for both domestic relations financial mediators and qualified supervisors. The proponent discussed that insurance requirements are determined by the contracting or hiring county as a condition of employment and are more appropriate for each court or county's employment contracts. Regarding qualified supervisors, the advisory committee was unable to verify that such supervisory role insurance packages exist for private nonattorney or other licensed practitioner mediators. Furthermore, if the mediator is a licensed practitioner, such malpractice insurance coverage may be limited by the supervisor's professional licensing requirements (for example, by the Oregon State Bar or the Association of Social Work Boards).

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## PROPOSED AMENDMENT

### 12.080 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS FINANCIAL MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations financial mediator, an individual must establish, to the satisfaction of the determining authority, that the individual meets or exceeds all the following qualifications and will continue{s} to meet all ongoing requirements as described{ **in this section. A domestic relations financial mediator applicant does not need to be approved as a general civil mediator.**

**For the purposes of UTCR 12.080: “Substantive Experience” means the performance of responsibilities in the professional fields outlined in UTCR 12.070 and 12.080 to create competency sufficient for initial practice as a domestic relations financial mediator under supervision}.**

- (1) Education. An applicant must meet the education requirements under UTCR 12.070 applicable to an applicant to be approved as a domestic relations custody and parenting {**plan**} mediator.
- (2) Training. An applicant must have completed training in each of the following areas:
  - (a) The basic mediation curriculum {**described**} in UTCR 12.100{, **or substantially similar training**};
  - (b) The domestic relations custody and parenting{ **plan**} mediation curriculum {**described**} in UTCR 12.110;
  - (c) {**The d**}[D]omestic relations financial mediation training {**described**} in UTCR 12.120; and
  - (d) {**The c**}[C]ourt-system training {**described**} in UTCR 12.130, or substantially similar training{, **education or experience**}.
- (3) Experience. An applicant must have completed {**both (a) and (b)**}:*[one of the following types of experience:*
  - (a) *Participation in at least 20 cases including a total of at least 100 hours of domestic relations mediation supervised by or co-mediated with a person qualified as a domestic relations financial mediation supervisor under this section. At least 10 cases and 50 hours of the supervised cases in this paragraph must be in domestic relations financial mediation. At least*

*three of the domestic relations financial mediation cases must have direct observation by the qualified supervisor; or*

- (b) *At least two years full-time equivalent experience in any of the following: mediation, direct therapy or counseling experience with an emphasis on short term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. Applicants must have:*
  - (i) *Participated as a mediator or co-mediator in a total of at least 10 cases including a total of at least 50 hours of domestic relations financial mediation; and*
  - (ii) *An understanding of court-connected domestic relations programs.]*

**(a) Observations. An applicant must observe and debrief at least five separate actual domestic relations financial mediation cases for a minimum total of 10 observed hours before acting as a co-mediator or mediator in a case.**

**(b) Mediation Cases Under Supervision. An applicant must complete one of the following:**

**(i) If an applicant qualifies under UTCR 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d) and does not have the substantive experience listed in UTCR 12.080(3)(b)(iii), the applicant must mediate 30 separate domestic relations financial mediation cases for a minimum total of 100 hours under the supervision of a qualified domestic relations financial mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations financial mediation supervisor.**

**(ii) If an applicant qualifies under UTCR 12.070(1)(e), the applicant must mediate 30 separate domestic relations financial mediation cases for a minimum total of 100 case hours under the supervision of a qualified domestic relations financial mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations financial mediation supervisor.**

**(iii) If an applicant qualifies under UTCR 12.070(1)(a), 12.070(1)(b), 12.070(1)(c), or 12.070(1)(d), and has at**

**least 4160 hours (two full-time years) substantive experience beyond any substantive experience used to qualify under UTCR 12.070(1) in any of the following: domestic relations arbitrator, domestic relations judge, certified divorce financial analyst, mediator, family and/or couples therapy with an emphasis on short-term problem solving, or as a practicing attorney handling a domestic relations or juvenile caseload. The applicant must mediate 15 separate domestic relations financial mediation cases for a minimum total of 50 case hours under the supervision of a qualified domestic relations financial mediation supervisor. At least three of those hours must have direct observation by the qualified domestic relations financial mediation supervisor.**

**(c) The cases or hours outlined in UTCR 12.080(3)(b) should involve mediation of financial matters in the areas the applicant intends to practice (e.g., division of property, spousal support, or child support, etc.).**

**(d) The applicant must demonstrate proficiency in mediation of financial issues prior to the applicant mediating without an approved mediator or supervisor present in the mediation session.**

**(e) Mediation experience cases and hours met under UTCR 12.070(3) that included mediation of domestic relations financial issues may also be counted to satisfy the requirements of UTCR 12.080(3).}**

- (4) Continuing education. As an ongoing obligation, an approved domestic relations financial mediator must complete 24 hours of continuing education every two calendar years, beginning January 1 of the year after the mediator's approval by the determining authority, as described in UTCR 12.140.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must subscribe **{and comply with}** to the mediator ethics **{provisions found}** in UTCR 12.040.
- [(6) *Public information. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must comply with requirements to provide and maintain current information in UTCR 12.050.*

- (7) *Insurance. As an ongoing obligation, an approved domestic relations financial mediator shall have in effect at all times the greater of:*
- (a) *\$100,000 in malpractice insurance or self-insurance with comparable coverage; or*
  - (b) *Such greater amount of coverage as the determining authority requires.]*
- ([8]{6}) **Supervision.** A qualified domestic relations financial mediation supervisor is an individual who has:
- (a) Met the qualifications of a domestic relations financial mediator as defined in this section;
  - (b) [*Completed*]{**Mediated**} at least [35]{**60 separate**} domestic relations **{financial mediation}** cases [*including*]{**for**} a [*total of at least 350*]{**minimum total of 200**} hours of domestic relations financial mediation beyond the experience required in this section; and
  - (c) [*Malpractice insurance coverage for the supervisory role in force*]{**An understanding of court-connected domestic relations services**}.

## 10. 12.090 – INDEPENDENT QUALIFICATION REVIEW

Change the title and revise the rule to conform with proposed amendments to UTCR 12.030. See related items C.2–C.9 and C.11–C.15.

### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

### EXPLANATION

See also the [background](#) explanation for related item C.2.

This proposal would amend the section title to “Independent Contractor Domestic Relations Financial Mediator Qualification Review” and align the rule language with the proposed amendments to UTCR 12.030 (see related item C.4).

### PROPOSED AMENDMENT

#### 12.090 INDEPENDENT **CONTRACTOR DOMESTIC RELATIONS FINANCIAL MEDIATOR** QUALIFICATION REVIEW

- (1) In *[programs]***courts** where domestic relations financial mediators are independent contractors, the determining authority must appoint a panel consisting of at least:
  - (a) A representative of the determining authority;
  - (b) A domestic relations financial mediator; and
  - (c) An attorney who practices domestic relations law locally.
- (2) The panel shall interview each applicant to be an approved domestic relations financial mediator solely to determine whether the applicant meets the requirements for being approved**conditionally approved,** or whether it is appropriate to substitute *[or waive]* some minimum qualifications. The review panel shall report its recommendation to the determining authority in writing.
- (3) Nothing in this section *[affects]***limits** the authority under UTCR 12.030 to make sole and final determinations about whether an applicant has fulfilled the requirements to be approved or whether an application for substitution should be granted.

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## 11. 12.100 – BASIC MEDIATION CURRICULUM

Amend the basic mediation training curriculum. See related items C.2–C.10 and C.12–C.15.

### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

### EXPLANATION

See also the [background](#) explanation for related item C.2.

The proposal would amend the basic mediation training curriculum, including:

For basic mediation training:

- Increasing the total required basic mediation training hours from 30 to 40 hours to align with the length of most existing basic mediation trainings in Oregon and to allow additional time for training in new topic areas.
- Requiring a trainee to play the role of mediator or co-mediator during three of the six hours of required roleplay. The proponent discussed that this proposal is intended to address a gap that could allow for a trainee to play only the role of mediation party for all roleplays. In that way, the proposed amendment encourages and supports trainees to develop baseline mediator skills and competency.
- Adding the following to the required instruction topics: power dynamics and equity, diversity, and inclusion. The proponent discussed that education in these topic areas is necessary to ensure that mediation parties are treated impartially and can make their own decisions.

For basic mediation training – lead trainer:

- Requiring completion of the basic mediation curriculum.
- Amending the parameters around qualification based on previous training experience.
- For an individual who qualifies based on teaching experience, requiring at least 250 hours (reduced from 1000 hours in the existing rule) of teaching experience. The proponent discussed that the advisory committee believed the adult education requirement of 1000 hours seemed excessive and was a potential barrier to otherwise qualified trainers.

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## PROPOSED AMENDMENT

### 12.100 BASIC MEDIATION CURRICULUM

The basic mediation curriculum is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The basic mediation curriculum shall:

- (1) Be at least [3]{4}0 hours[, or *substantially similar training or education*]{ **consistent with any guidelines promulgated by the State Court Administrator**}.
- (2) Include [*training techniques that closely simulate the interactions that occur in a mediation*]{ **multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation**} and that provide effective feedback to trainees, including, but not be limited to, at least six hours participation by each trainee in roleplays with trainer feedback to the trainee and trainee self-assessment. {**The trainee must play the role of a mediator or co-mediator for at least three of the six hours.**}
- (3) Include instruction to help the trainee{ **effectively**):
  - (a) Gain an understanding of conflict resolution and mediation theory;
  - (b) Effectively prepare for mediation;
  - (c) [*Create*]{**Support**} a safe{, **accessible,**} and comfortable environment for the mediation{ **including understanding and applying trauma-informed practices in mediation**};
  - (d) Facilitate effective communication between the parties and between the mediator and the parties;
  - {**(e) Understand and apply the protections of mediation confidentiality and its exceptions;**}
  - {**(f)**} Use techniques that help the parties solve problems and seek agreement;
  - {**(f)**} *Conduct the mediation in a fair and impartial manner;*
  - (g) Understand {**and apply**}[*mediator confidentiality and*] ethical standards for mediator conduct adopted [by]{**in**} Oregon[ *and national organizations*];[ *and*]



(h) Conclude a mediation and **effectively** memorialize **any** understandings and agreements{;

**(i) Effectively navigate power dynamics in mediation; and**

**(j) Appropriately embed principles of equity, diversity, and inclusion into mediation.**

(4) Be conducted by a lead trainer who has:

(a) The qualifications of a general civil mediator as defined in UTCR 12.060[, *except the requirement in UTCR 12.060(1)(a) to have completed the basic mediation curriculum*];

(b) Mediated at least 35 **separate** cases to conclusion [*or completed at least*]{**for a minimum total of** [3]{1}50 hours of mediation [*experience*] beyond the experience required of a general civil mediator in UTCR 12.060; and either{;

([c]{i}) Served as a **co-**trainer [*or an assistant trainer*] for the basic mediation curriculum outlined in this section at least three times{. **A co-trainer must be present for the majority of a training and lead sections of curriculum delivery under the direct observation of a lead trainer. Someone serving only as a basic mediation roleplay coach will not be considered a co-trainer for purposes of this section**}; or

([d]{ii}) **Served as a teacher for at least 250 hours of accredited education or training for adults**{*Have experience in adult education and mediation as follows:*

(i) *Served as a teacher for at least 1000 hours of accredited education or training for adults; and*

(ii) *Completed the basic mediation curriculum outlined under this section*].

## 12. 12.110 – DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATION CURRICULUM

Amend to change the rule title and revise the domestic relations custody and parenting mediation training curriculum. See related items C.2–C.11 and C.13–C.15.

### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

### EXPLANATION

See also the [background](#) explanation for related item C.2.

This proposal would amend the domestic relations custody and parenting mediation training curriculum, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Replacing the broad areas of law and theory that currently comprise the required training topics with the specific skills that trainees should gain from the training based on what can reasonably be taught in 40 hours; what is necessary for skill development and most relevant to custody and parenting mediation practice; and to align with current terminology in the field.
- Requiring a trainee to play the role of mediator or co-mediator during three of the six hours of required role play under current UTCR 12.110(2). The proponent discussed that this proposed amendment would align the role play requirement with basic mediation training requirements to support trainees to develop baseline mediator skills and competency.
- Amending the experience requirements to become a lead trainer to require that individuals mediate at least 60 (rather than 35) cases including a minimum total of 200 hours (rather than 350 hours) beyond the experience required of a domestic relations custody and parenting plan mediator. The proponent discussed that under the current rule, each mediation case would take 10 hours. Given the current statewide mediation case time average, the committee recommended aligning the total cases for becoming a lead trainer with the new experience proposals (an average of 3.3 hours per case). The current 350-hours requirement seems excessive, especially for rural county panel mediators. Finally, changing “program” to “services” is more inclusive of all mediation service delivery structures across Oregon.

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## PROPOSED AMENDMENT

### 12.110 DOMESTIC RELATIONS CUSTODY AND PARENTING {**PLAN**} MEDIATION CURRICULUM

The domestic relations custody and parenting {**plan**} mediation curriculum **{is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The domestic relations custody and parenting plan mediation curriculum}** shall:

- (1) Include at least 40 hours [*in a domestic relations custody and parenting mediation curriculum*] consistent with any guidelines promulgated by the State Court Administrator.
- (2) Include multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees **{including, but not be limited to, at least six hours participation by each trainee in role plays with trainer feedback to the trainee and trainee self-assessment. The trainee must play the role of a mediator or co-mediator for at least three of the six hours}**.
- (3) Provide instruction [*with the goal of creating competency sufficient for initial practice as a family mediator and must include the following topics*] **{to help the trainee effectively}**:
  - (a) [*General family mediation knowledge and skills*] **{Prepare for domestic relations custody and parenting plan mediation}**;
  - (b) [*Knowledge and skill with families and children*] **{Practice within current Oregon law, professional standards of practices, codes of ethics, and local court rules, policies, and procedures}**;
  - (c) [*Adaptations and modifications for special case concerns; and*] **{Manage safety before, during, and after mediation}**;
  - (d) [*Specific family, divorce, and parenting information.*] **{Mediate custody and parenting plan mediation cases}**;
  - (e) **Help parties develop parenting plans based on relevant factors}**;
  - (f) **Identify how different case scenarios may impact mediation and the parties' abilities to mediate; implement**

**tools and techniques for mediating cases involving such experiences; and**

**(g) Access mediator tools, resources, and continuing education opportunities in the future, and connect with other custody and parenting plan mediators for continued development.**

- (4) Be conducted by a lead trainer who has all of the following:
- (a) The qualifications of a domestic relations custody and parenting **plan** mediator as defined in UTCR 12.070;
  - (b) [*Completed*]{**Mediated**} at least [35]{**60 separate domestic relations custody and parenting plan**} cases [*including*]{**for**} a [*total of at least 350*]{**minimum total of 200**} hours of domestic relations custody and parenting **plan** mediation beyond the experience required of a domestic relations custody and parenting **plan** mediator in UTCR 12.070{**Mediation experience cases and hours required of a domestic relations custody and parenting plan mediator in UTCR 12.070 that included domestic relations financial issues may also be counted to satisfy the requirements of UTCR 12.110(4)**};
  - (c) Served as a [*mediation*] **co-**trainer [*or an assistant mediation trainer*] for the domestic relations custody and parenting **plan** mediation curriculum outlined in this section at least three times{**A co-trainer must be present for the majority of a training and lead sections of curriculum delivery under the direct observation of a lead trainer**}; and
  - (d) An understanding of court-connected domestic relations [*programs*]{**services**}.

### 13. 12.120 – DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING

Amend the domestic relations financial mediation training curriculum. See related items C.2–C.12 and C.14–C.15.

#### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

#### EXPLANATION

See also the [background](#) explanation for related item C.2.

The proposal would amend the domestic relations financial mediation training curriculum, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Requiring the same total number of training hours but require that those 40 hours be focused on a single curriculum. The proponent discussed that requiring training to be focused on a single curriculum is meant to facilitate consistent training requirements for mediators across Oregon and provide greater clarity for mediator applicants and determining authorities.
- Requiring a trainee to play the role of mediator or co-mediator during three of the six hours of required role play. The proponent discussed that this amendment would align the role play requirement with basic mediation training requirements and support development of baseline mediator skills and competency.
- Specifying the skills that trainees should gain from the training curriculum and, relatedly, align training topics with forthcoming, newly developed, Office of the State Court Administrator (OSCA) curriculum guidelines for domestic relations financial issues.
- Creating new lead trainer requirements that would require individuals to:
  - Meet the basic domestic relations financial mediator qualifications.
  - Mediate at least 60 financial issues cases including 200 total hours. The proponent discussed that establishing a minimum number of experience hours is meant to broaden a mediator's experience (i.e., expose a potential trainer to a variety of financial mediation scenarios) before beginning to train other mediators.
  - Serve as co-trainer for financial issues training three times. The proponent discussed that a mediator should first be supervised by an existing trainer to qualify as a trainer.

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## PROPOSED AMENDMENT

### 12.120 DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING

[(1) *D*]{**The d**}omestic relations financial mediation [*training shall include at least 40 hours of training or education that covers the topics relevant to the financial issues the mediator will be mediating, including*]{**curriculum is a single curriculum that is designed to integrate the elements in this section consistent with any guidelines promulgated by the State Court Administrator. The domestic relations financial mediation curriculum shall**}:

- [(a) *Legal and financial issues in separation, divorce, and family reorganization in Oregon, including property division, asset valuation, public benefits law, domestic relations income tax law, child and spousal support, and joint and several liability for family debt;*
- (b) *Basics of corporate and partnership law, retirement interests, personal bankruptcy, ethics (including unauthorized practice of law), drafting, and legal process (including disclosure problems); and*
- (c) *The needs of self-represented parties, the desirability of review by independent attorneys, recognizing the finality of a judgment, and methods to carry out the parties' agreement.*

(2) *Of the training required in subsection (1) of this section:*

- (a) *Twenty-four of the hours must be in an integrated training (a training designed as a single cohesive curriculum that may be delivered over time);*
- (b) *Six hours must be in three role plays in financial mediation with trainer feedback to the trainee; and*
- (c) *Fifteen hours must be in training accredited by the Oregon State Bar.]*

**{(1) Include at least 40 hours consistent with any guidelines promulgated by the State Court Administrator.**

**(2) Include multiple learning methods and training techniques that closely simulate the interactions that occur in a mediation and that provide effective feedback to trainees including, but not be limited to, at least six hours participation by each trainee in**

role plays with trainer feedback to the trainee and trainee self-assessment. The trainee must play the role of a mediator or co-mediator for at least three of the six hours.

- (3) Provide instruction to help the trainee effectively:**
- (a) Prepare for domestic relations financial mediation.**
  - (b) Assist parties in allocating marital assets and debts within Oregon standards.**
  - (c) Facilitate discussion of:**
    - (i) Child support and costs potentially not covered by child support;**
    - (ii) Federal and state taxes;**
    - (iii) Medical insurance coverage for the children;**
    - (iv) Spousal support;**
    - (v) Real property;**
    - (vi) Business allocation;**
    - (vii) Personal property allocation; and**
    - (viii) Allocation of responsibility for debts.**
  - (d) Describe finality of judgments and any applicable post-judgment options.**
- (4) Be conducted by a lead trainer who has all of the following:**
- (a) The qualifications of a domestic relations financial mediator as defined in UTCR 12.080;**
  - (b) Mediated at least 60 separate domestic relations financial mediation cases including a minimum total of 200 hours of domestic relations financial mediation beyond the experience required of a domestic relations financial mediator in UTCR 12.080. Mediation experience cases and hours required of a domestic relations financial mediator in UTCR 12.080 that included domestic relations custody and parenting plan mediation may also be counted to satisfy the requirements of UTCR 12.110(4);**

- (c) Served as a co-trainer for the domestic relations financial mediation curriculum outlined in this section at least three times. A co-trainer must be present for the majority of a training and lead sections of curriculum delivery under the direct observation of a lead trainer; and**
- (d) An understanding of court-connected domestic relations mediation services.}**



#### 14. 12.130 – COURT-SYSTEM TRAINING

Amend the court-system training curriculum. See related items C.2–C.13 and C.15.

##### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

##### EXPLANATION

See also the [background](#) explanation for related item C.2.

The proposal would amend the court-system training requirements, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Increasing the total court-system training hours from six to eight hours for all mediators, including small claims mediators. The proponent discussed that this amendment would align with existing available trainings and ensure training topics are covered sufficiently for new mediators.
- Replacing the broad areas of law and theory that currently comprise the required training topics with topics that can reasonably be taught in eight hours and cover what is most relevant to the practice of mediation.
- Creating a new requirement that the local court must provide trainees with information about local programs and procedures.

##### PROPOSED AMENDMENT

#### 12.130 COURT-SYSTEM TRAINING

When court-system training under this section is required, the training shall include, but not be limited to:

- (1) At least [~~six~~]{**eight**} hours including, but not limited to, the following subject areas:
  - (a) Instruction on the court system including, but not limited to:
    - (i) Basic legal vocabulary;
    - (ii) How to read a court file;
    - (iii) Confidentiality and disclosure;

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- (iv) Availability of jury trials;
- (v) Burdens of proof;
- (vi) Basic trial procedure;
- (vii) The effect of a mediated agreement on the case including, but not limited to, finality, appeal rights, remedies, and enforceability;
- (viii) Agreement writing;

**{(ix) Mediator opening statements;}**

([/x]) Working with interpreters; and

(x{i}) **{Working with people who have disabilities including but not limited to o}**[O]bligations under the Americans with Disabilities Act.

- (b) Information on the range of available administrative and other dispute resolution processes.
- (c) Information on the process that will be used to resolve the dispute if no agreement is reached, such as judicial or administrative adjudication or arbitration, including entitlement to jury trial and appeal, where applicable.
- (d) How the legal information described in this subsection is appropriately used by a mediator in mediation, including avoidance of the unauthorized practice of law.

[(2) *For mediators working in contexts other than small claims court, at least two additional hours including, but not limited to, all of the following:*]

([a]{e}) Working with represented and unrepresented parties, including:

- (i) [*The role of parties' attorneys in the mediation process;*]{**Available resources for unrepresented parties who have legal questions; and**}
- (ii) [*Attorney-client relationships, including privileges;*]{**Issues that arise when working with attorneys.**}

- [(iii) Working with attorneys, including understanding of Oregon State Bar disciplinary rules; and*
- (iv) Attorney fee issues.*
- (b) Understanding motions, discovery, and other court rules and procedures;*
- (c) Basic rules of evidence; and*
- (d) Basic rules of contract and tort law.]*
- {(f) Local court programs and procedures. Topics may include:**
  - (i) Scheduling of mediation sessions;**
  - (ii) Submitting mediator reports and mediated agreements to the court;**
  - (iii) Process for parties to complain about the mediation process;**
  - (iv) Expectations around professional engagement with the court and the parties; and**
  - (v) Anything else the local court determines to be appropriate.}**

## 15. 12.140 – CONTINUING EDUCATION REQUIREMENTS

Amend the continuing education requirements for general civil, domestic relations custody and parenting, and domestic relations financial mediators. See related items C.2–C.14.

### ACTION TAKEN

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

### EXPLANATION

See also the [background](#) explanation for related item C.2.

This proposal would amend the continuing education requirements for all civil mediators, including the following. See the proposed amendment below for the entirety of the proposed changes.

- Requiring court-connected mediators to complete one hour of continuing education every two years on the topics of equity, diversity, inclusion, and access. The proponent discussed that this proposal is meant to help mediators understand their own biases, increase cultural competency, and facilitate working with people who have different communication styles and belief systems.
- Revising the list of optional continuing education topics for all mediators to include the following: power dynamics, trauma-informed practices, technology in mediation, and suicide prevention—topics are relevant and important to the contemporary practice of mediation.
- Amending the current continuing education requirements, and creating new requirements, that apply specifically to domestic relations mediators.
- Capping the total number of continuing education hours that a mediator may obtain from formally debriefing cases with mediator supervisors and colleagues to two hours per reporting period. The proponent discussed that the current rule would allow a mediator to fulfill all continuing education hours through post-session debriefs. Given the total amount of required continuing education hours for mediators (12 hours every two years for civil mediators and 24 hours every two years for domestic relations mediators), the advisory committee recommends capping the total number of continuing education hours that a mediator can get from formally debriefing cases per reporting period to prevent mediators from operating in a closed environment and to encourage mediators to actively seek new information and perspectives. Requiring mediators to gain at least some of their continuing education hours

from experiences beyond formal debriefs will enhance the quality of mediation services provided to court users.

## PROPOSED AMENDMENT

### 12.140 CONTINUING EDUCATION REQUIREMENTS

- (1) Of the **{12}** continuing education hours required of approved **{civil}** mediators **{under UTCR 12.060}** every two calendar years:

*[(a) If the mediator is an approved general civil mediator:]*

*[(i){a}] One hour must relate to confidentiality;*

*[(ii){b}] One hour must relate to mediator ethics; [ and]*

**{(c) One hour must relate to equity, diversity, inclusion, and access; and}**

*[(iii){d}] Six hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation.*

- [(b){2}] **{Of the 24 continuing education hours required of}** *[If the mediator is an] approved domestic relations custody and parenting **{plan mediators under UTCR 12.070 and of}** *[or] domestic relations financial mediator**{s under UTCR 12.080 every two calendar years}**]:***

*[(i){a}] [Two]{**Three**}* hours must relate to **{mediator ethics in the context of domestic relations mediation, including one hour related to }**confidentiality;

*[(ii){b}] [Two hours must relate to mediator ethics]{**One hour must related to domestic violence or intimate partner violence**};*

**{(c) One hour must relate to equity, diversity, inclusion, and access;}**

*[(iii){d}] Twelve hours must be on the subject of either custody and parenting issues or financial issues, respectively;*

*[(iv){e}] Twelve hours can be satisfied by the mediator taking the continuing education classes required by his or her licensure unless such licensure is not reasonably related to the practice of mediation; and*

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([v]{f}) [The hours required in subparagraphs (i) and (ii) can be met in the hours required in subparagraph (iii) if confidentiality or mediator ethics is covered in the context of domestic relations.]{**Domestic Relations Mediator Report to the Court training:**

**(i) An approved domestic relations mediator must complete the Domestic Relations Mediator Report to the Court training within six months of becoming an approved mediator.**

**(ii) When a training is offered by the Oregon Judicial Department regarding updates to the domestic relations mediator report to the court, the approved mediator must complete the training within six months of the training being offered.**

([2]{3}) Continuing education topics may include, but are not limited to, the following examples:

(a) Those topics outlined in UTCR 12.100, 12.110, [and] 12.120[;]{, **12.130, and in any corresponding curriculum guidelines issued by the State Court Administrator;**}

(b) Practical skills-based training in mediation or facilitation;

(c) Court processes;

(d) Confidentiality laws and rules;

(e) Changes in the subject matter areas of law in which the mediator practices;

(f) Mediation ethics;

(g) Domestic violence;

**{(h) Power dynamics;}**

([h]{i}) Sexual assault;

([i]{j}) Child abuse and elder abuse;

(j) Gender, ethnic, and cultural diversity;

(k) Psychology and psychopathology;

(l) Organizational development;

- (m) Communication;
- (n) Crisis intervention;
- (o) Program administration and service delivery;
- (p) Practices and procedures of state and local social service agencies;[ *and*]

**{(g) Trauma-informed practices;**

**{(r) The use of technology in mediation;}**

{(q){s}} Safety issues for mediators{; **and**

**{(t) Suicide prevention}**.

{[3]{4}} Continuing education shall be conducted by an individual or group qualified by practical or academic experience. For purposes of this section, an hour is defined as 60 minutes of instructional time or activity and may be completed in a variety of formats, including but not limited to:

- (a) Attendance at a live lecture or seminar;
- (b) Attendance at an audio or video playback of a lecture or seminar with a group where the group discusses the materials presented;
- (c) Listening or viewing audio, video, or internet presentations;
- (d) Receiving supervision as part of a training mentorship;
- (e) Formally debriefing mediation cases with mediator supervisors and colleagues following the mediation{, **but not to exceed two hours per reporting period**};
- (f) Lecturing or teaching in qualified continuing education courses; and
- (g) Reading, authoring, or editing written materials submitted for publication that have significant intellectual or practical content directly related to the practice of mediation.

{[4]{5}} Continuing education classes should enhance the participant's competence as a mediator and provide opportunities for mediators to expand upon existing skills and explore new areas of practice or interest. To the extent that the mediator's prior training and

experience do not include the topics listed above, the mediator should emphasize those listed areas relevant to the mediator's practice.

(~~5~~6) Where applicable, continuing education topics should be coordinated with, reported to, and approved by the determining authority of each court at which the mediator is an approved mediator and reported at least every two calendar years via the electronic Court-Connected Mediator Continuing Education Credit Form available on the Oregon Judicial Department's webpage or other reporting form authorized by the appropriate determining authority.



**16. 21.140 – MANDATORY ELECTRONIC FILING**

Amend to require the electronic filing of documents submitted in an action to which ORS chapter 90 applies.

**ACTION TAKEN**

No recommendation of preliminary approval or disapproval was issued by the committee at the fall 2024 UTCR Committee meeting. By consensus, the committee agreed to send the proposal out for public comment in its proposed form.

**EXPLANATION**

This proposal was submitted by Rachel Trickett, UTCR Reporter, as a starting point for discussion by the UTCR Committee of an issue raised by Richard Moellmer, UTCR Committee member and trial court administrator for Washington County Circuit Court. The issue relates to high-volume, conventional case filings and whether UTCR chapter 21 may be amended to mandate eFiling. Conventional filing of such a high-volume of cases is labor intensive and time consuming for court staff. By consensus, the UTCR Committee agreed to table consideration of the proposed amendment below and to consider other potential solutions that may be proposed for the UTCR Committee fall 2025 meeting.

**PROPOSED AMENDMENT**

**21.140 MANDATORY ELECTRONIC FILING**

(1) \* \* \*

\* \* \* \* \*

**{(5) A document filed in an action to which ORS chapter 90 applies must be filed using the electronic filing system, instead of using conventional filing, subject to sections (1)–(4) of this rule where applicable.}**

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## D. OTHER COMMITTEE ACTIONS

### 1. Committee Membership

The committee received an update on membership.

#### ACTION TAKEN

No action was needed nor taken.

#### EXPLANATION

The committee received an update on membership.

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## 2. **Spring 2025 Meeting**

Scheduled spring meeting.

### **ACTION TAKEN**

The spring meeting was scheduled for Thursday, March 20, 2025.

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### 3. **Fall 2025 Meeting**

Scheduled fall meeting.

#### **ACTION TAKEN**

The fall meeting was scheduled for Friday, October 24, 2025.

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#### 4. OJD Law and Policy Ad Hoc Contempt Work Group Update

Report on potential out-of-cycle amendments to UTCR chapter 19 (Contempt Proceedings).

##### ACTION TAKEN

No action was needed nor taken.

##### EXPLANATION

The committee received an update on potential out-of-cycle amendments, to be effective January 1, 2025, to UTCR chapters 19 and 21 relating to contempt proceedings in the circuit courts:

UTCR 19.020(1) (content of initiating document seeking contempt sanctions) and UTCR 21.070(3)(d) (conventional filing exception to mandatory eFiling requirement, initiating contempt proceedings). The proposals are part of an effort to streamline court forms offered to self-represented litigants.

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## 5. Future UTCR Proposal to Address Filing Dates

A UTCR Committee member sought input from the committee about the efficacy of, and options for, a potential future proposal regarding relation back of the “filed date” of conventionally filed pleadings that are accompanied by a fee waiver or deferral application.

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### ACTION TAKEN

No action was needed nor taken.