

Chart 1: UTCR Chapter 12 Proposed Amendments and Reasoning

Court-Connected Mediator Qualifications Advisory Committee

	Existing Rule	Proposed Rule	Reason for Change
General Edits for Chapter 12			
Terminology	Chapter 12 references “custody and parenting” mediator and “custody and parenting time” mediator	Updates all of Chapter 12 to “custody and parenting plan ” mediator	Ensures use of one consistent term throughout Chapter 12. The committee found that Custody and Parenting Plan mediator is more appropriate than the existing rule’s terminology.
Applicability (12.010)			
Applicability 12.010	There are no proposed substantive changes for this section.		
Definitions (12.020)			
Case 12.020(2)	None	Defines “case” as actual dispute that has been filed in court or could be filed in court, but not roleplays.	Clarifies what type of subject matter experience can be counted towards the mediation experience requirement.
Lead trainer 12.020(16)	None	Adds reference to “lead trainer” provisions that appear throughout the chapter.	Helps orient the reader.
Determining Authority, Determining Mediator Qualifications, Other Responsibilities and Authority (12.030)			
Waiver, Substitution and Conditional Approval 12.030(2)	Under the current rule, a determining authority may allow a 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, the determining authority may petition the presiding judge for a waiver of a specific requirement, and the presiding judge may waive that requirement with the approval of the State Court Administrator.	<p>Regarding conditional approval and substitutions:</p> <ol style="list-style-type: none"> Continues to allow for conditional approval but requires good cause and requires the mediator to be under supervision until they meet the minimum requirements, which have to be met within a specified reasonable time. Conditional approval is not allowed for a custody and parenting plan mediator or a domestic relations financial mediator who has not met the training requirements in 12.070(2) or 12.080(2) respectively unless they completed 12.100 Basic Mediation Training. Allows a determining authority to grant a substitution when an applicant doesn’t 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. After 8/1/26, prohibits substitutions for specified training and experience requirements for domestic relations mediators. <p>Regarding Notifications: Requires determining authority to notify the presiding judge of conditional approvals and substitutions. Requires presiding judge to notify State Court Administrator if a substitution is allowed for domestic relations custody and parenting plan or financial issues mediator.</p>	<p>Regarding conditional approval and substitutions: The proposed changes tighten up and provide guidance on the pathway to approve a mediator who doesn’t meet the minimum requirements. The overall purpose is to allow courts flexibility to approve a mediator in appropriate circumstances, while also protecting the public. The amendment would ensure that mediators either have appropriate qualifications or are being supervised until they meet the minimum rule requirements.</p> <p>Regarding Notifications: Such notification will help OSCA to be attuned to current substitution trends to prompt future revisions to the Mediator Qualification rules so the rules align with pathway trends for becoming a court-connected mediator.</p>
Application Retention 12.030(3)	Silent on this topic.	<p>Repeals UTCR 12.050 and instead:</p> <ul style="list-style-type: none"> Requires the determining authority to keep the mediator’s application on file for public inspection; and Requires the mediator to have qualifications readily available to participants in the mediation (new requirement in 12.040(5)). 	The current way of providing information about a mediator’s qualifications (through a required form in 12.050) hasn’t been useful in practice. Most civil mediators are staff or volunteers. In these cases, one mediator is typically assigned at the time the service is provided (so there is no choice). Under the amended rules, mediators would still be required to have information available about their qualifications for parties at the time of the mediation (12.040(5)) and courts would be required to retain their application for public inspection (12.030(3)).

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Mediator Ethics (12.040)			
Written Ethics Information 12.040(3)	Silent on this topic.	Requires the mediator to provide information to parties in writing as soon as possible and in an ongoing manner as appropriate regarding the ethical standards listed in 12.040(3).	Providing the information to parties in writing allows parties to have a record of applicable mediation ethical standards which ultimately strengthens the quality of mediation. Providing the information to parties in writing supports the core value of self-determination and is in line with recommended mediation practices. This was one of the most highly discussed recommendations within the committee. Some courts are not already providing this information to parties in writing. OSCA staff are available to create streamlined processes to support court-connected mediators to implement the in-writing component. "And in an ongoing manner as appropriate" will prompt mediators to notify parties if applicable matters listed in 12.040(3) do not arise until after mediation has begun. For example, if the mediator discovers they have a conflict of interest in the middle of mediation.
Confidentiality 12.040(3)(d)	Requires the mediator to inform the participants the extent to which "disclosures" in mediation are confidential, including during private caucuses.	Requires the mediator to inform the participants the extent to which "communications" are confidential, including during private caucuses and any exceptions and limitations to confidentiality.	The new language isn't meant to be a substantive change, but rather a clarification to enhance a mediator's understanding of what is required.
Conflicts of Interest 12.040(3)(e)	Requires the mediator to disclose any potential conflicts of interest the mediator may have (i.e., any circumstances or relationships that may raise a question about the mediator's impartiality).	Requires mediator to disclose all actual and potential conflicts of interest that are reasonably known to the mediator and could reasonably raise a question about the mediator's impartial regard.	The new language isn't meant to be a substantive change, but rather a clarification to enhance a mediator's understanding of what is required.
Advisability of Mediation Currently 12.040(3)(h)	Requires mediator to inform the participants, in appropriate cases, the advisability of proceeding with mediation under the circumstances of the dispute.	Repeals rule.	This requirement is too broad and places too much responsibility on the mediator to discern whether mediation is advisable to each participant.
Complaint Procedure Proposed to be 12.040(3)(h)	Silent on this topic.	Requires mediator to disclose process for filing a complaint about the mediator or mediation process.	There is no formal complaint review process for court-connected mediators (except if such process is outlined by a mediator's adjacent professional licensing requirements). Providing parties information regarding the local court's complaint process will provide greater transparency for parties and will ensure courts are made aware if there are ongoing performance or ethical concerns for a specific mediator or court process.
Availability of Public Information Currently 12.040(3)(i)	Please see the next full section below, regarding repeal of 12.050.	Please see the next full section below, regarding repeal of 12.050.	Please see the next full section below, regarding repeal of 12.050.
Record of Agreement to Ethical Information 12.040(4)	Silent on this topic	Requires the mediator to document the parties' agreement to the items listed in 12.040(3).	This is in line with recommended mediation practices and provides a level of protection for mediators and courts against claims of malpractice and other liability-related matters.

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	Existing Rule	Proposed Rule	Reason for Change
Availability of Public Information 12.040(5)	Please see the next full section below, regarding repeal of 12.050.	Please see the next full section below, regarding repeal of 12.050.	Please see the next full section below, regarding repeal of 12.050.
Providing and Maintaining Publicly Available Information (12.050)			
Maintaining Publicly Available Information 12.050	Requires mediators to provide information about qualifications in court approved format. Requires court to make it available to mediation parties.	Repeals rule.	The current way of providing information (through a required form) hasn't been useful in practice. Most civil mediators are staff or volunteers. In these cases, one mediator is typically assigned at the time the service is provided (so there is no choice). Under the amended rules, mediators would be required to have information available about their qualifications for parties at the time of the mediation (12.040(5)) and courts would be required to retain their application for public inspection (12.030(3)).
Court-Connected Civil Mediator Qualifications (12.060)			
Education	None	None (See ORS 36.200(1): Formal education in any particular field shall not be a prerequisite to serving as a mediator.)	N/A
Training 12.060(1)	An applicant must have completed training in each of the following areas: 1. The basic mediation curriculum in UTCR 12.100; and 2. Court-system training in UTCR 12.130, or substantially similar training.	1. See full list of corresponding proposed changes to the Basic Mediation Training in section 12.100 including proposal for Basic Mediation Training to be a 40-hour training. 2. Substantially similar experience allowed as substitute. Please see full list of proposed changes to the Court-System Training in 12.130.	1. See section 12.100 for reasoning for proposed changes pertaining to the Basic Mediation Training. 2. A determining authority may find that a person with relevant experience working in the court system does not need the training. See section 12.130 for reasoning and proposed changes to the Court-System Training.
Experience 12.060(2)	Requires the applicant to have: 1. Observed three actual mediations; and 2. Participated as a mediator or co-mediator in at least three cases that have been or will be filed in court while being observed by a person qualified as a general civil mediation supervisor and performed to the supervisor's satisfaction.	Continues to require applicant to participate in at least six cases. Establishes a minimum number of hours of mediation. The applicant must participate in at least six cases for a minimum of 10 hours under the supervision of a general civil mediation supervisor as follows: <ul style="list-style-type: none">• Must observe at least one hour of mediation before acting as a co-mediator;• Must mediate or co-mediate at least the first three cases for a minimum number of 5 hours under the supervision of a person qualified as a supervisor; and• Mediation must be performed to the supervisor's satisfaction.	Makes existing requirements clearer. Establishes a minimum number of hours of mediation so that the mediator is exposed to a variety of situations before mediating without supervision. The committee found there are times an applicant may be ready to start co-mediating prior to observing three mediations. The committee recommends reducing the total observation requirement to allow increased opportunities for applicants to develop skills while co-mediating and/or mediating under supervision. The proposal allows courts more flexibility. For example, applicants may observe more than one hour of mediation voluntarily or if required by the local court supervisor.
Continuing Education Hours 12.060(3)	12 hours every 2 years (unless basic training is less than 36 hours, then 18 hours for first reporting period).	Same except removes 18-hour requirement. See full list of corresponding proposed changes to the Continuing Education requirements under 12.140	All civil mediators will have 40 hours of basic mediation training so won't need the extra training. See 12.140 below for full list of reasoning for corresponding proposed changes to the Continuing Education requirements.
Conduct 12.060(4)	Must subscribe to the mediator ethics in UTCR 12.040	Must subscribe to and comply with mediator ethics in 12.040. Note, there are revisions to the ethics rules in UTCR 12.040.	See 12.040 above for reasoning for proposed changes.

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Public Information 12.060(5)	Must provide and maintain information in UTCR 12.050.	Repeals this requirement and instead: <ul style="list-style-type: none"> requires the determining authority to keep the mediator’s application on file for public inspection; and requires the mediator to have qualifications readily available to participants in the mediation. 	See 12.050 above for reasoning for proposed changes.
Qualified Supervisor Formerly 12.060(6), Now 12.060(5)	Meets the requirements of a civil mediator and has mediated at least 35 cases or 350 hours beyond the experience required to be a civil mediator.	<ol style="list-style-type: none"> Changes the requirement to 35 cases including a total of 150 hours of mediation experience (instead of 350 hours). Adds that the individual must have an understanding of court-connected civil mediation services. 	<ol style="list-style-type: none"> 350 hours is out of sync with the requirement of 35 cases. The committee recommends establishing a minimum hourly requirement, instead of an alternative to the 35 hours. Understanding court-connected civil mediation services is a minimum expectation for supervising new court-connected civil mediators. This clause aligns with the domestic relations custody and parenting plan mediation qualified supervisor requirements.
Court-Connected Domestic Relations Custody and Parenting Plan Mediator Qualifications (12.070)			
12.070 Definitions	N/A	<ol style="list-style-type: none"> Adds definition of “substantive experience” to the header of 12.070. Adds statement that custody and parenting plan mediator applicants do not need to be approved as general civil mediators. 	<ol style="list-style-type: none"> The definition provides context for the new education pathway 12.070(1)(e) and to the mediation experience requirements in 12.070(3). Provides clarification for applicants and determining authorities.
Education 12.070(1)	Must possess one of the following: <ul style="list-style-type: none"> MA or Ph.D. in counseling, psychiatry, psychology, social work, marriage/family therapy, or mental health JD with course work or CLE credits in family law MA or Ph.D. in a subject relating to children and family dynamics, education, communication, or conflict resolution, with coursework in human behavior plus one-year full-time experience providing social work, mental health, or conflict resolution to families. BA in a behavioral science related to family relationships, child development, or conflict resolution and at least 7 years post BA experience in providing social work, mental health, or conflict resolution services to families. 	The post-bachelor’s degrees listed in 12.070(1) are the same, except the proposal moves conflict resolution to 12.070(1)(a) and adds full-time equivalencies. Alphabetizes names of degrees.	The committee recommends adding full-time equivalency hours to provide clarification for people wanting to become mediators and for designating authorities needing to review an application with a culmination of part-time experience.
		Lowers post BA substantive experience to two full-time years instead of seven years. Adds full-time equivalencies. Alphabetizes names of degrees.	Lowering the post BA substantive experience requirements from seven years to two years is in line with current human resources standards for experience to education equivalency standards.
		Adds pathway for mediators without specific educational degrees: 12,480 hours (or six years in a full-time role) of substantive experience as a: <ul style="list-style-type: none"> Mediator. Professional in family law field with experience with family law litigants in a public facing setting. Professional in family system or mental health setting with experience working directly with families. Similar substantive experience consistent with any guidelines promulgated by the State Court Administrator. 	The committee recommends the creation of an alternative pathway for mediators with substantive experience who do not meet the specific degree requirements. The alternative pathway will: <ol style="list-style-type: none"> 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 will benefit mediation clients, courts, and will enhance the pool of custody and parenting plan mediators. Support requests from rural courts to expand pathways for individuals to become court-approved custody and parenting plan mediators outside the current advanced educational degree structure.

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Mediation Training 12.070(2)	An applicant must have completed training in each of the following areas: <ol style="list-style-type: none"> The Basic Mediation Training curriculum in UTCR 12.100; The Domestic Relations Custody and Parenting Plan Mediation Training curriculum in UTCR 12.110; and Court-system Training in UTCR 12.130, or substantially similar training. 	<ol style="list-style-type: none"> See full list of corresponding proposed changes to the Basic Mediation Training in section 12.100 including proposal for Basic Mediation Training to be a 40-hour training. See full list of corresponding proposed changes to the Domestic Relations Custody and Parenting Plan Mediation Training curriculum in UTCR 12.110 Allows substantially similar education or experience as substitute for the Court-System training. 	<ol style="list-style-type: none"> See section 12.100 for reasoning for proposed changes pertaining to the Basic Mediation Training. See section 12.110 for reasoning for proposed changes pertaining to the Custody and Parenting Plan Mediation Training curriculum. A determining authority may find that a person with relevant experience working in the court system does not need the training. See section 12.130 for reasoning and proposed changes to the Court-System Training.
Custody and Parenting Plan Mediation Experience 12.070(3)	An applicant must have completed one of the following: <ul style="list-style-type: none"> Participate in at least 20 cases totaling 100 hours of domestic relations mediation supervised or co-mediated with a qualified domestic relations mediation supervisor (at least 3 of the cases must have been directly supervised by the qualified supervisor), OR Two years full-time experience in mediation, direct therapy or counseling, or as a practicing attorney handling domestic relations or juvenile caseload. These applicants must have participated as a mediator or co-mediator in at least 10 cases totaling 50 hours of domestic relations mediation and have an understanding of court-connected domestic relations programs. 	<p>The committee proposes three experience pathways (see Flowchart 1). For all experience pathways, the applicant must complete two experience elements:</p> <ol style="list-style-type: none"> Observe and debrief at least 5 separate custody and parenting time mediation cases for a minimum of 10 total hours before acting as a co-mediator or mediator in a case. Mediation Cases Under Supervision: An applicant must complete one of the following: <ol style="list-style-type: none"> If an applicant qualifies under section 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 12.070(3)(b)(iii), the applicant must mediate under supervision 30 separate custody and parenting plan mediation cases for a minimum of 100 hours. At least three cases must have direct observation by supervisor. If an applicant qualifies under section 12.070(1)(e), the applicant must mediate under supervision 30 separate custody and parenting plan mediation cases for a minimum of 100 hours. At least three of the cases must have direct observation by supervisor. If an applicant qualifies under section 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 section 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 under supervision 15 separate custody and parenting plan mediation cases for a minimum of 50 hours. At least three of the cases must have direct observation by supervisor. <p>Adds clarification that mediation experience cases and hours met under 12.080(3) that included custody and parenting plan mediation may also be counted to satisfy the experience requirements of 12.070(3).</p>	<p>Given the creation of an alternative education pathway in 12.070(1), the committee recommends different experience pathways depending on how the applicant qualifies under the education requirements to prevent an applicant from “double dipping” substantive experience. The pathways maintain the existing pathways for applicants who qualify under the listed degrees and have the existing additional two years of substantive experience.</p> <p>The committee recommends further defining what it means to “participate in” a case. To encourage a high-quality level of services, the committee recommends adding required observation cases so that all applicants must observe and debrief at least 5 separate custody and parenting time cases to be exposed to multiple case facts and elements before mediating or co-mediating under supervision.</p> <p>The committee found the number of cases required in the current rule did not align with the number of total hours required. Based on the current rule, each case would require five hours of mediation. Based on the average amount of time for each mediation case across the state, the committee recommend that each case take about 3.3 hours of mediation. The required case numbers appear higher considering this change to align the case numbers with total hours. The number of total hours remain the same.</p> <p>The committee found that new mediators need a higher level of support and that mediation parties deserve a higher level of quality assurance when working with a new mediator than what exists in the current rule. The committee recommends that all experience pathways require applicants to “mediate under supervision.” The committee recommends using the phrase “under supervision” to allow for determining authorities to be able to define supervision needs at the local level. In some counties, “under supervision” will mean in the presence of a supervisor during all mediations and in other counties, “under supervision” will mean the applicant mediates alone and debriefs cases with a supervisor. OSCA maintains a list of qualified supervisors who have offered to provide supervision to applicants across the state.</p> <p>Some courts’ mediation services include both domestic relations mediation service areas: custody and parenting plan mediation and domestic relations financial issues mediation. Provides clarity of expectations for mediators who get their mediation experience in a court with combined services.</p>

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Continuing Education Hours 12.070(4)	24 hours every 2 years	No changes. See full list of corresponding proposed changes to the Continuing Education requirements under 12.140.	See full list of corresponding proposed changes to the Continuing Education requirements under 12.140.
Conduct 12.070(5)	Must subscribe to the mediator ethics in UTCR 12.040.	Must subscribe to and comply with mediator ethics in 12.040. Note, there are revisions to the ethics rules in UTCR 12.040.	See 12.040 above for reasoning for proposed changes.
Public Information Formerly 12.070(6)	Requires compliance with requirements to provide and maintain information in UTCR 12.050	Repeals this requirement and instead requires the determining authority to keep the mediator’s application on file for public inspection; and requires the mediator to have qualifications readily available to participants in the mediation.	Mediators and courts are still required to have the information available, just not required in this format anymore. See 12.050 above for reasoning for proposed changes.
Qualified Supervisor Formerly 12.070(7), Now 12.070(6)	<ul style="list-style-type: none"> • Meets the requirements of a custody and parenting mediator; • Mediated at least 35 cases or 350 hours beyond the experience required to be a civil mediator, and • Have understanding of court-connected domestic relations mediation programs. 	<ol style="list-style-type: none"> 1. Same except changes the total cases to 60 cases (instead of 35) including a total of 200 hours of mediation experience (instead of 350 hours). 2. Changes court-connected domestic relations “program” to “services.” 	<ol style="list-style-type: none"> 1. Under the current rule, each mediation case would take 10 hours. Given the current statewide mediation case time average, the committee recommends aligning the total cases for becoming a supervisor with the new experience proposals (average of 3.3 hours per case). The current 350 case hours requirement seems excessive, especially for rural county panel mediators. 2. Services is more inclusive than programs of all mediation service delivery structures across Oregon.
Court-Connected Domestic Relations Financial Issues Mediator Qualifications (12.080)			
12.080 Definitions	N/A	<ol style="list-style-type: none"> 1. Adds definition of “substantive experience” to the header of 12.080. 2. Add statement that financial mediator applicants do not need to be approved as general civil mediators. 	<ol style="list-style-type: none"> 1. The definition provides context for the new education pathway 12.070(1)(e) and to the mediation experience requirements in 12.080(3). 2. Provides clarification for applicants and determining authorities.
Education 12.080(1)	Must meet education requirements under 12.070.	No substantive changes.	N/A
Mediation Training 12.080(2)	An applicant must have completed training in each of the following areas: <ol style="list-style-type: none"> 1. The Basic Mediation Training Curriculum in UTCR 12.100; 2. The Domestic Relations Custody and Parenting Plan Mediation Training curriculum in UTCR 12.110; 3. The domestic relations Financial Issues Mediation Training in UTCR 12.120; and 4. Court-system Training in UTCR 12.130, or substantially similar training. 	<ol style="list-style-type: none"> 1. See full list of corresponding proposed changes to the Basic Mediation Training in section 12.100 including proposal for Basic Mediation Training to be a 40-hour training. 2. See full list of corresponding proposed changes to the Domestic Relations Custody and Parenting Plan Mediation Training curriculum in UTCR 12.110. 3. See full list of corresponding proposed changes to the Domestic Relations Financial Issues Mediation Training requirements in UTCR 12.120. 4. Allows substantially similar education or experience as substitute for the Court-System Training. 	<ol style="list-style-type: none"> 1. See section 12.100 for reasoning for proposed changes pertaining to the Basic Mediation Training. 2. See section 12.110 for reasoning for proposed changes pertaining to the Domestic Relations Custody and Parenting Plan Mediation Training curriculum. 3. See section 12.120 for reasoning for proposed changes to the Domestic Relations Financial Issues Training. 4. A determining authority may find that a person with relevant experience working in the court system does not need the training. See section 12.130 for reasoning and proposed changes to the Court-System Training.

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<p>Domestic Relations Financial Issues Experience 12.080(3)</p>	<p>At least one of the following:</p> <ul style="list-style-type: none"> Participate in at least 20 cases totaling 100 hours of domestic relations mediation supervised or co-mediated with a qualified domestic relations mediation supervisor (at least 3 of the cases must have been directly supervised by the qualified supervisor), OR Two years full-time experience in mediation, direct therapy or counseling, or as a practicing attorney handling domestic relations or juvenile caseload. These applicants must have participated as a mediator or co-mediator in at least 10 cases totaling 50 hours of domestic relations mediation and have an understanding of court-connected domestic relations programs. 	<p>The committee proposes three experience pathways (see Flowchart 1). For all experience pathways, the applicant must complete two experience elements:</p> <ol style="list-style-type: none"> Observe and debrief at least 5 separate domestic relations financial issues mediation cases for a minimum of 10 total hours before acting as a co-mediator or mediator in a case. Mediation Cases Under Supervision: An applicant must complete one of the following: <ol style="list-style-type: none"> If an applicant qualifies under section 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 12.080(3)(b)(iii), the applicant must mediate under supervision 30 separate domestic relations financial issues mediation cases for a minimum of 100 hours. At least three cases must have direct observation by supervisor. If an applicant qualifies under section 12.070(1)(e), the applicant must mediate under supervision 30 separate domestic relations financial issues mediation cases for a minimum of 100 hours. At least three cases must have direct observation by supervisor. If an applicant qualifies under section 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 section 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, domestic relations arbitrator, domestic relations judge, and Certified Divorce Financial Analyst. The applicant must mediate under supervision 15 separate domestic relations financial issues mediation cases for a minimum of 50 hours. At least three cases must have direct observation by supervisor. 	<p>Given the creation of an alternative education pathway in 12.070(1), the committee recommends different experience pathways depending on how the applicant qualifies under the education requirements to prevent an applicant from “double dipping” substantive experience. The pathways maintain the existing pathways for applicants who qualify under the listed degrees and have the existing additional two years of substantive experience.</p>	
			<p>The committee recommends further defining what it means to “participate in” a case. To encourage a high-quality level of services, the committee recommends adding required observation cases so that all applicants must observe and debrief at least 5 separate domestic relations financial issues cases to be exposed to multiple case facts and elements before mediating or co-mediating under supervision.</p>	
			<p>The number of cases required in the current rule did not align with the number of total hours required. Based on the current rule, each case would require five hours of mediation. Based on the average amount of time for each mediation case across the state, the committee recommend that each case take about 3.3 hours of mediation. The proposed required cases appear higher considering this change to align the case numbers with the amount of time, but the amount of total experience hours remain the same.</p>	
			<p>Adds requirement that the cases and hours outlined in 12.080(3)(b) should involve mediation of financial matters in the areas the applicant intends to practice.</p>	<p>The committee found that the rule should encourage new mediators to attain financial issues experience hours in the areas of mediation that they intend to practice.</p>
			<p>Adds requirement that 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.</p>	<p>ORS 107.755(4) states “If a court provides mediation of financial issues, it shall develop a list of mediators who meet the minimum education and experience qualifications established by rules adopted under ORS 1.002 (Supreme Court). The rules must require demonstrated proficiency in mediation of financial issues...” The committee recommends adding the demonstrated proficiency clause to fulfill the requirements of ORS 107.755(4).</p>
<p>Adds clarification that mediation experience cases and hours met under 12.070(3) that included mediation of domestic relations financial issues may also be counted to satisfy the experience requirements of 12.080(3).</p>	<p>Some courts’ mediation services include both service areas: custody and parenting plan mediation and domestic relations financial issues mediation. Provides clarity of expectations for mediators who get their mediation experience in a court with combined services.</p>			

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Continuing Education Hours 12.080(4)	24 hours every 2 years.	No changes	N/A
Conduct 12.080(5)	Must subscribe to the mediator ethics in UTCR 12.040.	Must subscribe to and comply with mediator ethics in 12.040. Note, there are revisions to the ethics rules in UTCR 12.040.	See 12.040 above for reasoning for proposed changes.
Public Information Formerly 12.080(6)	Requires compliance with requirements to provide and maintain information in UTCR 12.050.	Repeals this requirement and instead requires the determining authority to keep the mediator’s application on file for public inspection; and require the mediator to have qualifications readily available to participants in the mediation.	Mediators and courts are still required to have the information available; it’s just not required in this format anymore.
Insurance Formerly 12.080(7)	Requires 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.	Repeals this requirement.	Insurance requirements are determined by the contracting or hiring county as a condition of employment. Insurance requirements are more appropriate for each court’s/county’s employment contracts. Furthermore, the committee recommends removing references to static amounts. In the event the UTCR committee determines otherwise, the current rule omits any distinction between per claim amounts and total aggregate claim requirements.
Qualified Supervisor Formerly 12.080(8), Now 12.080(6)	Individual must: <ul style="list-style-type: none"> Meet the requirements of a domestic relations financial mediator; Mediated at least 35 cases or 350 hours beyond the experience required to be a domestic relations financial mediator; and Malpractice insurance coverage for the supervisory role in force. 	<ol style="list-style-type: none"> Same except changes the total cases to 60 cases (instead of 35) including a total of 200 hours of mediation experience (instead of 350 hours). Adds that the individual must have an understanding of court-connected domestic relations mediation services. 	<ol style="list-style-type: none"> Under the current rule, each mediation case would take 10 hours. Given the current statewide mediation case time average, the committee recommends aligning the total cases for becoming a supervisor with the new experience proposals (average of 3.3 hours per case). The current 350 case hours requirement seems excessive, especially for rural county panel mediators. Understanding court-connected domestic relations mediation services is a minimum expectation for supervising new domestic relations financial issues mediators. This clause aligns with the domestic relations custody and parenting plan mediation qualified supervisor requirements.
		Repeals malpractice insurance coverage requirement for supervisory role.	<ol style="list-style-type: none"> Insurance requirements are more appropriately determined by employment contracts for mediators and supervisors. The committee was unable to verify that such supervisory role insurance packages exist for private non-attorney 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).
Independent Qualification Review (12.090)			
Independent Qualification Review 12.090	In courts where financial mediators are independent contractors, rule requires panel made up of determining authority, domestic relations financial mediator, and an attorney who practices domestic relations law locally.	Updates the section title to “Independent Contractor Domestic Relations Financial Mediator Qualification Review”. Aligns section language with the proposed 12.030 changes.	Committee recommends renaming subsection for increased clarity for determining authorities and mediator applicants.

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	Existing Rule	Proposed Rule	Reason for Change
Basic Mediation Training (12.100)			
Basic Mediation Training 12.100	30 hours Requires at least six hours participation by each trainee in role plays. See existing list of topics in Chapter 12.	<ol style="list-style-type: none"> 1. Raises total hours to 40 hours. 2. Requires trainee to play role of mediator or co-mediator during three of six hours of role plays. 3. Adds following topics: <ol style="list-style-type: none"> a. Equity, diversity, and inclusion; and b. Power dynamics. 	<ol style="list-style-type: none"> 1. The extra time is needed to address new topic areas. Most trainings in Oregon are already 36 to 40 hours. 2. Address gap that could allow for trainee to play role of mediation party for all role plays. Supports trainees to develop baseline mediator skills and competency. 3. Education on these issues is necessary to ensure that parties are treated impartially and can make their own decisions.
Basic Mediation Training Lead Trainer 12.100(4)	Must have: <ul style="list-style-type: none"> • Qualifications of general civil mediator except requirement to have completed Basic Mediation Training; and • Mediated 35 cases or 350 hours of mediation experience (beyond what is required of general civil mediator) and either: <ul style="list-style-type: none"> ○ Served as a trainer or assistant trainer for basic mediation curriculum at least three times; or ○ Have experience in adult education through serving as a teacher for 1000 hours and completed the Basic Mediation Training. 	Same except: <ul style="list-style-type: none"> • The person must have taken the Basic Mediation Training, and • “Basic mediation trainer or assistant trainer” changed to “co-trainer.” • If the person qualifies based on previous training experience, they must present for the majority of the training and lead sections of curriculum delivery under the direct observation of a lead trainer. Serving only as a basic mediation role play coach does not qualify, and • A person who qualifies based on teaching experience need only have taught for at least 250 hours (reduced from 1000). 	The committee recommends that all basic mediation trainers must be required to have completed the Basic Mediation Training. In addition, a new trainer should be supervised by an existing trainer to qualify under the rule. This change will prevent confusion regarding mediators serving as role play coaches. The adult education requirement of 1000 hours seemed excessive and was a potential barrier to otherwise qualified trainers.
Domestic Relations Custody and Parenting Plan Mediation Training (12.110)			
Custody and Parenting Plan Mediation Training 12.110	40 hours	Same, except the committee revised the Domestic Relations Custody and Parenting Plan Mediation Training curriculum guidelines to: <ul style="list-style-type: none"> • Specify the skills trainees should gain from the training. • Specify role play requirement in line with other sections of the rule. • Removed very broad areas of law and theory that were not feasibly taught during a 40-hour training to focus on the necessary skills. • Aligned the instruction topics in 12.110(3) with the updated headers of the proposed curriculum guidelines promulgated by the State Court Administrator. 	Training topics have been revised based on what can be reasonably taught in 40 hours, what is necessary for skill development and most relevant to custody and parenting mediation practice (instead of a list of broad topics), and to align topics with current terminology. Aligns role play requirement with basic mediation training requirements to support trainees to develop baseline mediator skills and competency.
Custody and Parenting Plan Training Lead Trainer 12.110(4)	Must have: <ul style="list-style-type: none"> • Met the qualifications of custody and parenting plan mediator; • Mediated 35 cases or 350 hours of mediation experience (beyond what is required of a custody and parenting plan mediator); • Served as a trainer or assistant trainer for the Custody and Parenting Plan Mediation Training at least 3x; and • An understanding of court-connected domestic relations programs. 	Same except changes the total cases to 60 cases (instead of 35) including a total of 200 hours of mediation experience (instead of 350 hours). Changes court-connected domestic relations “program” to “services.”	Under the current rule, each mediation case would take 10 hours. Given the current statewide mediation case time average, the committee recommends aligning the total cases for becoming a lead trainer with the new experience proposals (average of 3.3 hours per case). The current 350 case hours requirement seems excessive, especially for rural county panel mediators. Changing program to services is more inclusive of all mediation service delivery structures across Oregon.

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Domestic Relations Financial Issues Mediation Training (12.120)			
Domestic Relations Financial Issues Mediation Training 12.120	40 hours Of the 40 hours, 24 must be in integrated training, 6 hours must be in role plays, and 15 hours must be accredited by the Oregon State Bar.	Same number of training hours, except requires that the 40 hours be a single curriculum consistent with guidelines promulgated by the State Court Administrator. Update section to: <ul style="list-style-type: none"> Specify the skills trainees should gain from the training. Specify role play requirement in line with other sections of the rule. Removes non-integrated training requirements. Aligns 12.120(3) instruction topics with new curriculum guidelines. 	Requires the training to be a single curriculum promulgated by the State Court Administrator to support consistent training requirements for financial issues mediators across Oregon which will provide greater clarity for mediator applicants and determining authorities. Aligns role play requirement with basic mediation training and custody and parenting plan training requirements to support trainees to develop baseline mediator skills and competency.
Domestic Relations Financial Issues Lead Trainer 12.120(4)	Rule is silent on lead trainer requirements for the domestic relations Financial Issues Mediation Training.	Adds lead trainer requirement that aligns with the Domestic Relations Custody and Parenting Plan Mediation Training lead trainer requirements: <ul style="list-style-type: none"> Meet domestic relations financial mediator qualifications. Mediated at least 60 financial issues cases including 200 hours. Serve as co-trainer for Financial Issues Training three times. Understand court-connected domestic relations mediation services. 	Establishes a minimum number of hours of financial issues mediation experience so that the trainer is exposed to a variety of situations before training others. A new trainer should be supervised by an existing trainer to qualify under the rule. Adding a lead training requirement will support trainees to develop baseline financial issues skills and competency.
Court-System Training (12.130)			
Court-System Training 12.130	6 (if small claims) or 8 hours required, or substantially similar training or education.	8 hours required for all mediators, including small claims mediators.	Adds two additional hours for small claims mediators because the portions of the rule currently outlined in UTCR 12.130(2) that small claims mediators are currently exempted from sometimes apply in small claims court.
		Revised training topics to remove very broad areas of the law, such as the basic rules of evidence, contract and tort law, discovery, etc. Adds a new requirement that the local court provide information about local programs and procedures, including scheduling mediation sessions, submitting mediator reports and mediation agreements to the court, the process for the parties to complain about the mediation process, and expectations around professional engagement with the court and the parties.	Revises the training topics based on what can be reasonably taught in 8 hours, and what is most relevant to mediation practice.
Continuing Education Requirements (12.140)			
Continuing Education Civil 12.140(1)(c)	<u>Allows</u> mediators to count educational sessions on “Gender, ethnic and cultural diversity” towards their continuing education requirements.	Requires civil mediators to receive at least one hour of continuing education for equity, diversity, inclusion, and access per two-year reporting period. Repeals the existing “Gender, ethnic and cultural diversity” language.	Mediators should be required to have continuing education in this area to help them understand their own biases, increase their cultural competency, and help them work with people who have differing communication styles and belief systems.

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	Existing Rule	Proposed Rule	Reason for Change
Continuing Education, Domestic Relations 12.140(2)	Existing rule requires (every two years): <ul style="list-style-type: none"> Two hours of training on confidentiality and Two hours of ethics. 	<ol style="list-style-type: none"> Combines confidentiality and ethics requirement so that: Three hours must relate to mediator ethics in the context of domestic relations mediation, including one hour related to confidentiality. Adds one hour continuing education related to domestic violence or intimate partner violence. Adds one hour related to equity, diversity, inclusion, and access. Adds Domestic Relations Mediator Report to the Court trainings: <ol style="list-style-type: none"> Domestic relations mediator must complete the training within 6 months of becoming an approved mediator. If OJD offers an updated mediator report to the court training, the mediator will complete the training within 6 months. 	<ol style="list-style-type: none"> Combines specific domestic relations confidentiality and ethics hours into one line for clarity. Decreases requirement to three hours due to: a) limited availability of such trainings in the context of domestic relations mediation and b). To allow mediators more time for new continuing education topics. Current rule does not require ongoing domestic violence continuing education. Mediators need to participate in domestic violence/intimate partner violence trainings on an ongoing basis to stay current in recommended practices and to uphold safety during mediation. The committee recommends mediators be required to participate in ongoing trainings to stay current in recommended equity, diversity, inclusion, and access practices for the benefit of mediation participants. Requiring the mediator report to the court training is necessary for high quality statewide mediation data, especially given the impact the mediator report to the court data may have on a court's domestic relations mediation pass-through allocation.
Continuing Education, General Topics 12.140(3)	The existing rule provides examples of topics that may count towards the continuing education requirement.	Adds the following continuing education topics: <ul style="list-style-type: none"> Power dynamics; Trauma informed practices; The use of technology in mediation; and Suicide prevention. 	These topics are important to contemporary mediation practice.
Qualifying Continuing Education Format 12.140(4)	The existing rule provides examples of instructional activities that may count towards the continuing education requirement.	Same, except caps the total number of continuing education hours that a mediator can get from formally debriefing cases with mediator supervisors and colleagues to two hours per reporting period.	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 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 for court users. The Oregon Judicial Department continues to expand available training materials for court-connected mediators.