



OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

January 22, 2025

MEMORANDUM

TO: Court-Connected Mediators
ADR Court Staff
Mediation Trainers
ADR Stakeholders

FROM: The Court-Connected Mediator Qualifications Advisory Committee

Caitlyn Jackson, Civil & Criminal Programs Division, ADR Analyst
Oregon Judicial Department

Dana Walton-Macaulay, Civil & Criminal Programs Division, Director
Oregon Judicial Department

SUBJECT: UTCR Chapter 12 – Request for Public Comment Regarding
Proposed Changes to Court-Connected Mediator Qualifications

ACTION: **Please review proposed changes to the court-connected mediator qualifications rules in UTCR Chapter 12 and provide any comments by February 18, 2025.**

Court-Connected Mediators, Alternative Dispute Resolution (ADR) Court Staff, Mediation Trainers, and related ADR stakeholders are invited to review proposed changes to the court-connected mediator qualification rules outlined in Uniform Trial Court Rules (UTCR) Chapter 12 and to provide feedback on proposed changes through the UTCR public comment process.

The proposed changes are posted at:

- [Uniform Trial Court Rules & Committee page](#), or
- [Notice Seeking Public Comment on Proposed Uniform Trial Court Rules Changes for 2025](#) (the Chapter 12 proposals begin on page 49).

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Written comments can be submitted by three methods:

1. Click on the button next to the proposed change in the [Request for Public Comment](#) document.
2. Email comments to UTCR@ojd.state.or.us.
3. Mail them to the UTCR Reporter at the Office of the State Court Administrator, Supreme Court Building, 1163 State Street, Salem, Oregon 97301-2563.

The public comment period closes at 5:00 p.m. on February 18, 2025

Please review these [Frequently Asked Questions](#) for more information. If you have questions after reviewing the Frequently Asked Questions, please contact:

- Caitlyn Jackson, ADR Analyst, at Caitlyn.Jackson@ojd.state.or.us for questions about the Court-Connected Mediator Qualifications Advisory Committee.
- Rachel Trickett, UTCR Reporter, at UTCR@ojd.state.or.us for questions about the UTCR Committee public comment process or about the UTCR workgroup.

ec: The Court-Connected Mediator Qualifications Advisory Committee
Rachel Trickett, UTCR Court Reporter

Frequently Asked Questions

Regarding the proposed amendments to the court-connected mediator qualification rules outlined in UTCR Chapter 12.

To whom does UTCR Chapter 12 apply?

UTCR Chapter 12 outlines the minimum qualifications, standards, and continuing education requirements for court-connected civil mediators under [ORS 36.200](#), domestic relations custody and parenting time mediators under [ORS 107.775\(2\)](#), and domestic relations financial mediators under [ORS 107.755\(4\)](#).

In other words, UTCR Chapter 12 outlines the qualification rules for mediators who provide circuit court mediation services. Here is the definition of “Approved Mediator” from the currently adopted version of UTCR Chapter 12:

“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 mediator, or domestic relations financial mediator for purposes of the one or more mediation programs operated under the auspices of that court or judicial district that is subject to UTCR 12.010.

What is the importance of the Chapter 12 court-connected mediator qualification rules?

There is no state certification process or licensing board for becoming a mediator in Oregon, so it is up to the court to ensure court-connected mediators have a minimum level of training, experience, and, in some case types, education, to be able to support the effectiveness of court-connected mediation services. The quality of a court’s mediation services can impact:

- Satisfaction of court users;
- Public trust in the judicial system;
- Judicial caseloads and workloads for court staff;
- Case outcomes for court users; and
- How much time and money a dispute may cost someone.

The ultimate goal of the Court-Connected Mediator Qualification Rules is to support competent and effective mediation services for the benefit of all court stakeholders.

Why are proposed changes being considered for UTCR Chapter 12?

The Court-Connected Mediator Qualification Rules were first housed in UTCR Chapter 12 in 2003. In 2005, then Chief Justice Carson adopted the qualification rules under a Chief Justice Order with the intent that they would be regularly revised by the Court-Connected Mediator Qualifications Advisory Committee and a Statewide Alternative Dispute Resolution Analyst. Unfortunately, the Advisory Committee and ADR Analyst position were disbanded due to the 2008 recession. As a result, the Court-Connected Mediator Qualifications Rules were not updated following their implementation in 2005.

The Office of the State Court Administrator received feedback over the years and made efforts in 2017 and 2021 to facilitate revision discussions. However, the scope of recommendations, the number of stakeholders involved, time limitations, and staff capacity all presented barriers to implementing changes to the rules.

The UTCR Committee had a robust discussion during its spring 2022 meeting following stakeholders' recommendations that the rules be reviewed and potentially revised. The Oregon Judicial Branch received funding to staff an ADR Analyst position and the Court-Connected Mediator Qualifications Advisory Committee (also known as "the Advisory Committee") was developed shortly thereafter in fall 2022.

The Advisory Committee was asked to review UTCR Chapter 12, evaluate whether changes should be recommended, and, if applicable, recommend proposed amendments for the UTCR Committee's consideration. In fall 2024, after the culmination of two years of efforts, the Advisory Committee submitted the package of proposed UTCR Chapter 12 revisions to the UTCR Committee.

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 October 10, 2024, meeting and, by consensus, agreed to send the proposed amendments out for public comment in their proposed form.

Who was involved in developing the proposed amendments?

The Court-Connected Mediator Qualifications Advisory Committee was composed of mediators, trainers, and stakeholders for each type of court-connected mediation outlined in the rules and from the different court-connected mediation structures across Oregon. This included 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. Remote committee meetings enabled broad stakeholder participation from all areas of the state.

The Advisory Committee 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.

Between the Advisory Committee, subcommittees, and workgroups, participants spent over 1,100 hours collectively discussing mediator qualifications and finalizing the proposed revisions.

What goals shaped the Court-Connected Mediator Qualifications Advisory Committee's efforts and the proposed amendments?

The Court-Connected Mediator Qualifications Advisory Committee's efforts were guided by five goals (listed alphabetically, not in order of priority below). The Committee strove to revise the mediator qualification rules to:

- Adequately tailor the rules to the varied knowledge and experience required to provide mediation service in three different case types: civil, domestic relations parenting time and custody, and domestic relations financial issues;
- Diversify the demographic representation by eliminating unnecessary barriers that are preventing aspiring mediators from entry into court-connected mediation;
- Ensure sufficient mediators to meet the need while providing for appropriate training and education requirements;
- Establish good public policy and provide a stable foundation for court-connected dispute resolution for people in all areas of the state, including underserved populations; and,
- Reflect the needs of all stakeholders, including parties, programs, mediators, courts, lawyer advocates and state agencies.

Throughout its work, the Court-Connected Mediator Qualifications Advisory Committee navigated tension between these goals. For example, tension between wanting to eliminate unnecessary barriers for prospective mediators while also upholding a minimum level of qualifications necessary for supporting mediator competency across Oregon. The proposed amendments to Chapter 12 are the result of the Advisory Committee's intentional efforts to fulfill each of the above objectives and to successfully balance the sometimes-competing tension between them.

Each proposed change was also examined individually and in the context of the full chapter, Oregon statutes, and mediator ethical standards. This comprehensive approach allowed the Court-Connected Mediator Qualifications Advisory Committee to attend to the nuanced interconnections within Chapter 12 and in relation to the broader dispute resolution scheme.

What are examples of the proposed amendments?

Examples of the Court-Connected Mediator Qualifications Advisory Committee's substantive proposed amendments are listed below in [Appendix 1](#).

I thought the court-connected mediator qualifications were outlined in Chief Justice Order 05-028. What did I miss?

The Court-Connected Mediator Qualifications rules, formerly housed in Chief Justice Order (CJO) 05-028, were moved into Uniform Trial Court Rules (UTCR) Chapter 12 effective August 1, 2022, as recommended by the UTCR Committee and approved by Chief Justice Walters in [CJO 22-009](#). For more information about the history of the rules prior to 2005, see the preface to [CJO 05-028](#).

What resources are available to help me understand the proposed changes?

- [Chart 1: UTCR Chapter 12 Proposed Amendments and Reasoning.](#)
This chart compares the existing rule, the proposed rule, and the Advisory Committee's reasoning for proposed substantive changes.
- [Chart 2: Proposed UTCR Chapter 12 Court-Connected Mediator Qualifications by Case Type.](#) This chart compares the proposed qualification requirements by mediator type.
- [Chart 3: Proposed Court-Connected Mediation Training Requirements.](#) This chart outlines the underlying requirements for each of the four court-connected mediation trainings.
- See the three pending draft State Court Administrator Guidelines relating to Oregon Judicial Department Court-Connected Mediator Qualification Rules:
 - [12.100 Basic Mediation Training Curriculum - Updated.](#)
 - [12.110 Custody and Parenting Plan Mediation Training Curriculum - Updated.](#)
 - [12.120 Domestic Relations Financial Mediation Training Curriculum - New.](#)
- [Flowchart 1: Pathways for fulfilling mediator experience qualification requirements to become a court-connected domestic relations mediator.](#) This flowchart outlines the three mediator experience pathways for Domestic Relations Custody and Parenting Plan Mediators and Financial Issues Mediators.

Will the proposed amendments be adopted?

The UTCR Committee formed a workgroup to carefully evaluate the Advisory Committee's proposals, to consider additional changes, and to review public comments (if any). Once the workgroup has completed its review of the Advisory Committee's proposed revisions and public comments, the workgroup will submit a recommendation to the UTCR Committee. The workgroup is striving to complete its efforts prior to the spring 2025 UTCR meeting on March 20, 2025. Proposals that are recommended for final approval by the UTCR Committee during the March 20, 2025 meeting will be reviewed by the Chief Justice. Any amendments adopted by the Chief Justice following the March 20, 2025 meeting will become effective on August 1, 2025.

If additional time is needed for the UTCR Committee workgroup efforts, there may be subsequent impacts to the above-listed projected timeline. The [OJD ADR webpage](#) will be updated to reflect anticipated timelines.

Is it worth my time to submit public comments?

Any public comments received will be reviewed by the UTCR Committee Workgroup and ultimately will be shared with the UTCR Committee. The Advisory Committee values your feedback, experiences, and time. You are welcome to submit any type of comment. To help guide your review, we invite you to review the proposed amendments

and the [supplementary Advisory Committee resources](#). If you still aren't sure what type of feedback to provide, we invite you to consider the following questions:

- What proposed amendments, if any, do you support and appreciate most? Why? What will the impacts of such changes be?
- What proposed amendments, if any, do you have concerns about? Why? What will the impacts of such changes be?
- What proposed amendments, if any, appear more confusing (or alternatively, clearer) than the current rules?
- Are there any other amendments you would like to be considered?
- If the proposed changes are adopted, what impacts do you anticipate for court-connected mediation stakeholders?

Feedback from your lived and professional experiences is also valuable. For example:

- When you first became a court-connected mediator, were the required training and experience hours sufficient for you to be able to offer competent mediation services?
- If you are a trainer for any of the required mediation trainings, are most trainees able to grasp the content within the currently required training hours? Do the topics outlined in the rules and [corresponding training guidelines](#) align with the most essential training topics? Are you able to cover the requirements effectively (and sufficiently) within the allotted training time?
- If you co-mediate with or supervise court-connected mediators, are the qualification requirements sufficient for trainees to be able to offer quality mediation services at the time the qualification requirements are met? Alternatively, are the qualification requirements excessive for mentees or supervisees (i.e. are new mediators able to mediate alone competently prior to the time the qualification requirements are fulfilled)?

Does the Court-Connected Qualifications Advisory Committee have any recommendations for future qualification rule changes or other recommendations to enhance court-connected mediation?

The Court-Connected Mediator Qualifications Advisory Committee recommends the following next steps for furthering public policy efforts regarding court-connected mediation:

1. For the next round of Chapter 12 revisions:
 - a. The Advisory Committee recommends the development of layered qualification requirements for general court-connected civil mediators who mediate in specialized case areas. For example:
 - i. General civil cases involving higher dispute amounts and topics other than small claims and FED cases;
 - ii. Probate, conservatorship, and guardianship cases; and
 - iii. Any other specialized case area.

Unfortunately, the Advisory Committee was unable to create such layered qualifications due to time constraints.

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- b. The Advisory Committee did not have time to finalize a proposal for Chapter 12 to address the rapid evolution of technology and subsequent impacts for mediator ethical standards. The Advisory Committee recommends attending to such standards in future Chapter 12 revisions.
2. To eliminate the greatest barrier that prevents aspiring mediators from entry into court-connected mediation, the Advisory Committee recommends determining an appropriate venue for pushing forward initiatives to support future compensation for civil court-connected mediators. Providing mediators compensation will support efforts to diversify mediator pools beyond what is possible through revisions to Chapter 12. Such diversification is necessary for meeting needs of underserved populations in Oregon. Additionally, mediators have been volunteering their expertise for decades, and as the field professionalizes outside the court system, the pool willing to continue this pro bono work will decrease.

How can I review the proposed amendments? How do I submit written comments?

1. You can review the proposed changes at:
 - a. <https://www.courts.oregon.gov/utcr>;
 - b. [Notice Seeking Public Comment on Proposed Uniform Trial Court Rules Changes for 2025](#) (the Chapter 12 proposals begin on page 49).
 - c. A summary of the substantive proposals is available for your review below in [Appendix 1](#).
2. You can submit written comments on proposed changes to the court-connected mediator qualification rules through the UTCR public comment process by three methods:
 - a. Click on the button next to the proposed change in the [Request for Public Comment](#) document.
 - b. Email comments to utcr@ojd.state.or.us.
 - c. Mail comments to the UTCR Reporter at the Office of the State Court Administrator, Supreme Court Building, 1163 State Street, Salem, Oregon 97301-2563.

The public comment period closes at 5:00 p.m. on February 18, 2025.

I have questions, who do I contact?

- If you have questions about the Court-Connected Mediator Qualifications Advisory Committee, contact Caitlyn Jackson at Caitlyn.jackson@ojd.state.or.us.
- If you have questions about the UTCR Committee public comment process or about the UTCR workgroup, contact Rachel Trickett at utcr@ojd.state.or.us.

Appendix 1

Examples of the Court-Connected Mediator Qualifications Advisory Committee's Proposed Chapter 12 Changes¹

Regarding mediation training qualification requirements, the Advisory Committee recommends:

- Revising the Basic Mediation Training requirements so that:
 - The total required Basic Mediation Training hours increase from 30 hours to 40 hours to align with the length of most existing basic mediation trainings in Oregon and to allow additional time for new training topics.
 - The existing gap that allows for trainees to play the role of a mediation party for all role plays is addressed.
- Revising the Court-System Training requirements so that:
 - The total Court-System Training hours are raised from six hours to eight hours for small claims mediators to align with existing trainings and to ensure required training topics are covered sufficiently for new mediators.
 - The Court-System Training topics are revised to remove very broad areas of the law and to add new requirements 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.
 - Substantially similar education or experience is allowed as a substitute for the Court-system Training.
- Revising Domestic Relations Parenting Plan Mediation Training requirements to:
 - Specify the skills trainees should gain from the training.
 - Specify a role play requirement in line with other sections of the rules.
 - Remove very broad areas of law and theory that were not feasibly taught during a 40-hour training to focus on the necessary skills.
 - Align the total experience hours required for becoming a Custody and Parenting Plan Lead Trainer with the average length of court-connected domestic relations mediation cases.
- Revising Domestic Relations Financial Issues Mediation Training requirements so:
 - The 40 training hours be a single curriculum consistent with guidelines promulgated by the State Court Administrator and non-integrated training requirements be removed.
 - The instruction topics align with the newly developed domestic relations financial issues curriculum guidelines.
 - The rule outlines qualification requirements for becoming a lead trainer for the Domestic Relations Financial Issues Training.

¹ The full list of the Court-Connected Mediator Qualifications Advisory Committee's proposed Chapter 12 changes is outlined in the [Notice Seeking Public Comment on Proposed Uniform Trial Court Rules Changes for 2025](#) (the Chapter 12 proposals begin on page 49). [Additional supplemental resources](#) are available for your review.

Regarding the qualification requirements for Court-Connected Civil Mediators, the Advisory Committee recommends:

- Making the existing experience requirements clearer and revising the total experience requirements to establish a minimum number of hours of mediation so that the mediator is exposed to a variety of situations before mediating without supervision.
- Aligning the total hours required for becoming a qualified court-connected civil mediation supervisor so that the total hours required are in line with the average length of court-connected civil mediation cases.

Regarding the qualification requirements for Court-Connected Domestic Relations Custody and Parenting Plan and Financial Issues Mediators, the Advisory Committee recommends:

- Creating an alternative pathway for individuals with substantive experience who do not meet the specific degree requirements 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.
 - Benefit mediation clients, courts, and enhance the pool of domestic relations 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.
- Outlining different mediation experience pathways depending on how the applicant qualifies under the education requirements.
- Aligning the number of cases required in the current experience rule with the number of total hours required. Based on the average amount of time for each mediation case across the state (3.3), the total cases required have been adjusted to align with the total hour requirement in the existing rule (100 hours or 50 hours depending on the experience pathway).
- Requiring mediators for all domestic relations experience pathways to “mediate under supervision.”
- Aligning the total hours required for becoming a qualified court-connected custody and parenting plan mediation or domestic relations financial issues mediation supervisor so that the total hours required are in line with the average length of court-connected domestic relations mediation cases.
- Adding 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) (and vis-a-versa).

Regarding the qualification requirements for Court-Connected Domestic Relations Financial Issues Mediators, the Advisory Committee Recommends:

- In addition to the revisions outlined in the above section, the Committee recommends:
 - Requiring that the applicant demonstrate proficiency in mediation of financial issues prior to the applicant mediating without an approved mediator or supervisor present in the mediation session to fulfill the requirements of ORS 107.755(4).
 - Specifying that the mediation experience cases and hours should involve mediation of financial matters in the areas the applicant intends to practice.
 - Repealing insurance requirements for financial issues mediators and supervisors because insurance requirements are more appropriate for each court or county's employment contracts.

Regarding Mediator Continuing Education, the Advisory Committee Recommends:

- That court-connected mediators be required to complete one hour of continuing education every two years regarding equity, diversity, inclusion, and access.
- Revising the list of optional continuing education topics for all mediators to include: Power dynamics; Trauma-informed practices; The use of technology in mediation; and Suicide prevention.
- Amending the rule to require that domestic relations mediators complete:
 - One hour of continuing education related to domestic violence or intimate partner violence every two years.
 - The Oregon Judicial Department (OJD) Domestic Relations Mediator Report to the Court Training within six months of being approved to mediate and within six months of OJD releasing any updated mediator report trainings.
- Capping 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.

Regarding the remaining sections of Chapter 12, the Advisory Committee Recommends:

- Adding definitions of Case and Lead Trainer to the rules.
- Amending the pathways for determining authorities to approve a mediator who doesn't meet the minimum requirements to ensure the mediator has appropriate qualifications or is supervised until they meet the minimum requirements.
- Requiring mediators to provide written information to parties regarding certain mediator ethics topics and requiring that mediators document the parties' agreement to such topics.
- Repealing the requirement that courts provide information about a mediator's qualifications and instead require that mediators have information about their qualifications available for parties upon request.