

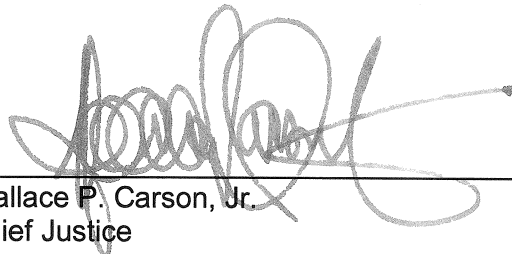
In the Matter of the Adoption of Oregon
Judicial Department Court-Connected
Mediator Qualifications Rules, Effective
August 1, 2005

) CHIEF JUSTICE ORDER
) No. 05-028
)
) ORDER TO ADOPT OJD COURT-
) CONNECTED MEDIATOR
) QUALIFICATIONS RULES

Pursuant to ORS 1.002 and 36.200, it is ordered that the rules concerning court-connected mediator qualifications, as shown in Attachment A, are adopted and are effective August 1, 2005.

These rules shall be known as the OJD Court-Connected Mediator Qualifications Rules.

Dated this 28th day of July, 2005



Wallace P. Carson, Jr.
Chief Justice

Oregon Judicial Department Court-Connected Mediator Qualifications Rules

**Effective
August 1, 2005**



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OREGON JUDICIAL DEPARTMENT COURT-CONNECTED MEDIATOR QUALIFICATIONS RULES

PREFACE

Historical Background:

Court-Connected Mediator Qualifications were first adopted by the Oregon Dispute Resolution Commission (ODRC) between 1992 and 1998. In October 2003, the legislature abolished the ODRC and transferred responsibility for establishing such rules on qualifications to the Oregon Judicial Department (OJD). At that time, Chief Justice Wallace P. Carson, Jr., adopted a version of these rules as Uniform Trial Court Rules Chapter 12.

Prior to its abolition, the ODRC had begun a process of reviewing and revising the substance of these qualifications. Upon receiving the responsibility for these rules, the OJD convened the Court-Connected Mediator Qualifications Advisory Committee to continue the work begun by the ODRC. The committee included representatives from each of the kinds of court-connected mediation, as well as advocates for users of mediation.

The committee included mediation coordinators from urban and rural trial courts; domestic relations mediators from county-based agencies and independent contractor panels; private mediators; mediation trainers; and representatives of the Oregon Association of Community Dispute Resolution Centers, Oregon Association of Family Court Services, Oregon Department of Justice, Oregon Mediation Association, Oregon State Bar Alternative Dispute Resolution Section Executive Committee, Oregon State Bar Family Law Section Executive Committee, State Family Law Advisory Committee, and University of Oregon Law School Office for Dispute Resolution.

During the development of this proposal, public comment was solicited through a variety of channels, including all of the groups represented above plus trial court administrators, Oregon State Bar Litigation Section Executive Committee, Oregon Trial Lawyers Association, and Oregon Association of Defense Counsel.

After consideration of comments received, the Chief Justice decided to remove these rules from under the structure of the Uniform Trial Court Rules (UTCRC) and issue them as a separate policy. Final rules were adopted by Chief Justice Order effective on August 1, 2005. These rules are not part of the UTCRC and are not subject to the UTCRC process.

Process for Revision:

The rules will be updated as necessary. Questions or comments can be submitted at any time to:

Statewide Appropriate Dispute Resolution Analyst
Supreme Court Building
1163 State Street
Salem, OR 97301-2563
503.986.4539
ojd.adr@ojd.state.or.us

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**OREGON JUDICIAL DEPARTMENT
COURT-CONNECTED MEDIATOR QUALIFICATIONS RULES**

1: GENERAL REQUIREMENTS FOR ALL COURT-CONNECTED MEDIATORS

SECTION 1.1 APPLICABILITY

Sections 1.1 to 3.6 of these rules:

- (1) Establish 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 mediators as provided by ORS 107.775(2).
 - (c) Domestic relations financial mediators as provided by ORS 107.755(4).
- (2) Provide 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) Do 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 107.732, 124.005 to 124.040, or 163.738, as provided in ORS 107.755(2).
 - (c) In any way establish any requirements for compensation of mediators.
 - (d) Limit in any way the ability of mediators or qualified supervisors to be compensated for their services.

SECTION 1.2 DEFINITIONS

As used in these rules:

- (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 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 Section 1.1.
- (2) “Basic mediation curriculum” means the curriculum set out in Section 3.2.
- (3) “Continuing education requirements” means the requirements set out in Section 3.6.

- (4) “Court-system training” means a curriculum or combination of courses set out in Section 3.5.
- (5) “Determining authority” means an entity that acts under Section 1.3 concerning qualification to be an approved mediator.
- (6) “Domestic relations custody and parenting mediation curriculum” means the curriculum set out in Section 3.3.
- (7) “Domestic relations custody and parenting mediation supervisor” means a person who is qualified at the level described in Section 2.2.
- (8) “Domestic relations custody and parenting 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 Section 2.2 as required by ORS 107.775(2).
- (9) “Domestic relations financial mediation supervisor” means a person who is qualified at the level described in Section 2.3.
- (10) “Domestic relations financial mediation training” means a curriculum or combination of courses set out in Section 3.4.
- (11) “Domestic relations financial mediator” means a mediator for domestic relations financial matters in circuit court under ORS 107.755 who meets qualifications under Section 2.3 as required by ORS 107.755(4).
- (12) “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 Section 2.1 as required by ORS 36.200(1).
- (13) “General civil mediation supervisor” means a person who is qualified at the level described in Section 2.1.
- (14) “Independent qualification review” means the process described in Section 3.1.
- (15) “Mediation” is defined at ORS 36.110.

SECTION 1.3 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 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.

- (2) Authority over qualifications. Subject to the following, a determining authority, for good cause, may allow appropriate substitutions, or obtain waiver, for any of the minimum qualifications for an approved mediator.
 - (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.
- (3) The determining authority may revoke a mediator's approved status at his or her discretion, including in the event that the mediator no longer meets the requirements set forth in these rules.
- (4) The determining authority may authorize the use of an evaluation to be completed by the parties, for the purpose of monitoring program and mediator performance.
- (5) 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 assure 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) 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 the Uniform Trial Court Rules in effect prior to August 1, 2005.
- (7) The State Court Administrator may approve the successful completion of a standardized performance-based evaluation to substitute for formal degree requirements under Sections 2.2 or 2.3 upon determining an appropriate evaluation process has been developed and can be used at reasonable costs and with reasonable efficiency.

SECTION 1.4 MEDIATOR ETHICS

An approved mediator, when mediating under ORS 36.185 to 36.210 or 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;
- (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 the participants prior to or at the commencement of the mediation of each of the following:
 - (a) The nature of mediation, the role and style 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;
 - (c) The commitment of the participants to participate fully and to negotiate in good faith;
 - (d) The extent to which disclosures in mediation are confidential, including during private caucuses;
 - (e) Any 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;
 - (f) The need for the informed consent of the participants to any decisions;
 - (g) The right of the parties to seek independent legal counsel, 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;
 - (i) The availability of public information about the mediator pursuant to Section 1.5; and
 - (j) If applicable, the nature and extent to which the mediator is being supervised.

SECTION 1.5 PROVIDING AND MAINTAINING PUBLICLY AVAILABLE INFORMATION

- (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 using the form located in Appendix A of these rules, or any substantially similar form authorized by the determining authority.

- (2) All approved mediators must update the information provided in Section 1.5 at least once every two calendar years.
- (3) The information provided in Section 1.5 must be made available to all mediation parties and participants upon request.

2: QUALIFICATIONS FOR COURT-CONNECTED MEDIATORS BY CASE TYPE

SECTION 2.1 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:

- (1) Training. An applicant must have completed training, including all the following:
 - (a) The basic mediation curriculum described in Section 3.2, or substantially similar training; and
 - (b) Court-system training in Section 3.5, or substantially similar training or education.
- (2) Experience. An applicant must have:
 - (a) Observed three actual mediations; 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 performing to the supervisor's satisfaction.
- (3) Continuing Education.
 - (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 Section 3.6.
 - (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 Section 3.6.

- (4) Conduct. An applicant and, as an ongoing obligation, an approved general civil mediator must subscribe to the mediator ethics in Section 1.4.
- (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 Section 1.5.
- (6) 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 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of an approved general civil mediator in this section.

SECTION 2.2 QUALIFICATION AS AN APPROVED DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATOR, ONGOING OBLIGATIONS

To become an approved domestic relations custody and parenting 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.

- (1) Education. An applicant must possess at least one of the following:
 - (a) A master's or doctoral degree in counseling, psychiatry, psychology, 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, communication, or conflict resolution from an accredited college or university, with coursework in human behavior, plus at least one year full-time equivalent post-degree 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, with coursework in a behavioral science, and at least seven years full-time equivalent post-bachelor's experience in providing social work, mental health, or conflict resolution services to families.
- (2) Training. An applicant must have completed training in each of the following areas:
 - (a) The basic mediation curriculum in Section 3.2;
 - (b) The domestic relations custody and parenting mediation curriculum in Section 3.3; and
 - (c) Court-system training in Section 3.5, or substantially similar training.

- (3) Experience. An applicant must have completed 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 comediated with a person qualified as a domestic relations custody and parenting mediation supervisor under this section. At least ten cases and 50 hours of the supervised cases in this paragraph 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 ten 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.
- (4) Continuing education. As an ongoing obligation, an approved domestic relations custody and parenting 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 Section 3.6.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations custody and parenting mediator must subscribe to the mediator ethics in Section 1.4.
- (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 Section 1.5.
- (7) Supervision. A qualified domestic relations custody and parenting mediation supervisor is an individual who has:
- (a) Met the qualifications of a domestic relations custody and parenting mediator as defined in Section 2.2,
 - (b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in this section, and
 - (c) An understanding of court-connected domestic relations programs.

SECTION 2.3 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 to meet all ongoing requirements as described.

- (1) Education. An applicant must meet the education requirements under Section 2.2 applicable to an applicant to be approved as a domestic relations custody and parenting mediator.
- (2) Training. An applicant must have completed training in each of the following areas:
 - (a) The basic mediation curriculum in Section 3.2;
 - (b) The domestic relations custody and parenting mediation curriculum in Section 3.3;
 - (c) Domestic relations financial mediation training in Section 3.4; and
 - (d) Court-system training in Section 3.5, or substantially similar training.
- (3) Experience. An applicant must have completed 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 comediated with a person qualified as a domestic relations financial mediation supervisor under this section. At least ten 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 comediator in a total of at least ten cases including a total of at least 50 hours of domestic relations financial mediation, and
 - (ii) An understanding of court-connected domestic relations programs.
- (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 Section 3.6.
- (5) Conduct. An applicant and, as an ongoing obligation, an approved domestic relations financial mediator must subscribe to the mediator ethics in Section 1.4.

- (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 Section 1.5.
- (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) 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 at least 35 domestic relations cases including a total of at least 350 hours of domestic relations financial mediation beyond the experience required in this section, and
 - (c) Malpractice insurance coverage for the supervisory role in force.

3: COMPONENTS OF QUALIFICATIONS FOR COURT-CONNECTED MEDIATORS

SECTION 3.1 INDEPENDENT QUALIFICATION REVIEW

- (1) In programs 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 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 the authority under Section 1.3 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.

SECTION 3.2 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 30 hours, or substantially similar training or education.
- (2) Include 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.
- (3) Include instruction to help the trainee:
 - (a) Gain an understanding of conflict resolution and mediation theory,
 - (b) Effectively prepare for mediation,
 - (c) Create a safe and comfortable environment for the mediation,
 - (d) Facilitate effective communication between the parties and between the mediator and the parties,
 - (e) Use techniques that help the parties solve problems and seek agreement,
 - (f) Conduct the mediation in a fair and impartial manner,
 - (g) Understand mediator confidentiality and ethical standards for mediator conduct adopted by Oregon and national organizations, and
 - (h) Conclude a mediation and memorialize understandings and agreements.
- (4) Be conducted by a lead trainer who has:
 - (a) The qualifications of a general civil mediator as defined in Section 2.1, except the requirement in Section 2.1(1)(a) to have completed the basic mediation curriculum;
 - (b) Mediated at least 35 cases to conclusion or completed at least 350 hours of mediation experience beyond the experience required of a general civil mediator in Section 2.1; and either
 - (c) Served as a trainer or an assistant trainer for the basic mediation curriculum outlined in this section at least three times; or

- (d) 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.

SECTION 3.3 DOMESTIC RELATIONS CUSTODY AND PARENTING MEDIATION CURRICULUM

The domestic relations custody and parenting 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.
- (3) Provide instruction with the goal of creating competency sufficient for initial practice as a family mediator and must include the following topics:
 - (a) General Family Mediation Knowledge and Skills;
 - (b) Knowledge and Skill with Families and Children;
 - (c) Adaptations and Modifications for Special Case Concerns; and
 - (d) Specific Family, Divorce, and Parenting Information.
- (4) Be conducted by a lead trainer who has all of the following:
 - (a) The qualifications of a domestic relations custody and parenting mediator as defined in Section 2.2,
 - (b) Completed at least 35 cases including a total of at least 350 hours of domestic relations custody and parenting mediation beyond the experience required of a domestic relations custody and parenting mediator in Section 2.2,
 - (c) Served as a mediation trainer or an assistant mediation trainer for the domestic relations custody and parenting mediation curriculum outlined in this section at least three times, and
 - (d) An understanding of court-connected domestic relations programs.

SECTION 3.4 DOMESTIC RELATIONS FINANCIAL MEDIATION TRAINING

- (1) Domestic 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:
 - (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 counsel, 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.
 - (c) Fifteen hours must be in training accredited by the Oregon State Bar.

SECTION 3.5 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 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;
 - (iv) Availability of jury trials;
 - (v) Burdens of proof;
 - (vii) Basic trial procedure;

- (viii) The effect of a mediated agreement on the case including, but not limited to, finality, appeal rights, remedies, and enforceability;
 - (ix) Agreement writing;
 - (x) Working with interpreters; and
 - (xi) Obligations 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) Working with represented and unrepresented parties, including:
 - (i) The role of litigants' lawyers in the mediation process;
 - (ii) Attorney-client relationships, including privileges;
 - (iii) Working with lawyers, including understanding of Oregon State Bar disciplinary rules; and
 - (iii) 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.

SECTION 3.6 CONTINUING EDUCATION REQUIREMENTS

- (1) Of the continuing education hours required of approved mediators every two calendar years:
 - (a) If the mediator is an approved general civil mediator:
 - (i) One hour must relate to confidentiality,
 - (ii) One hour must relate to mediator ethics, and

- (iii) 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) If the mediator is an approved domestic relations custody and parenting or domestic relations financial mediator:
 - (i) Two hours must relate to confidentiality;
 - (ii) Two hours must relate to mediator ethics;
 - (iii) Twelve hours must be on the subject of either custody and parenting issues or financial issues, respectively;
 - (iv) 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
 - (v) 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.
- (2) Continuing education topics may include, but are not limited to, the following examples:
 - (a) Those topics outlined in Sections 3.2, 3.3, and 3.4;
 - (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) Sexual assault;
 - (i) 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
 - (q) Safety issues for mediators.
- (3) 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;
 - (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) 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) 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 web page or other reporting form authorized by the appropriate determining authority.

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7/27/05

Appendix A
Court-Connected Mediator Information for Public Dissemination

Name of Mediator:	
Business or Program Name (if applicable):	
Business or Program Contact Information below (as applicable)	
Mailing Address:	
Telephone Number:	Fax Number:
E-Mail Address:	

Description of mediation training: _____

Description of other relevant education: _____

If you are a domestic relations mediator, description of formal education: _____

Description of mediation experience, including type and approximate number of cases mediated: _____

Relevant organizations with which the mediator is affiliated: _____

Description of other relevant experience: _____

Description of fees (if applicable): _____

Description of relevant codes of ethics to which the mediator subscribes: _____

I hereby certify that the above is true and accurate.

(Name)

(Date)