

**State Court Administrator Guidelines
Relating to Oregon Judicial Department
Court-Connected Mediator Qualifications Rules Section 3.3
Domestic Relations Custody and Parenting Mediation Curriculum**

The domestic relations custody and parenting mediation curriculum should include instruction on the following topics:

1. General Family Mediation Knowledge and Skills:
 - a. How to explain what family mediation is within the dispute resolution context, how it relates to current and potential legal processes, and what a family mediator can and cannot do.
 - b. Theories, current research, and literature underlying conflict and its resolution, and their application to family mediation.
 - c. How to contract for mediation services and how to explain mandatory services, court rules and procedures, and conditions for opting out of mediation.
 - d. Knowledge of and how to address confidentiality requirements in Oregon, including the differences in standards and applicability of the provisions contained in Oregon Revised Statutes chapters 36 and 107.
 - e. How to recognize and plan appropriately to address safety risks for clients and their family members, mediators, and mediation programs.
 - f. How to build a working relationship and a constructive mediation process with the parties, given mandatory and nonmandatory processes, and agency or service policies and procedures.
 - g. How to facilitate communication between the parties by using specific communication, negotiation, and facilitation skills, such as, but not limited to: active listening, reframing, reflection of feelings, etc.
 - h. How to screen for appropriateness of mediation.
 - i. How to assist the parties in surfacing and framing the topics to be discussed in family mediation, including:
 - 1) Knowledge of conflict management skills and de-escalation skills; and
 - 2) Understanding concepts and appropriate use of mediator influence and neutrality and the role of unrepresented stakeholders.
 - j. Knowledge of and how to practice within current professional standards of practice, codes of ethics, legal and ethical requirements, court policies and procedures, and how to recognize and resolve ethical issues.

- k. How to recognize when the assistance of other professionals might be helpful to the mediation process, and how to facilitate this discussion with the parties.
 - l. Awareness of what additional knowledge, skills, experience, and supervision may be necessary for the successful practice of mediation and how to get it.
 - m. How to conclude a mediation and how to memorialize the clients' understandings and agreements in written mediated agreements, including:
 - 1) Ability to describe next steps in the process to clients; and
 - 2) Ability to complete any postmediation follow-up.
2. Knowledge and Skill with Families and Children:
- a. Understanding of family systems, family life cycles, child development, adult development, and intergenerational patterns.
 - b. How to assess the need for crisis intervention for children and adults and how to provide it when needed.
 - c. How to understand and work effectively with grief, loss, anxiety, anger, defensiveness, and other common emotions of family conflict and crisis.
 - d. How to assess appropriateness for inclusion of children in family mediation, and how to conduct child interviews when needed.
 - e. How to make referrals for other professional services and awareness of local resources.
3. Adaptations and Modifications for Special Case Concerns:
- a. How to define and identify child abuse and its symptoms in children and adults; knowledge of child abuse reporting obligations and procedures; how to discuss these issues in mediation, and whether to continue to mediate.
 - b. How to be aware of social and cultural differences that may require adaptations to the provision of family mediation, such as, but not limited to: interpreters, culturally specific service delivery, and identification of individual family culture and values.
 - c. How to identify psychopathology that may indicate inappropriateness or special conditions for family mediation, and how to deal with this during family mediation.
 - d. Awareness of and how to deal with appropriate responses, modifications, and the possibility of ending of the mediation process to minimize harm or unfairness when the following issues are present or potentially present:
 - 1) Domestic violence, power and control, or intimidation issues in families;
 - 2) Mental health issues of parents or children;
 - 3) Drug and alcohol use or abuse, treatment, and recovery; and

- 4) Other physical, organic, or social conditions that might affect the parties' abilities to effectively mediate their issues.

4. Specific Family, Divorce and Parenting Information:

- a. Awareness of the process and consequences of separation and divorce and other family life transitions for adults and children.
- b. Awareness of children's cognitive, emotional, and educational developmental stages and how these are affected by absence, divorce, separation, and parental conflict.
- c. How to do parenting planning with parents, based on:
 - 1) Children's ages and developmental stages and special needs;
 - 2) Parents' knowledge and abilities;
 - 3) Attachment between parents and children;
 - 4) Parenting knowledge and skill;
 - 5) Distance and environmental factors; and
 - 6) Maintaining sibling and extended family relationships.
- d. How to educate and facilitate problem solving between the parties about custody, parenting time, and other issues affecting families in transition, including, but not limited to:
 - 1) Detailed parenting planning, including common parenting schedules and contingencies;
 - 2) Child support requirements, calculation, and modification;
 - 3) How to assist the parties in developing and drafting a parenting plan, including accommodation of children's changing developmental needs, and awareness of flexibility of plans acceptable to the court; and
 - 4) Familiarity with the Oregon Judicial Department's current basic and safety-focused parenting plan guides and other family law materials.
- c. Awareness of other state and national agencies and organizations affecting family law, divorce, parents, and children.

5. Legal, Procedural, and Financial Knowledge and Skills:

- a. How to understand and work with the substantive and procedural legal information encountered in family mediation, including, but not limited to:
 - 1) Domestic relations terminology;
 - 2) Needs of unrepresented (*pro se*) clients; and

- 3) Family law relevant to the issues of the mediation, such as, but not limited to: ORS 107, 108, 109, and 124.
- b. Domestic relations processes, such as, but not limited to:
- 1) The requirements of providing legal notice;
 - 2) Filing of motions and stipulated agreements;
 - 3) Waivers and deferral of filing fees;
 - 4) Competitions and summary dissolutions;
 - 5) Filing and contesting restraining orders, orders of no contact, and FAPA orders;
 - 6) Petitioning for temporary orders, status quo orders, and temporary support;
 - 7) Attendance at Family Law Education Programs;
 - 8) Expedited hearings for parenting time and custody;
 - 9) Conciliation services;
 - 10) Limited judgments and final judgments;
 - 11) Providers and programs for custody evaluation, parenting coordinators, and supervised parenting time; and
 - 12) Supplemental local rules and local jurisdictional policies and procedures.
- c. Related areas of law, rule, and policy that could intersect with domestic relations cases, including, but not limited to:
- 1) Arbitration;
 - 2) Paternity and filiation;
 - 3) Grandparent rights and the rights and responsibilities of step-parents or those with a significant relationship similar to a parent/child relationship;
 - 4) Probate;
 - 5) Juvenile dependency;
 - 6) Family reunification;
 - 7) Interstate and international issues and tribal notification and requirements;
 - 8) Courthouse facilitators; and

- 9) State Family Law Advisory Committee and Local Family Advisory Committees.
- d. The role of attorneys during and after the mediation effort.
 - e. The unauthorized practice of law, and how to avoid it.
 - f. A general understanding of the current Oregon laws regarding finances during separation and divorce and the ability to provide accurate information and/or referral to appropriate resources about financial topics, including, but not limited to:
 - 1) Temporary separation finances;
 - 2) Valuing and distribution of marital assets and debts;
 - 3) Retirement and pension information;
 - 4) Insurance during and after divorce;
 - 5) Private property, inheritances, and other assets; and
 - 6) Tax issues during and after divorce or separation.

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