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**DIVISION 5**

**PROCEDURAL RULES**

**718-005-0005**

**Purpose**

(1) The Dispute Resolution Commission, established by Oregon Laws 1989, Chapter 718, is authorized by law to adopt rules to carry out its statutory responsibilities.

(2) These rules describe how the commission will provide notice prior to the adoption of rules.

(3) These rules supercede the temporary rules adopted February 16, 1990 and are effective April 17, 1990.

Stat. Auth.: ORS 183

Stats. Implemented:

Hist.: DRC 1-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 3-1990, f. & cert. ef. 4-18-90

**718-005-0010**

**Statutory Authority and Procedure**

These rules are authorized by and carry out purposes of Oregon Laws 1989, Chapter 718 and were adopted pursuant to Section 16 of Oregon Laws 1989, Chapter 718 and ORS 183.310 et seq.

Stat. Auth.: ORS 183

Stats. Implemented:

Hist.: DRC 1-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 3-1990, f. & cert.

ef. 4-18-90

#### 718-005-0015

##### Notice

Prior to adoption, amendment or repeal or any rule, the commission shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days prior to the effective date of the intended action;

(2) By mailing a copy of the notice to persons on the commission's mailing list established pursuant to ORS 183.335(7);

(3) By mailing or furnishing a copy of the notice to:

(a) The United Press International;

(b) The Associated Press;

(c) Associations which have expressed an interest in and requested notice about the commission's activities;

(d) The Capitol Press Room.

Stat. Auth.: ORS 183

Stats. Implemented:

Hist.: DRC 1-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 3-1990, f. & cert. ef. 4-18-90

## DIVISION 10

### GENERAL RULES

#### 718-010-0000

##### Authority and Purpose

(1) The purpose of these rules is to provide procedures for the orderly conduct of meetings of the Dispute Resolution Commission. These rules are adopted pursuant to ORS Chapter 183, ORS 183.330(1) and Section 16 of Oregon Laws 1989, Chapter 718.

(2) These rules supercede the temporary rules adopted February 16, 1990 and are effective April 17, 1990.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0005

##### Quorum and Rules of Order

(1) Four members of the Commission constitute a quorum. The Commission may meet to discuss any matter in the absence of a quorum as provided by ORS 192.610 to 192.690 but may take no formal action on any matter unless a quorum is present.

(2) A majority of the Commission members present at a meeting must concur upon any action transacted by the Commission at such meeting. Any proposed Commission action must be moved by a Commission member and seconded by another Commission member before a vote may be taken by the Commission.

(3) Whenever a quorum is present, the members may not deliberate on or discuss any matter subject to review by the Commission without having first given public notice.

(4) The Commission shall prepare written minutes for each meeting and may record the meetings. The minutes need not be verbatim, but shall include at least a listing members present; motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition; results of all votes; and the substance of any discussion on any matter.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0010

##### Officers

(1) The Commission shall elect one of its members as chairperson and another as vice-chairperson. The chairperson and vice-chairperson shall serve for one year or until a successor is elected.

Members may serve successive full terms in these offices. The officers may be removed by a unanimous vote of the other Commission members.

(2) The chairperson shall preside over all Commission meetings and shall determine the location of the Commission meetings.

(3) The vice-chairperson shall act in lieu of the chairperson, when the chairperson is unable to perform any mandatory or discretionary responsibilities.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0015

##### Meetings – Date and Location Notice

The Commission shall meet periodically, as determined by a majority of the Commission, at a time and place within the state specified by the chairperson. The chairperson may call a special meeting to be held at any place in the state, upon 24 hours notice to each member and the public. The Commission will endeavor to vary the locations of its meetings to give persons throughout the state an opportunity to observe and participate in its activities. The Commission will publish, subject to revision, the time, date and location for each future meeting which has been scheduled. The chairperson or designee, consistent with the requirements of ORS 192.610 to 192.690, shall give notice of each meeting of the Commission. In the event of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours notice.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0020

##### Agendas for Regular Meetings

(1) The agenda for each regular meeting will be prepared by the chairperson and shall set out all matters expected to come before the Commission at the meeting.

(2) The agenda may contain a "Consent Calendar" identifying items which are considered routine, such as minutes of previous meetings and personnel recognition which will be acted upon without discussion. However, if a Commission member objects to an item on the Consent Calendar, it will be removed from the Consent Calendar and placed on the regular agenda for discussion.

(3) Each agenda shall include a designated time period which has been reserved for the presentation of concerns by interested citizens who wish to address the Commission. The duration of this period will be established by the chairperson and lengthened or shortened at the Commission meeting by the chairperson as dictated by the length of the meeting, timing and duration of other Commission business.

(4) The agenda shall identify the proponent of items placed thereon at the request of members of the public pursuant to these procedures.

(5) The agenda, together with minutes of all previous meetings which have not been approved by the Commission, will normally be sent to members at least one week prior to a regular meeting. The agenda will also be sent to each person or organization on the Commission's mailing list, which has requested a copy.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0025

##### Matters Not on Agenda

Commission members may, with the approval of a majority of the members, raise matters at a meeting which were not placed

on the agenda. A matter not on the agenda will not be acted upon unless a majority of the members present agree that the matter is of substantial immediate concern and should not be deferred until the next regular Commission meeting. The next Commission agenda will provide notification of such action.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0030

##### Order of Business

(1) The order of business of Commission meetings shall be as follows:

(a) Introduction of new Commission members, resolutions for retiring Commission members, and other personnel recognition;

(b) Announcements;

(c) Minutes of previous Commission meetings. (Because the minutes previously will have been sent to the members, the reading of the minutes may be waived.) Corrections, additions and approval of minutes;

(d) Reports of standing and special committees;

(e) Consideration of agenda items.

(2) The chairperson, unless a majority of the Commission disagrees, may revise the order of business and may limit debate on any item as necessary to conduct the meeting fairly and efficiently.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0035

##### Requests to Place Items on Agenda

Requests to place items on agendas for discussion only: Any person wishing to have an item placed on the agenda, including a suggested place of meeting, of a regular Commission meeting for purpose of discussion only shall give notice of the request in writing to the Commission at least two weeks prior to each meeting. The item will be placed on the agenda only with concurrence of the chairperson.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0040

##### Requests for Commission Action

Any person wishing the Commission to take formal action with respect to a particular subject shall file such request, together with all supporting information, with the Commission at least 20 calendar days prior to the date of the regular Commission meeting at which action is proposed to be taken. The item will be placed on the agenda only with the concurrence of the chairperson. The foregoing does not apply to petitions requesting the Commission to initiate a rulemaking proceeding, or petitions requesting the Commission to issue a declaratory ruling, for which procedures are set forth in the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, as adopted by the Commission.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0045

##### Committees

The chairperson may appoint such committees as deemed necessary, subject to disapproval of a majority of the Commission. The chairperson may determine the number of members of such committees and select the individual members. Those com-

mittees may include such Commission members or other interested persons as the chairperson deems appropriate. The chairperson may, with a majority approval of the Commission, abolish committees at any time. The individuals on such committees need not act as a group nor reach a consensus, but may report to the Commission individually.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0050

##### Commission Files

All Commission files shall be assembled in the Commission's official office. The Commission's files shall be maintained under the direction of the chairperson. The Commission shall maintain a record of the location of all files. Minutes of all Commission meetings shall be maintained in the Commission files for at least five years, and thereafter deposited in the State Archives.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0055

##### Commission Communications

Only the chairperson shall write other than routine or form letters in the name of the Commission unless members are specifically authorized in a Commission meeting to do so. All letters to be sent on behalf of the Commission should be prepared by Commission staff and copies appropriately filed and transmitted to the Commission. The Commission should approve in advance any correspondence which may materially affect policies and procedures. When a delay might render the Commission's functioning ineffective, the chairperson may be required to take immediate action which shall be reviewed at the next meeting of the Commission.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0060

##### Commission Agreements

Unless another member is expressly authorized by the Commission, only the chairperson may enter into agreements on behalf of the Commission. The chairperson may enter into such agreements as are necessary to carry out Commission policy and to enable the effective functioning of the Commission. Those agreements may include, but not be limited to working agreements with other governmental agencies as necessary to fulfill the statutory and administrative obligations of the Commission.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0070

##### Commission Expenditures

Unless another member is expressly authorized by the Commission, only the chairperson may incur financial obligations or authorize expenditures on behalf of the Commission. All such expenses shall be consistent with the legislatively approved budget and applicable state rules and regulations. Except for incidental expenses, not to exceed \$250, all expenditures shall receive prior Commission approval.

Stat. Auth.:  
Stats. Implemented:  
Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

#### 718-010-0080

### Conflict of Interest

(1) Prior to each meeting the chairperson shall announce that there may be a potential conflict of interest: Because the Commission members are required by law to be well informed on the principles of and may be engaged in the business of dispute resolutions, there is a potential for a conflict of interest or the appearance of such a conflict. Individual Commission members shall also announce a potential conflict prior to consideration of or action on any agenda item as defined in ORS 244.020(8).

(2) Individuals who have announced a potential conflict arising from consideration of or action on any agenda item shall be excused from further deliberations or action on that item.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

### 718-010-0085

#### Public Availability of Information

(1) Upon request, the Commission shall make available public records of the Commission, in accordance with ORS 192.410 through 192.500. The Commission may make those records available for inspection at no cost during regular business hours at the Commission's offices. The Commission shall, upon request, provide copies of public records at a cost reasonably calculated to reimburse it for its actual costs in making those records available. The Commission shall publish and may revise a schedule of those costs.

(2) Within 20 days of receipt of a request for records, under section (1) of this rule, the Commission shall either grant or deny the request. If the Commission fails to act within 20 days, the request shall be deemed denied.

(3) In the event that request for records is denied, the Commission shall notify the requestor, in writing, of the basis for the denial and of the requestor's right to appeal the denial to the Attorney General of the State of Oregon, as provided in ORS 192.450.

(4) The Commissions shall consider the reduction or waiver of any fees required to provide copies of records, if the records are requested by the news media, a non-profit public interest group, or any other person or entity, and the requestor provides a written statement in support of the reduction or waiver. The Commission may reduce or waive the fees if the Commission determines that reduction or waiver serves the public interest, taking into account the magnitude of the request, the Commission's resources, whether the information would not be obtainable by the requester without the reduction or waiver and any other factors relevant to the public interest.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

### 718-010-0090

#### Rules of Procedure

The Commission adopts the Attorney General's Model Rules of Procedure under the Administrative Procedures Act, June 1988 edition. In any conflict between the Model Rules and specific Commission rules, the specific rules shall apply.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

### 718-010-0100

#### Waiver and Suspension

These rules are intended to provide guidance for the orderly conduct of the Commission's business. Inadvertent failure by the Commission to comply with these rules shall not invalidate any action. The Commission may also, by a majority of the quorum present, temporarily suspend these rules.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

### 718-010-0110

#### Amendments

These rules, or portions thereof, may be amended or repealed at any time by a vote of a majority of the members, and in compliance with the provisions of ORS Chapter 183 governing rule-making activities.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1990(Temp), f. 2-28-90, cert. ef. 3-1-90; DRC 4-1990, f. & cert. ef. 4-18-90

## DIVISION 20

### OREGON COMMUNITY DISPUTE RESOLUTION PROGRAM RULES

### 718-020-0000

#### Scope of Application of Rules

These rules apply to the application process and to programs granted funds pursuant to ORS 36.155(1)(b). These rules shall be known as the Oregon Community dispute Resolution Program Rules. Future rules may incorporate provisions of these rules in regard to other dispute resolution programs.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

### 718-020-0010

#### Definitions for OAR 718-020-0000 to 718-020-0160

(1) "Applicant" is an entity which has submitted an application for program funding pursuant to ORS 36.155(1)(b).

(2) "Commission" means the Dispute Resolution Commission created under ORS 36.115.

(3) "Director" means the Executive Director appointed by the Dispute Resolution Commission under ORS 36.130.

(4) "Mediation" is defined as in ORS 36.110(6) and includes case development and conciliation.

(5) "Community Dispute Resolution Program" means a program that has been determined eligible for funding under ORS 36.155(1)(b) and these rules.

(6) "Grantee" is a community dispute resolution program that has been awarded funding pursuant to ORS 36.155(1)(b).

(7) "Rules" refers to OAR Chapter 718, commencing with OAR 718-020-0000 and ending with OAR 718-020-0160.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

### 718-020-0020

#### Program Services

(1) A purpose of ORS 36.100 - 36.175 is to foster the development of community based dispute resolution programs that will assist citizens in resolving disputes and developing skills in conflict resolution. To that end, a community dispute resolution program funded pursuant to ORS 36.155(1)(b) shall provide at a minimum the following services:

(a) Citizen education in conflict resolution skills to assist citizens in resolving their own disputes peacefully; and

(b) Community mediation services provided in part by volunteer mediators.

(2) In addition to these essential services, programs may elect to provide other services in order to respond to local identified needs. Such services may include, but are not limited to:

(a) Methods for addressing the interests of crime victims in criminal cases when those cases are either not prosecuted for lack of funds or could be more effectively handled outside the courts;

(b) Arbitration; and



(c) Training for dispute resolvers.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0030

##### Entities Eligible for Funding

A community dispute resolution program must be one of the following:

(1) A governmental entity with a separate dispute resolution program budget and a dispute resolution program advisory committee of at least five (5) representative members of the community, which advisory committee meets at least quarterly; or

(2) A nonprofit organization registered in Oregon. If an applicant is a nonprofit organization established for other purposes, it shall have a separate dispute resolution program budget and a separate advisory committee of at least five representative members of the community, which advisory committee shall meet at least quarterly.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0040

##### Fees for Service

(1) A community dispute resolution program is not required to charge fees to disputants for dispute resolution services. If a community dispute resolution program charges fees for dispute resolution services, a sliding fee scale or waiver or deferment based on income must be offered. The community dispute resolution program shall explain to all disputants, in advance of the services being furnished, the amount of any fees and other costs that may be charged.

(2) A community dispute resolution program shall not charge the following fees:

(a) Fees contingent on outcome; or

(b) Fees calculated on the basis of the amount in controversy.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0050

##### Participating Fund Requirements

(1) Grantees shall be required to match the funding granted to them pursuant to ORS 36.155(1)(b) at the following levels:

(a) First grant year — 10 percent;

(b) Second grant year — 25 percent;

(c) Third grant year — 50 percent;

(d) Fourth grant year — 75 percent;

(e) Fifth grant year — 100 percent.

(2) Program participating funds may be generated through fees for services, grants, donations, fundraising, in-kind donations and revenue generating efforts. The Commission shall retain discretion to waive or modify the participating fund requirements based upon the grantee's good faith efforts and substantial compliance with such requirements.

(3) In-kind donations may be reported or credited as revenue or expenditures, if such donations:

(a) Will be received during the proposed budgetary period; and

(b) Represent necessary and ordinary expenses or services related to the operation and management of the grantee.

(4) Documentation of in-kind donations shall include descriptions of the services or materials donated, the dates received, and the names and addresses of the donors. Volunteer services shall be documented by means of time sheets signed by the volunteer and verified by the program manager.

(5) In-kind donations and services — such as office space and administrative, clerical and professional services — shall be valued at the prevailing market rate.

(6) The following may not be included as in-kind donations:

(a) Volunteer time by members of the grantee's board of

directors or advisory committee while serving in the capacity as members of the board or committee; and

(b) Volunteer time provided for mediation, arbitration or other dispute resolution services.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0060

##### Administrative Procedures

(1) Although grantees may accept mandatory referrals to mediation, they shall provide the referred parties with written notice specifying that participation in the mediation session is voluntary.

(2) A written agreement to maintain the confidentiality of the mediation communications shall be offered to participants for their acceptance and signature no later than the initial mediation session.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0070

##### Qualifications and Minimum Training Requirements for Mediators in Community Dispute Resolution Programs

(1) Qualifications: Mediators shall possess good communication skills, and ability to respect diversity and differences, and an ability to maintain confidentiality and impartiality.

(2) Training: Mediators shall complete a basic mediation curriculum and an apprenticeship:

(a) A basic mediation curriculum shall be at least 30 hours and shall include a minimum of six hours' participation by each trainee in no less than three supervised role plays; a trainee self-assessment; and an evaluation of the trainee by the trainer which identifies areas where trainee improvement is needed for the benefit of both the trainee and the program. A basic mediation curriculum shall seek to develop mediation knowledge and skills including information gathering, relationship skills, communication skills, problem-solving, conflict management, and ethical practices. The curriculum shall specifically address the following areas:

(A) Active listening, empathy and validation;

(B) Sensitivity and awareness of cross-cultural issues;

(C) Maintaining neutrality;

(D) Identifying and reframing issues;

(E) Establishing trust and respect;

(F) Using techniques to achieve agreement and settlement, including creating a climate conducive to resolution, identifying options, reaching consensus, and working toward agreement;

(G) Shaping and writing agreements;

(H) Assisting individuals during intake and case development to resolve their disputes with a minimum of intervention by a third party; and

(I) Ethical standards for mediator conduct adopted by state and national organizations.

(b) The apprenticeship shall include participation in a minimum of two mediation cases under the supervision of an experience mediator or trainer, with at least one case resulting in a completed mediation session.

(3) An individual who, prior to the effective date of these rules, has participated in substantially similar training or completed 100 hours as a mediator shall have met the training requirements established by these rules.

(4) An individual who has completed a substantially similar training in another state after the effective date of these rules shall have met the training requirements established by these rules.

(5) Each grantee shall insure that its mediators have received basic curriculum training from a lead trainer who has completed:

(a) Mediation training substantially comparable to that required under these rules;

(b) Fifty hours of mediation experience; and who has

(c) Substantial background as a mediation trainer or an assis-

tant.

(6) A grantee may establish additional training requirements beyond these minimum training requirements. There shall be no formal academic requirements for mediators in community dispute resolution programs.

(7) An applicant or grantee may request from the Commission a waiver or modification of training requirements in cases where the applications of the rules would place an undue hardship on the program.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0080

##### Reporting Requirements

(1) Each grantee shall provide annually to the Dispute Resolution Commission statistical data on: its operating budget, the number and kinds of education programs, staff and volunteer qualifications, training activities, the number and source of referrals, types of disputes referred, dispute resolution services provided, number of persons served, case outcome, and such other information the Dispute Resolution Commission may require.

(2) Within ninety days of the close of each grant period, the grantee shall submit to the commission a final summary of revenues and expenses.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0090

##### Evaluation Participation

Each grantee shall cooperate with the Dispute Resolution Commission in developing methods for evaluating the effect of the dispute resolution services provided by the grantee on its community and the justice system.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0100

##### Declaration of Available Funds for Counties and Funding Cycles

The Commission shall determine before July 1 of each odd-numbered year each county's share of the amount collected pursuant to ORS 36.170 and 46.221. At the same time, the Commission shall adopt and publish a statement of the amount available to each county for grants to community dispute resolution programs in that county. The statement adopted shall include notice of the funding cycle.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0110

##### County Declaration of Intent to Participate

(1) A county shall notify the Commission on or before December 31 of each odd-numbered year of its intention to participate in the expenditure of funds for programs funded under ORS 36.155(1)(b). Such notification shall be by resolution of the appropriate board of county commissioners.

(2) A county may notify the Commission in writing at any time that it does not intend to participate in the expenditure of funds for programs funded under ORS 36.155(1)(b).

(3) The Dispute Resolution Commission may assume the county's role:

(a) Upon notice from the county, at any time, that it does not intend to participate; or

(b) If the county does not provide notice of intent to participate on or before December 31 of each odd-numbered year.

(4) If the Commission has assumed the county's role, the Commission shall contract with a program for not more than one year at a time. If the commission has contracted with a program in

a county, the county must notify the Commission 90 days prior to the expiration of the contract of its intent to assume participation in expenditure of funds.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0120

##### County Dispute Resolution Program Coordinator

(1) Each board of commissioners electing to participate in the expenditure of funds shall designate a person to function as the county dispute resolution program coordinator. To assure the neutrality and absence of any conflict of interest, the coordinator shall not directly participate in any community dispute resolution program.

(2) The coordinator shall maintain public information on any dispute resolution services within the county including name and telephone number of the coordinator, availability of grant monies to fund local programs, the grant solicitation and award process, and the program names and services provided by grantees in that county.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0130

##### Application Process

(1) A board of commissioners, or the Dispute Resolution Commission, if the Commission has assumed the county's role, shall issue a Request for Applications to provide the program services funded under ORS 36.155(1)(b).

(2) The application and selection process shall be open and shall encourage potential applicants to collaborate in designing programs to serve county needs.

(3) An applicant shall submit the original application to the participating county, and a copy of the application shall be sent simultaneously to the Dispute Resolution Commission.

(4) During any grant biennium, a board of commissioners may ask the Commission to extend a grantee's agreement for the duration of the biennium. In the event the Commission has assumed the county's role, the Commission may allow extension of a grantee's agreement for the duration of a biennium.

(5) In the event of an extension approval, the grantee shall submit an application which meets requirements in OAR 718-020-0140. The Commission shall review the application to determine whether the applicant is eligible under these rules.

Stat. Auth.: ORS 36.175

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91; DRS 1-1994, f. & cert. ef. 6-23-94

#### 718-020-0140

##### Application Requirements

All applicants shall provide the following information as part of their application for eligibility determination:

(1) A statement of the program's goals, objectives and activities including citizen education in conflict resolution skills and community mediation services.

(2) A description of community problems to be addressed; the proposed geographic area of service; the service population, and the number of persons the applicant will have the capacity to serve on an annual basis; the types of disputes to be handled; the types of dispute resolution services to be offered; and any access restrictions to be imposed by the applicant.

(3) A description of the applicant's organizational structure.

(4) A plan for recruiting, selecting and using volunteer mediators.

(5) A description of any training activities including the mediation curriculum and apprenticeship.

(6) A plan for publicizing its services and resources to potential referral agencies, individuals, civic groups, courts and justice system agencies.

(7) The applicant's organizational chart, personnel policies,

and resumes of all professional staff members.

(8) A proposed budget including the amount and sources of participating funds for the grant period, and any fee schedule to be used by the applicant. If available, financial reports shall also be submitted for the previous two years of the applicant's services.

(9) A description of program evaluation plans.

(10) Letters of support from community organizations, judicial and legal system representatives, administrative agencies, or other appropriate public service organizations in the proposed area of service. Such letters should, if appropriate, attest to the organization's willingness to make referrals to the applicant.

(11) An Affirmative Action statement.

(12) Other information required by the county.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0150

##### Selection Process

(1) The Commission shall acknowledge receipt of each application and shall review each application to determine whether the applicant is eligible for funding under these rules. The Commission shall send a notice of eligibility determination to each applicant and to the county dispute resolution coordinator.

(2) The county shall review the applications of those applicants determined eligible by the Commission and shall select the program(s) for funding. Criteria for the selection of funding may include:

(a) The ability of the applicant to address unmet community needs in the proposed geographical area of service;

(b) The structure and scope of the services to be provided by the applicant;

(c) The applicant's experience and qualifications in dispute resolution services;

(d) The amount of the requested grant and the reliability of the applicant's other funding sources; and

(e) The adequacy and cost of personnel, services and supplies, and capital outlay.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0160

##### Program Compliance

(1) The Commission shall enter into a contract with each grantee which specifies the kinds and level of services a grantee shall provide during the designated grant period.

(2) The Director shall have the power to examine the records of any grantee to determine compliance with the contract provisions and these rules.

(3) In the event that the Director determines a program is not in substantial compliance with the terms of its contract, the Director shall negotiate with the manager of the program to bring the program into compliance. If the program continues to be out of compliance, the Director shall provide written notice to the program and the county of the specific requirements that must be brought into compliance within 30 days.

(4) After the 30 days period, the Director shall initiate a request for mediation, with the mediator to be selected by mutual agreement of the program and the Director. If the mediator is not selected within 15 days, the Director shall ask the presiding judge in the county to select a mediator.

(5) If the mediation is not successful in resolving the compliance issues, the Director shall, after giving the program and the county not less than 30 days, conduct a hearing to identify whether there is substantial compliance or satisfactory progress being made towards compliance. The Commission may suspend funding of the program until the compliance requirements are met.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 1-1991, f. & cert. ef. 2-22-91

#### 718-020-0170

##### Funds Available for Community Dispute Resolution Programs

Funds received pursuant to ORS 36.170 and 46.221 shall be awarded by the Commission for community dispute resolution programs in the county from which the funds originated. Each county's respective share shall be seventy percent of the funds attributable to that county for the period of June 1 of each odd-numbered year through May 31 of the following odd-numbered year.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1991, f. & cert. ef. 4-5-91

#### 718-020-0180

##### Amount of Funds for Each County

(1) The amount available for each county in 1991-93 shall be seventy percent of the funds collected during the period July 1, 1989 through May 31, 1991.

(2) Public notice of the exact amount for each county shall be given prior to June 30 of each odd-numbered year.

	Actual	Projected	Total
	July 1, 1989 - Jan. 31, 1991	Feb. 1, 1991 - May 31, 1991	
Baker	\$ 640.50	\$ 134.84	\$ 775.34
Benton	3,699.50	778.84	4,478.34
Clackamas	22,547.70	4,746.88	27,294.58
Clatsop	3,875.20	815.83	4,691.03
Columbia	2,819.15	593.51	3,412.66
Coos	5,778.50	1,216.53	6,995.03
Crook	1,018.85	214.49	1,233.34
Curry	1,508.50	317.58	1,826.08
Deschutes	7,499.10	1,578.76	9,077.86
Douglas	7,437.50	1,565.79	9,003.29
Gilliam	56.00	11.79	67.79
Grant	528.50	111.26	639.76
Harney	357.00	75.16	432.16
Hood River	1,064.00	224.00	1,288.00
Jackson	14,652.75	3,084.79	17,737.54
Jefferson	994.00	209.26	1,203.26
Josephine	5,145.00	1,083.16	6,228.16
Klamath	6,429.50	1,353.58	7,783.08
Lake	469.70	98.88	568.58
Lane	27,114.50	5,708.32	32,822.82
Lincoln	3,017.00	635.16	3,652.16
Linn	8,368.50	1,761.79	10,130.29
Malheur	917.00	193.05	1,110.05
Marion	27,049.05	5,694.54	32,743.59
Morrow	367.50	77.37	444.87
Multnomah	88,526.20	18,637.09	107,163.29
Polk	3,136.00	660.21	3,796.21
Sherman	87.50	18.42	105.92
Tillamook	1,508.85	317.65	1,826.50
Umatilla	4,787.30	1,007.85	5,795.15
Union	1,122.80	236.38	1,359.18
Wallowa	498.40	104.93	603.33
Wasco	1,508.85	317.65	1,826.50
Washington	26,836.18	5,649.72	32,485.90
Wheeler	101.50	21.37	122.87
<u>Yamhill</u>	<u>5,152.00</u>	<u>1,084.63</u>	<u>6,236.63</u>
<b>TOTAL</b>	<b>\$286,620.08</b>	<b>\$ 60,341.06</b>	<b>\$346,961.14</b>

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1991, f. & cert. ef. 4-5-91

#### 718-020-0190

##### Funding Period for Grants

(1) Grants shall be available for the period of July 1 of each odd-numbered year through June 30 of the following odd-numbered year.

(2) The Commission shall contract with a community dispute resolution program for up to two years if the county has elected to participate in the expenditure of funds.

(3) If the Commission has assumed the county's role in selection, the Commission shall contract with a program for not more than one year at a time.

Stat. Auth.:

Stats. Implemented:

Hist.: DRC 2-1991, f. & cert. ef. 4-5-91

## DIVISION 30

### MINIMUM QUALIFICATIONS AND TRAINING FOR COURT CONNECTED DOMESTIC RELATIONS MEDIATORS

#### 718-030-0000

##### Scope of Application of Rules

Pursuant to ORS 36.175(5), these rules establish the minimum education, training, and experience requirements for court connected domestic relations mediators under ORS 107.755 to 107.785. These rules do not alter in any way the requirements pertaining to personnel who perform conciliation services under ORS 107.510 to 107.610.

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0010

##### Definitions for OAR 718-030-0000 to 718-030-0100

(1) "Court Connected Domestic Relations Mediator" means personnel who provide mediation services as defined by ORS 107.755 to 107.785, whether provided in connection with conciliation services under ORS 107.510 to 107.610 or provided separately.

(2) "Hiring Authority" means any entity which meets the criteria set forth in ORS 107.775, 1(a), (b), (c), and 3, and is chosen by the Circuit Court to establish a mediation program with the prior approval of the governing body of the county.

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0020

##### Minimum Qualifications

The foundation of competency in court connected domestic relation mediation is the education, training and experience of the mediator. A court connected domestic relations mediator shall be required to meet all of the minimum requirements for education, training and experience, except as provided for in OAR 718-030-0080(1) and (2).

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0030

##### Hiring Authority Responsibilities

The hiring authority shall be responsible for assuring that a court connected domestic relations mediator meets or exceeds the minimum qualifications and continuing education requirements described herein.

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0040

##### Education Requirements

(1) A court connected domestic relations mediator shall possess a master's degree from an accredited college or university with substantial course work in a behavioral science, or a law degree from an accredited law school with substantial course work

and/or Continuing Legal Education credits in family law.

(2) The Dispute Resolution Commission may approve the successful completion of a standardized performance-based evaluation to substitute for the formal degree requirement if and when such an evaluation process is developed.

(3) Exception to the education requirements may be allowed pursuant to OAR 718-030-0080(1) and (2).

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0050

##### Mediation Training Requirements

A court connected domestic relations mediator shall have completed a basic mediation curriculum:

(1) A basic mediation curriculum shall be at least 30 hours and shall include a minimum of six hours' participation by each trainee in no less than three supervised role plays; a trainer self-assessment; and an evaluation of the trainee by the trainer which identifies areas where trainee improvement is needed for the benefit of both the trainee and the program. A basic mediation curriculum shall seek to develop mediation knowledge and skills including information gathering, relationship skills communication skills, problem-solving, conflict management, and ethical practices. The curriculum shall specifically address the following areas:

(a) Active listening, empathy and validation;

(b) Sensitivity and awareness of cross-cultural issues;

(c) Maintaining neutrality;

(d) Identifying and reframing issues;

(e) Establishing trust and respect;

(f) Using techniques to achieve agreement and settlement, including creating a climate conducive to resolution, identifying options, reaching consensus, and working toward agreement;

(g) Shaping and writing agreements;

(h) Assisting individuals during intake and case development to resolve their disputes with a minimum of intervention by a third party; and

(i) Ethical standards for mediator conduct adopted by state and national organizations.

(2) The hiring authority shall insure that the mediator has received basic curriculum training from a lead trainer who has completed:

(a) Fifty hours of mediation experience; and who has;

(b) Substantial background as a mediation trainer or an assistant.

(3) A court-connected domestic relations mediator shall also complete a domestic relations mediation curriculum of at least 24 hours with participation as a mediator or comediator in a minimum of three simulated or actual domestic relations mediation cases for at least six hours under the supervision of an experienced lead trainer or mediator.

(4) A lead trainer under section (3) of this rule, or a supervisor for the experience requirements in OAR 718-030-0070(1) shall have participated in a minimum of 35 domestic relations mediations or a total 350 hours of domestic relations mediation, and have an understanding of court connected domestic relations programs.

(5) An individual who has participated in substantially similar training shall have met the training requirements established by these rules.

(6) Exception to the mediation training requirements may be allowed pursuant to OAR 718-030-0080(1) and (2).

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0060

##### Subject Knowledge Requirements

(1) The hiring authority shall ensure that a court connected domestic relations mediator has completed seminar or graduate level course work which substantially covers each of the fol-



lowing:

- (a) Child development;
- (b) Alcohol and drug abuse;
- (c) Domestic violence and child abuse;
- (d) Family financial planning and budgeting;
- (e) Family conflict theories and dynamics; and
- (f) Family law and divorce process.

(2) If a mediator provides mediation of financial decisions, the hiring authority shall ensure that the mediator has taken at least 20 hours of specialized training in a combination of property division, spousal support, and child support.

(3) Exception to the subject knowledge requirements may be allowed pursuant to OAR 718-030-0080(1) and (2).

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0070

##### Experience Requirements

(1) The hiring authority shall ensure that a court connected domestic relations mediator has one of the following types of experience:

(a) Participation in at least 20 domestic relations mediation cases supervised by or comediated with a domestic relations mediator or trainer as defined in OAR 718-030-0050(4);

(b) At least two years full time equivalent mediation experience;

(c) At least two years full time equivalent of direct therapy or counseling experience with a preferred emphasis on short term problem solving in a private, public, or private non-profit agency; or

(d) A practicing attorney with at least two years full time equivalent handling a domestic relations or juvenile caseload.

(2) Those who qualify under subsection (1)(c) or (d) of this rule, must also have participated as a mediator or comediator in a total of six actual domestic relations mediations or a total of 60 hours of domestic relations mediation, and have an understanding of court-connected domestic relations programs.

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0080

##### Substitutions and Waivers

(1) The hiring authority for good cause may allow appropriate substitutions for any of the minimum qualifications, however, as a pre-hiring condition, a candidate shall be required in writing to meet all of the minimum qualifications within a specified reasonable period of time.

(2) The hiring authority for good cause may petition to the Dispute Resolution Commission for a waiver of specific minimum qualification requirements as stated in OAR 718-030-0040 to 718-030-0070.

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0090

##### Continuing Education Requirements for a Court Connected Domestic Relations Mediator

Following employment, the hiring authority shall require the mediator to attend at least 12 hours of continuing mediation education each year. Continuing education choices shall be made in consultation with the mediation program supervisor. To the extent that the mediator's training prior to employment does not include the following topics, those topics shall be emphasized in the mediator's continuing education requirements:

(1) The effects of domestic violence on children, and the legal rights of domestic violence victims;

(2) Gender, ethnic and cultural diversity;

(3) Divorce adjustment for adults and children;

(4) "The best interest of the child";

(5) Psychopathology;

(6) Crisis intervention with families;

(7) Oregon Child Support Guidelines;

(8) Mediation models, theory and techniques;

(9) Program administration and service delivery;

(10) Development of parenting plans;

(11) Establishment of visitation schedules;

(12) Practices and procedures of state and local social service agencies;

(13) Safety issues for mediators; and

(14) Family Systems Theory.

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

#### 718-030-0100

##### Existing Court Connected Domestic Relations Mediator

A court connected domestic relations mediator practicing under ORS 107.755 to 107.785 in the State of Oregon shall have six months from the effective date of these rules to meet the minimum requirements described in OAR 718-030-0040 to 718-030-0070.

Stat. Auth.: ORS 36.175(5)

Stats. Implemented:

Hist.: DRC 1-1992, f. & cert. ef. 4-21-92

### DIVISION 40

#### MINIMUM QUALIFICATIONS AND MINIMUM TRAINING FOR MEDIATORS ON COURT PANELS

#### 718-040-0000

##### Scope of Application of Rules

(1) Pursuant to ORS 36.175(5) and 36.200(1), these rules establish the minimum qualifications and training for mediators serving on mediation panels established in district and circuit courts, including cases in small claims division and forcible entry and detainer cases, except as provided in section (2) of this rule.

(2) These rules do not apply to:

(a) Court connected domestic relations mediators while mediating in proceedings covered by OAR 718-030-0000 to 718-030-0100; and

(b) Persons while mediating in proceedings under ORS 107.700 to 107.730.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0010

##### Definitions for OAR 718-040-0000 to 718-040-0120

(1) "Mediator" means a third party who performs mediation as defined in ORS 36.110(6).

(2) "Listed Civil Case Mediator" means a mediator serving on a mediation panel established in a district or circuit court and who is eligible to mediate in civil cases other than those listed in section (3) of this rule.

(3) "Listed Domestic Relations Mediator" means a mediator serving on a mediation panel established in a district or circuit court and who is eligible to mediate in cases which involve disputes over matters in ORS Chapters 107 to 109.

(4) "Listed Mediator" means a listed civil case mediator or a listed domestic relations mediator.

(5) "Panel" means a list of mediators established by a court pursuant to ORS 36.200(1).

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0020

##### Civil Case Mediators — Summary of Minimum Qualifications and Training Requirements

A listed civil case mediator shall have:

(1) Completed a total of at least 36 hours of training including:

- (a) At least 30 hours of basic mediation training as described in OAR 718-040-0040; and
- (b) At least six hours of training in the court system as described in OAR 718-040-0070.

(2) Completed an experience requirement as described in OAR 718-040-0080;

(3) Subscribed to the standards of conduct in OAR 718-040-0100; and

(4) Completed a disclosure as described in OAR 718-040-0110.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0030

##### Domestic Relations Mediators — Summary of Minimum Qualifications and Training Requirements

A listed domestic relations mediator shall have:

(1) Completed the following three training requirements:

(a) The mediation curriculum described in OAR 718-040-0050(1);

(b) The substantive training described in OAR 718-040-0060; and

(c) At least six hours of training in the court system as described in OAR 718-040-0070.

(2) Completed an experience requirement as described in OAR 718-040-0090;

(3) Subscribed to the standards of conduct in OAR 718-040-0100; and

(4) Completed a disclosure as described in OAR 718-040-0110.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0040

##### Civil Case Mediators — Basic Mediation Training Requirements

(1) A listed civil case mediator shall have completed a basic mediation curriculum of at least 30 hours which shall include but not be limited to the following:

(a) A minimum of six hours participation by each trainee in three or more supervised role plays with feedback; and

(b) A trainee self-assessment.

(2) A basic mediation curriculum shall seek to develop mediation knowledge and skills including information gathering, relationship skills, communication skills, problem solving, conflict management, and ethical practices.

(3) The curriculum shall specifically address the following areas:

- (a) Active listening, empathy and validation;
- (b) Sensitivity to and awareness of cross-cultural issues;
- (c) Maintaining neutrality;
- (d) Identifying and reframing interests and issues;
- (e) Establishing trust and respect;

(f) Using techniques to achieve agreement and settlement, including creating a climate conducive to resolution, identifying options, reaching consensus, and working toward agreement;

(g) Shaping and writing agreements; and

(h) Ethical standards for mediator conduct adopted by state and national organizations.

(4) The basic curriculum training must be provided by a lead trainer who has completed:

(a) Mediation training substantially comparable to that required under these rules;

(b) Fifty hours of mediation experience; and who has

(c) Substantial background as a mediation trainer or an assistant mediation trainer.

(5) An individual who has participated in substantially similar

training shall have met the basic mediation training requirements established by sections (1) through (4) of this rule.

(6) An individual who has completed the basic mediation curriculum prescribed either in the Community Dispute Resolution Program Rules (OAR 718-020-0070(2), or in the Minimum Qualifications and Training for Court Connected Domestic Relations Mediators Rules (OAR 718-030-0050(1) and (2) shall have met the basic mediation training requirements established by sections (1) through (4) of this rule.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0050

##### Domestic Relations Mediators — Mediation Training Requirements

(1) A listed domestic relations mediator shall have completed either:

(a) At least a 30 hours basic mediation curriculum as described in OAR 718-040-0040 and a 24 hours family or divorce mediation curriculum as described in section (2) of this rule;

(b) At least a 40 hours curriculum which combines the basic mediation curriculum as described in OAR 718-040-0040 and the family or divorce mediation curriculum as described in section (2) of this rule.

(2) A family or divorce mediation curriculum shall include at least four hours in each of the following areas:

- (a) Mediation process;
- (b) Psychological issues;
- (c) Child development;
- (d) Family law; and
- (e) Family economics.

(3) An individual who has participated in substantially similar training shall have met the training requirements established by section (2) of this rule.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0060

##### Domestic Relations Mediators — Substantive Training Requirements

A listed domestic relations mediator shall have completed at least five hours of training in each of the following:

- (1) Alcohol and drug abuse; and
- (2) Domestic violence and child abuse.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0070

##### All Listed Mediators — Training in the Court System

(1) All listed mediators shall have completed at least six hours of training which shall include but not be limited to the following subject areas:

(a) Knowledge of the court system including but not limited to:

- (A) Basic legal vocabulary;
- (B) How to read a court file; and

(C) The effect of a mediated agreement on the case including but not limited to finality, appeal rights, remedies, and enforceability;

(b) Knowledge of the range of available administrative and other dispute resolution processes;

(c) Knowledge of the process that will be used to resolve the dispute if no agreement is reached, such as judicial or administrative adjudication or arbitration;

(d) Working with represented and unrepresented parties including but not limited to:

- (A) The role of litigants' lawyers in the mediation process;
- (B) Attorney-client relationships;
- (C) Working with lawyers; and

(D) Attorney fee issues; and  
 (e) Understanding motions, discovery, and other court rules and procedures.

(2) An individual who has participated in substantially similar training or has experience working in or before the courts shall have met the training requirements established by section (1) of this rule.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0080

##### Civil Case Mediators — Experience Requirements

A listed civil case mediator shall have observed live mediations or participated as a mediator in at least three cases that have been filed in court.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0090

##### Domestic Relations Mediators — Experience Requirements

A listed domestic relations mediator shall have observed live mediations or participated as a mediator in domestic relations cases for a period of at least 30 hours including at least three actual domestic relations cases involving children.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0100

##### All Listed Mediators — Standards of Mediator Conduct

All listed mediators shall subscribe to the following standards of mediator conduct:

###### (1) General Responsibilities:

(a) Mediators have duties to the parties, to their profession, and to themselves. They should be honest and unbiased, act in good faith, be diligent, and never seek to advance their own interests at the expense of the parties;

(b) Mediators must act fairly in dealing with mediation participants, have no personal interest in the terms of any settlement agreement, show no bias toward individuals or institutions involved in mediation, be reasonably available as requested by mediating parties, and be certain that the parties are informed about the mediation process in which they are involved.

###### (2) Responsibilities to the Parties:

(a) Impartiality. The mediator must maintain impartiality toward all parties. Impartiality means freedom from favoritism or bias either by word or by action, and a commitment to serve all mediation participants as opposed to a single party. The mediator should disclose to the participants any affiliations which the mediator may have with any participant and obtain all parties' consent to proceed as mediator;

(b) Informed Consent. The mediator has an obligation to assure that all parties understand the nature of the mediation process, procedures to be utilized and the particular role of the mediator. Each party's consent to proceed with mediation should be obtained early, prior to the beginning of substantive negotiations;

(c) Confidentiality. Maintaining confidentiality is generally critical to the integrity of the mediation process. Confidentiality encourages candor, a full exploration of the issues, and the possibilities of settlement. The mediator shall inform mediation participants of the degree to which communications connected with the mediation process shall be confidential, including any individual caucuses which may be utilized. Except as legally required, the mediator should resist testifying, and disclosing other information about the substance of a mediation at any proceeding without the consent of all mediating parties;

(d) Suspension or Termination of Mediation. The mediator shall inform the participants of their rights to withdraw from mediation at any time and for any reason, except as is required by law. If the mediator believes that participants are unable or unwilling

to participate effectively in the mediation process, the mediator should suspend or terminate the mediation, except as is required by law. If the parties reach a final impasse, the mediator should not prolong unproductive discussions which result in emotional and monetary costs to the participants.

###### (3) Defining the Process:

(a) Comparison to Other Processes. In appropriate cases, the mediator shall explain that mediation is not arbitration, legal representation or therapy. The mediator shall explain that the mediator will not decide any issues for the parties;

(b) Independent Advice and Information. In mediations in which disputants personally represent their own individual interests and substantial legal issues exist, the mediator shall encourage participants to obtain desired individual legal advice and individual legal review of any mediated agreement as is reasonably necessary for the parties to reach an informed agreement;

(c) Full Disclosure. In mediations in which disputants represent their own individual interests, the mediator shall seek to ensure to the mediator's and all mediation participants' reasonable satisfaction the full disclosure of relevant information in the mediation process. If the mediator believes that full disclosure is not reasonably being made, the mediator shall express such concern to the mediation participants. If this concern is not reasonably satisfied, the mediator may suspend or terminate the mediation;

(d) Opportunity for Full Expression of Interests. The mediator shall seek to provide each mediation participant with a full opportunity to effectively express his or her interests;

(e) Fees. The mediator has a duty to define and describe any fees for the mediation and to agree with participants as how fees are to be shared and the manner of payment before proceeding to facilitate substantive negotiations. When setting fees, the mediator shall ensure that they are explicit, fair, and commensurate with the service to be performed. Unearned fees must be promptly returned to the participants. It is inappropriate for a mediator to charge contingent fees or to base fees upon the outcome of a mediation. No commissions, rebates, or similar forms of remuneration shall be given or received for referral of clients;

(f) Additional Representation or Roles. A mediator should not engage in any non-mediative role relative to the subject matter of a mediated dispute, except by the informed consent of all mediation participants.

###### (4) Responsibilities to the Profession and the Public:

(a) Continuing Education. A mediator should participate in continuing mediation education and be personally responsible for ongoing professional growth. A mediator is encouraged to join with other mediators and members of related professionals to promote mutual professional development;

(b) Advertising. All mediation advertising must honestly represent the mediator's qualifications and the services to be rendered. No claims of specific results or promises should be made.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### 718-040-0110

##### All Listed Mediators — Disclosure of Information About Mediator

A listed mediator shall have submitted to the court for public dissemination the following information:

###### (1) Name;

###### (2) Business name;

###### (3) Address;

###### (4) Telephone number;

###### (5) Facsimile number;

###### (6) Description of formal education;

(7) Description of mediation training, including dates, trainers' names, evidence of completion, and training outline(s);

###### (8) Description of mediation experience;

(9) Relevant organizations with which the mediator is affiliated;

###### (10) Description of other relevant experience;

###### (11) Evidence of subscription to the Standards of Mediator

Conduct in OAR 718-040-0090;

(12) Description of how fees are established; and

(13) Statement of case preference in the following form:

<b><u>CATEGORIES OF CASES</u></b>	<b><u>Yes</u></b>	<b><u>No</u></b>
Business	_____	_____
Domestic Relations	_____	_____
Neighborhood/Community	_____	_____
Employment	_____	_____
Small Claims	_____	_____
Landlord-Tenant	_____	_____
Probate	_____	_____
Torts	_____	_____
Other (Specify)	_____	_____
_____	_____	_____
_____	_____	_____

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93

#### **718-040-0120**

##### **Additional Minimum Qualifications and Training Requirements**

Through July 1, 1995, in consultation with and upon 60 days notice to the Dispute Resolution Commission, courts may adopt additional minimum qualifications and training requirements for either all listed mediators or for sub panels of listed mediators. These additional qualifications shall be consistent with ORS 36.200 and these rules.

Stat. Auth.: ORS 36.200(1)

Stats. Implemented:

Hist.: DRC 1-1993, f. & cert. ef. 4-23-93; DRC 1-1993, f. & cert. ef. 4-23-93