

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form

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Department of Justice

Agency and Division

137

Administrative Rules Chapter Number

Adopts Attorney General's Model Rules On Mediation Confidentiality To Implement 2015 Legislation.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adoption and Amendment of Division 005 Attorney General Model Rules Regarding Mediation Confidentiality

Statutory Authority:

ORS 183.341, ORS 183.502, Or Laws 2015, ch 114

Other Authority:

Statutes Implemented:

ORS 36.110, ORS 36.220 through 36.238, Or Laws 2015, ch 114

Need for the Rule(s):

This rulemaking action is necessary to implement procedural changes enacted by the 2015 legislature governing agency adoption of mediation confidentiality rules and to clarify existing provisions of Attorney General Model Rules concerning mediation confidentiality.

Documents Relied Upon, and where they are available:

Minutes of Rules Advisory Committee meeting, July, 16, 2015, available on the DOJ website at: <http://www.doj.state.or.us/adr/pages/rules.aspx>.

Or Laws 2015, ch 114 (SB 189) available at the website of the Oregon Legislature.

Fiscal and Economic Impact:

This rulemaking implements Senate Bill 189 (2015), which permits state agencies to adopt by reference without rulemaking mediation confidentiality rules promulgated by the Attorney General. The legislation is anticipated to save state agencies expenses that would otherwise be incurred if they were required to engage in formal rulemaking to adopt mediation confidentiality rules or amendments to those rules made by the Attorney General. The anticipated cost savings are the result of the legislation; the rules merely implement the legislation. The proposed rules also clarify an existing rule. The advisory committee did not identify any potential negative fiscal impacts.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

a. State agencies: The process created by SB 189 (2015) and implemented through adoption of these Model Rules has the potential to save state agencies the expenses they would incur doing formal rulemaking to adopt mediation confidentiality rules or amendments. The rules advisory committee did not identify any potential negative fiscal impacts from adoption of these rules.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule: No small businesses are affected by adoption of these rules. The rules do not impose any new requirements on small businesses; they merely implement a new procedure for state agencies to adopt mediation confidentiality rules if they choose to do so.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None. The proposed model rules if adopted by agencies do not impose any reporting, recordkeeping or administrative requirements on small business.

c. Equipment, supplies, labor and increased administration required for compliance:

Adoption of the proposed rules will not require small businesses to make any expenditures for equipment, supplies, labor or administration except to the extent that small mediation businesses might need to modify their standard agreements to mediate forms if they provide mediation services to state agencies that adopt these rules.

How were small businesses involved in the development of this rule?

The Advisory Committee included small business owners (mediators and mediation service provider organizations). Any small business owners on the list of persons requesting rulemaking notices were notified in advance of the rulemaking under consideration and given the opportunity to appear at a hearing or submit written comments. Members of the alternative dispute resolution community, which may include small business owners, were provided with courtesy notice of the proposed rulemaking and given the opportunity to appear at a hearing and submit written comments.

**Administrative Rule Advisory Committee consulted?: Yes
If not, why?:**

<u>10-22-2015 5:00 p.m.</u>	<u>Carol Riches</u>	<u>Carol.Riches@state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address