Dispute Resolution Commission Meeting Minutes
Friday, August 22, 2025
10:00 AM The Judicial Center, Raleigh NC

Commissioners present in person: Judge Hamilton, Judge Stading, Judge Bragg, Judge Southern, Paul Ekster, Judge Gorham, Judge King, DA Murray, Robin Stinson, David Niblock, Lauren Quinn, David Wijewickrama.
Commissioners and Ex Officio members present via WebEx: Ralph Meekins, Frank Laney, and Kevin Howell.
Ex Officio members present in person: Rick Igou, De Maca Adams, and Maureen Robinson.
DRC Staff present in person: Tara Kozlowski.
Guest: Professor Casey Thomson.
With regrets: Judge King, Clerk Kidd, Joy Easley, Justina Tate, Tina Estle and Ketan Soni.

Judge Hamilton called the meeting to Order.

1. Welcome and Announcements – Judge Hamilton
    a. Welcome all to the DRC's fall meeting, this will be the last formal meeting of this year.
    b. Recognition of Commission Members Judge Gorham and David Wijewickrama.
        i. Both Judge Phyllis Gorman and David Wijewickrama have served on this commission for six years. Judge Gorham was appointed and served as our chair for four years. Both will rotate off the Commission at the end of September.
        ii. Judge Hamilton presented each Commission Member with a plaque to recognize their service to the DRC.
    c. Recognition of the reappointment of Lauren Quinn and new Ex-Officio Maureen Robinson.
        i. Ms. Quinn was appointed by Matthew W. Smith, President of the NC State Bar to her first full term beginning October 1, 2025. Ms. Quinn is eligible to serve for 6 more years as she has just completed a different appointee's term.
    d. Approval of February 22, 2025, Meeting Minutes.
        i. Judge Southern made a motion to approve the February 22, 2025, meeting minutes. Seconded by Mr. Wijewickrama. Discussion: None. Vote – all in favor. None opposed. Motion carries, approved.
2. Introduction of guest, Professor Thomson

a. It is my distinct pleasure to introduce to the commission, Professor Casey Thomson. Professor Thomson is a professor At Duke Law, and she is a dispute resolution commission trainer. She would like to talk with the commission about the possibility of creating a clinic at Duke for her students to mediate district criminal court matters under her supervision.
b. Prof. Thomson: Thank you so much, Judge Hamilton and Ms. Kozlowski, I believe you wanted to jump in with a little bit of information about the DCC program before we start.
c. Mrs. Kozlowski: I'm so grateful that you're here with us today. I would like to provide just a little bit of background information to the Commission. Judge King is not able to be here today, so I am going to run through her report before we focus our attention on Professor Thomson.

3. Criminal Sub Committee – Tara Kozlowski on behalf of Judge King
   a. Previous Matters
      i. Update on DCC Pilot Program. January through July of 2025, community mediation centers have conducted 811 mediations at no cost to the parties, an expense of $48,660. The Pilot program has included one more community mediation center, the NC Youth Violence Prevention Center in Robeson County since February. We are now operating in conjunction with 9 DRC Certified Community Mediation Centers, working in 18 counties. We have reviewed this committee's reports over the last two years regarding the IOLTA grant funds that have been used to operate the DCC Pilot Program. It has worked well, where every couple of months we have new interests from community mediation centers and new counties. The pilot has been expanding, and it is wonderful. Last year, in 2024, we spent about $55,000 of the $100,000 grant award from IOLTA. This year, 2025, we're on target to spend the full $100,000, which is just spectacular. However, there is new legislation on the books. Our office received a letter from the NC State Bar, notifying all grant recipients of Senate Bill 429 that has now been signed into law by the governor, basically freezing IOLTA's grant awards until June 30th of 2026.
   b. New Matters
      i. Review Legislation and Notice from IOLTA Team. Senate Bill 429 provides: IOLTA EXPENDITURES SECTION 25. All funds received by the North Carolina State Bar, and administered by the North Carolina Interest on Lawyers' Trust Accounts (NC IOLTA) Board of Trustees, from banks by reason of interest earned on general trust accounts established by lawyers pursuant to Rule 1.15-2(b) of the Rules of Professional Conduct, or interest earned on trust or escrow accounts maintained by settlement agents pursuant to G.S. 45A-9, including any interest dividends, or other proceeds earned on or with respect to these funds, shall not be encumbered or expended for the purpose of awarding grants or for any purpose other than

administrative costs during the period beginning July 1, 2025, and ending June 30, 2026.

ii. This means the DCC Pilot Mediation Program operating on IOLTA grant funds is on hold as of January 1, 2026, until further notice. This leads us straight into Professor Thomson's presentation.

c. Professor Thomson: It's exciting to get a chance to be here as part of the commission and see what all of you do. So, a little bit about me at the law school. I am the Director of Negotiation and dispute resolution education at Duke Law School. I'm teaching upper-level classes in negotiation, mediation, in ADR. And then I'm also the director of the program on negotiation and dispute resolution through which we offer the MSC training twice a year at Duke. What I hear from my law students all the time is they want more experience actually mediating. The simulation classes are great, but they don't go far enough to give them the real experience they want. I'm extraordinarily passionate about teaching. One of the things that I've been trying to do is figure out how to get law students in North Carolina to mediate real cases. And as I do research around the country on clinics that do this, almost all of them work in small claims courts. We don't have the ability in NC to put our students in that role. I started brainstorming with Tara on ways to work with the system already in place to figure out where we can get students real mediation experience. And there are two ideas that we have come up with. One relates to the district criminal Court and revitalizing that some, but I want to start with district civil court.

i. District Civil Court: my understanding is approximately 20% of cases that come out of non-binding arbitration, the litigants choose not to accept that non-binding award. And so, they're then going through the process of now having to seek a trial before a district court judge. That obviously places a burden on the system. One of the ideas that we have is exploring the possibility of creating some legislation and some rules around allowing mediators to come in and mediate those cases before they go to trial. We've talked about it being a voluntary program, because we want to be careful not to step on any toes in terms of the right to seek a trial. It could be an opt-out program where you're sent to mediation, with the ability to opt out. Law students could mediate these cases. This may also provide mediation opportunities for newly trained mediators to gain experience before they mediate a multimillion-dollar case. This is another opportunity as we think about law students, one of the downsides of having law students do anything is they disappear over the summer. The newly certified mediators could mediate some of these cases and get some real training and real mediation beyond the observations and the simulation work that they've done in the training. This will take some work in terms of putting together proposed legislation, putting together a proposed rule set, and that's where my Duke law students come into play. My proposal would be to partner with the Commission and have a research tutorial at Duke starting in the spring semester, in January 2026. We would have four students who are selected

by me, who would apply to be a part of this program. They would put together the proposed legislation and the proposed rule set, while working with any interested parties. They would communicate with the Commission about what's necessary and any other stakeholders as well. This is a great opportunity for the students to create a dispute system design. We do not necessarily know if the legislation would pass, and that's part of life as well for the students in the learning process. But the hope is that if they could put together a package to present, we would have the ability to get a program like this started in North Carolina. We could start it then as a pilot program working with law students at Duke and then grow the program as other schools are interested in jumping on. This then becomes something that we can expand.

1. Mrs. Kozlowski: one of the things that this Commission has talked about in the past, based on a request by Judge Lunsford Long was to consider moving cases who appealed that arbitration decision into mediation before trial. The Commission determined it would be overly burdensome to require parties to pay for arbitration, then to pay for mediation, before they can reach the courtroom. Professor Thomson's plan would allow parties to opt-out of the second ADR step or take advantage of the mediation at no cost to the parties. To clarify, all student mediators would be co-mediating with a certified mediator.
2. Discussion: What about the Standards and oversight for the students? Mrs. Kozlowski responded that these provisions would be part of the legislation and rule creation by Professor Thomson's class.
3. This would be great for new mediators; we could come up with something less than certification to allow people to get their feet wet while going through certification process.
4. To clarify, the students would be trained to mediate through their school; we could set up different threshold requirements for certification. If they work in these programs, then we can waive the fee to certify. And create a whole different tier. Why would they need to co-mediate the first few times if they can just certify on their own? There is a hurdle for certification. The group of students may not have the qualifications to certify. Students don't have experience, nor will they collect a fee. The co-mediation works best with law students.
5. Mrs. Kozlowski: there are lots of options to create a new program with new qualifications. This will take some exploration.
6. The general assembly likes free. How do we move this statewide?
7. The turnaround for court ordered arbitration is quick. Logistically, how that would work. Would this be voluntary?

8. Professor Thomson: Yes, it would be opt-in and less education for the parties, but we would look at all things that need to be amended, like moving timelines and what needs to happen to make this work.
9. If they work with free mediators, they would not be going to court. Central Law School used to have a dispute clinic. It worked really well and was a great success. I am also a fan of co-mediating; parties have two mediators for free.
10. Professor Thomson: In terms of thinking about what this would look like statewide, we want to get everyone involved, even if remote.

The second piece of the puzzle is how do we continue to revitalize the DCC program. The $60 fee to be paid up front creates a barrier to entry for many parties. Especially given the funding issues that Tara has now identified. How do we continue to revitalize the district criminal court program? Because when it works, it works extraordinarily well. But the rules that require that $60 fee to be paid up front, it creates a barrier to entry in a lot of ways for criminal defendants who don't understand what mediation is, who don't want to shell out. There are other ways that we could essentially fund this if we can get rules on the books that allow volunteer student mediators. As part of this research tutorial, we would spend some time also looking at the current district court criminal legislation and rules and figure out what tweaks would need to be made, what modifications would we need. NCCU had a fantastic institute for a long time where the students were getting real mediation experience and that's incredible. We will need to have enough cases coming through to be able to support a system like that, and especially if we're talking about having it impact law schools, this would give us the opportunity to have both district civil court cases and district criminal court cases. Today it's not even necessarily deciding exactly what this would look like. I'm just looking for the Commission to allow us to go explore it for a little while with some students getting some credit next semester and let's put a package together and see what it looks like. And of course they would be doing that in conjunction with the Commission.

ii. Discussion: Is there anything in the statute that says they must be a non-profit to do these? Professor Thomson: The law schools are non-profits, but one of the things that I've been discussing with Mr. Laney is having the law school partnering with one of the existing community centers. The law school can offer instruction for the students, then if I'm essentially associated with Mr. Laney's Center, I can co-mediate these cases with my students. We need to look at what are the ways that we can tweak the existing rules so that the funding issue does not become the barrier. We would be working within the existing framework and tweaking with what already happens in district criminal Court as opposed to what we'd be doing

with district civil court appeals, which would be designing something from the ground up to address a lot of what's been discussed here today.

iii. Judge Hamilton: Does anyone want to make a motion to approve Professor Thomson planning for a potential new law school student participation program, seeking further information and clarification on these matters? Judge Hamilton made the motion. Seconded by Mr. Niblock. Vote - all in favor. None opposed. Motion carries, approved.

4. Office Report – Mrs. Kozlowski
   a. Staffing.
      i. Mrs. Robinson has retired and transitioned into an ex-offico position. We hired two new secretaries, Jennifer Suchanec and Anita Robinson. Ms. Suchanec started in April, and Ms. Robinson started in May. Due to a long commute, Ms. Robinson gave her notice in July but is going to stay with us until the end of August to help with the transition into eCourts. The vacant position has been posted, and we have interviews scheduled. Ms. Suchanec will be moving into the administrative secretary position beginning September 1st.
   b. Budget.
      i. As of July 31st, we spent $48,740 as of July 31 on DCC mediations. We have spent $140.25 on green book admin services. There is a $690 deposit error shown on the July budget report that we are working to fix. At the end of FY 24-25, as of June 30, we have $487,203.50 in our accounts. IOLTA has $48,153.52 as of June 30 and $39,453.52 and July 30.
   c. Odyssey/Renewal.
      i. Staff have had a hard time with the new renewal process under eCourts. Staff described, in detail, all the steps required to move through the renewal process including Guide & File, PayIt, and Smartsheet. Staff created a 26-page guide for mediators that has all the information needed to complete the process, but mediators are not taking the time to read the guide. Staff sent out an updated Additional Information page on July 3rd, and it has not helped. We have only processed ~400 renewals with about 40 in the hopper waiting to be processed. After realizing the renewal process does not work, the AOC eCourts team revised the process, the new renewal application goes live on Monday, August 25. We have created a new Guide that will go live Monday with Guides on how to pay. We have not received one comment about the increased fees. Everyone who has lapsed has done so due to retirement or eCourts. We have had 3 dually certified mediators drop one certification due to not using certification, so it is not worth the fees.
         1. Staff have not been able to work on anything but renewal for the past seven weeks.
         2. We have about 1,000 mediators to get through renewal; staff requests that we extend the renewal deadline to the end of October and waive the late fee. We request to notify those who have missed

the renewal deadline after October 1st and not advertise the extension.

3. Robin Stinson made a motion to extend the deadline for renewal to the end of October and waive the late fee during this time. Seconded by Mr. Niblock. Discussion: None. Vote – all in favor. None opposed. Motion carries, approved.

d. Training/Education
    i. We have a CME for Conflict Resolution Day scheduled in October.
e. Public Records Request
    i. AOC legal reached out to our office on 5/28/25 with a public records request. On 6/23, staff provided documents to legal to review, redact, and produce per the request. The documents provided included 5 years of annual reports, commission meeting minutes, program statistics, budget reports, IOLTA Grant reports, a detailed explanation of how we operate (links to our site for all programs, statutes, and rules defining our jurisdiction), and a brief paragraph describing the DCC Pilot program and IOLTA grants.
f. Updated Fees and Forms
    i. The MSC FFS Applications were updated with the new fees, and the Certificate of Observation has been updated to reflect the rule change last year to allow applicants to observe a DOL mediation for MSC.
    ii. Staff have not received any complaints regarding the increase in fees, but a few dually certified mediators have dropped one of their certifications.

5. Committee Reports –
    a. Executive Committee Report – Judge Hamilton
        i. Report on LexisNexis erroneous data issue
            1. The Executive Committee was notified in May 2025 that staff identified erroneous data on an applicant's background check due to incorrect reporting by LexisNexis. Staff discovered the mediator, who was listed as a debtor to a civil judgment, was the named mediator in the action, not a party to the action. eCourts is not set up to handle Mediators, therefore the mediator is listed as a party to the action.
            2. Staff reached out to the AOC's Chief Business Officer, and the matter was turned over to AOC legal. The AOC has a licensing agreement with LexisNexis to allow Lexis access to online data in the legacy systems and eCourts. The licensing agreement provides a process for the AOC to investigate inaccurate data provided by Lexis, and for Lexis to correct the error. AOC's general counsel worked with Lexis to correct the error, and there have been no further incidents.
    b. Grievance and Disciplinary Committee – Judge Southern
        i. Update on complaint activity

1. Mediator F-24. Staff received a complaint against Mediator F-24, a district criminal court mediator, based on the allegation that mediator was biased toward the plaintiff and failed to hold a proper mediation. This matter was discussed by this committee several times. After considering the district's local procedures, and speaking with the respondent's attorney, the committee determined there was no rule violation under the DCC Rules. However, the mediator's actions raised concerns about best practices. The committee dismissed the complaint and referred to the mediator to meet with DRC staff under DRC Rule 9(d)(3)(b)(2) to review and address concerns and promote best practices. Mediator complied with the meeting; this matter is now closed.
2. Mediator E-25. Staff received a complaint against FFS mediator E-25. The mediation was held on January 9, 2024, the complaint was signed on March 10, 2025, and filed March 12, 2025. Under DRC Rule 9(c)(6) the complaint is not timely filed and was dismissed. (the complainant was complaining of the ED distribution in the settlement agreement, and was represented by counsel)
3. Mediator H-25. Staff filed a complaint against mediator based on failure to disclose information related to moral character on the application for dual certification. The mediator's initial certification is under review as well as the application for certification. This matter remains pending.
4. Mediator I-25. Staff received a complaint alleging the mediator bullied the party to attend a non-court ordered mediation. This matter remains pending.
5. Mediator J-25. Staff received a complaint alleging the mediator threatened the party by giving legal advice and end results if the case did not settle. This matter also remains pending.

ii. Update on conduct, fitness, and renewal application issues (character concerns raised by staff)
    1. None.

iii. Update on conduct, fitness update on applicant and pre-approval issues (character concerns raised by staff)
    1. Applicant D-25. Applicant was denied certification due to lack of moral character. Applicant reported multiple criminal convictions on their application, including 2 DUIs, 2 Possession of Marijuana, and inhalation of noxious gas. Staff discovered additional convictions that were not listed on the application from 1994 through 2024. The Committee found probable cause existed to show the Applicant's character is inconsistent with good moral character and denied the application. The decision was not appealed; Applicant may reapply in two years.

2. Applicant F-25. Applicant, seeking to recertify lapsed certification, self-reported pending DUI charge from 2021. The applicant provided staff notice the charge had been disposed of after the application was received, however, the matter had been appealed to Superior Court. The committee found communication with DRC staff to be inconsistent regarding the outcome of the pending matter. The committee placed a hold on processing the application until the pending matter has been resolved. Matter remains pending.
3. MediatorG-25. Applicant self-reported two misdemeanor convictions on the application, which triggered an automatic review by this committee. Both charges were related to alcohol use while in college, more than 20 years ago, with no harm to others. The committee approved the application.

iv. DRC Grievance Procedure and the legal standards used in the DRC Rules
1. Staff continue to work toward drafting language for the committee's consideration regarding new language for the DRC Rules to align grievance and disciplinary procedures with the Commission's enabling legislation.

c. Mediator Certification and Training Committee –Mrs. Kozlowski for Mr. Bolen
i. New Training and CME offerings approved since February 2025
ii. The Committee has approved two new training courses. The DRC's Conflict Resolution Day 2025 will be held on Thursday October 16th. The program will feature Ellen Gelbin and Leslie Brown for a 1-hour course titled, Overcoming Insecurities in Mediation. Ms. Gelbin will also provide a 1-hour course titled How do You Know When to Call an Impasse? Both courses have been approved for CLE and CME. Our committee has also approved a 2-hour CME for the NC Advocates for Justice annual Workers' Compensation program on September 19th.
iii. Applications for certification that came before the Committee
1. None
iv. Previous Matters
1. DRC Rules, Rule 10 to remain consistent with DRC Rule 9
a. Remains pending
2. DRC Training for Court Staff and Judges
a. Remains pending
v. New Matters
1. None

d. Civil Sub Committee – Ms. Stinson
i. Previous Matters
1. Forms still pending with AOC civil forms subcommittee
a. We still have a number of forms pending with the AOC until Odyssey is up and running statewide.
2. Public Records Mediation program

a. Remains pending

3. Update on the Clerk Program
    a. Remains pending
4. Proposed amendments to the Farm Nuisance Rules
    a. The Farm Nuisance Rule amendments are on hold until we can modify the programs enabling legislation.
5. Proposed No Weapons legislation
    a. Pending to submit to AOC legal and legislative liaisons, timely.
6. Proposed No Weapons AO 47
    a. The Commission approved draft AO 47. This AO was posted for comment. We received a comment that expressed concern in the comments that no weapon should be brought into any mediation, so no weapon can be displayed in a remote mediation. The committee recommends new proposed AO that allows the mediator to prohibit weapons from being shown in an in-person conference, hybrid, or remote conference. The concern of the committee was that someone virtually would display a weapon on their desk, which may affect the other side. The committee makes a motion to adopt draft AO 47 as amended.
    b. Discussion:
        i. Judge Hamilton: here we are again with this same language we have been batting around for years. A mediator may prohibit a weapon, but if you don't want a weapon displayed, and it is hidden, how would you know.
        ii. Ms. Stinson: We are seeking to avoid the display of a weapon in virtual mediations. A weapon being shown would hinder the remote process.
        iii. This is to give best advice to the mediator; there is no way to police if a party brings a concealed weapon into the conference. Rule 6(a)(1) gives the mediator control. Maybe we should clarify the open display of a weapon in a remote. We can amend the top paragraph – "Possess, displaying, or carry." Change in-person or remote throughout. Robin – the committee moves to amend the motion, to include the above changes. Insert this language into the second sentence would clean up the AO.
    c. The committee moved to amend the original motion to include the new language. Seconded by Judge Bragg.

Discussion: Nothing further. Vote – all in favor. None opposed. Motion carries, approved.

7. Proposal to amend the Report of Mediator for agreements that require 3rd party approval
    a. We have received requests to allow a mediator to complete the ROM as settled while waiting on approval from a party outside the mediation – municipality, board, DOT, etc. Currently, when a matter is pending approval, it is considered an impasse – as approval may not be granted by the board. Please see an email drafted by De Maca Adams addressing the feasibility of modifying the ROM to allow the mediator to report a contingent matter.
    b. Discussion:
        i. Ms. Adams: during our civil subcommittee meeting, court staff indicated that it may help administratively if mediators could report the matter was pending approval from a non-party. Although some matters are reported differently, if it is reported settled but no final disposition the court may be reviewed. There is concern the case would be taken off the calendar, even though there is not a final settlement. It would be helpful if mediators could just give notice that final approval was needed, but the case was otherwise settled.
        ii. What types of cases would this cover? Any case that needs approval from someone not at the mediation. Board approval, town council approval, agency approval etc. Many mediators have matters that need final board approval, but the problem is not all boards or approving bodies meet within the 10-day reporting period, or even before the mediation deadline.
        iii. Staff have created a list of cases this may apply in, but it is not exclusive. We need to consider what cases will fall into this category.
        iv. This may impact confidentiality. This is a large concern among many Commissioners.
        v. Conversation moved toward concerns that if included it would allow for abuse of having settlement authority.
        vi. Worst case scenario is calling the matter an impasse. Mrs. Kozlowski provided this is how we advise the mediators to handle if they have met the mediation deadline. If there is time before the deadline, the

mediator may recess the mediation to wait for approval.

vii. The solution may be to extend the deadline. The parties can still mediate after the deadline, after the ROM has been filed. However, the deadline extension idea could affect court staff, and their calendar. Maybe an AO.

viii. This matter is sent back to committee to consider if worth an AO- if yes, then move to the S&AO committee. If not, then the matter will be dead.

ii. New Matters

1. Request to clarify that mediation can be conducted if discovery is not complete
    a. The committee determined the best way to address this would be a new AO as there is nothing similar on the books. The committee would like to provide guidance for how to handle discovery for each mediation program, as the programs differ so much regarding this issue. Committee was concerned that each program may have different thoughts on the value of discovery. We wanted to bring this to the full commission to determine about discovery.
    b. Discussion:
        i. I had atty to tell me that it is so unfair to enter mediation before discovery, but the timeline makes sense and keeps folks on track. Court rules have the timing. Lots of district courts don't have those deadlines.
        ii. Expert witnesses have issues with timing as they will not give their report until the discovery reports are done. The parties can go back into mediation at any time.
        iii. This matter will be sent to the S&AO committee for consideration.
2. Request to rename AOC-DRC-19, Order without Motion Extending Completion Date for Mediated Settlement Conference or Other Settlement Procedure Upon Stipulation of the Parties, Suggestion of the Mediator, or Upon the Court's Own Motion
    a. It is a very lengthy form name. The committee would like to propose "Order without Motion Extending Mediation Settlement Conference Completion Date".
    b. Ms. Stinson moved to amend the name of AOC-DRC-19. Seconded by Mr. Niblock. Discussion: Nothing further. Vote – all in favor. None opposed. Motion carries, approved.

3. Request to shorten 10-day filing time for ROM
    a. Staff received a request from court staff to shorten the time to file the ROM. With eCourts, the thought is the ROM could be filed quickly and keep mediators on task. The committee discussed this issue and were somewhat divided. The committee would like to get the Commission's perspective on this matter. This would require a Rule change and form change. Rationale is under Odyssey it is easy to file the reports.
    b. Discussion:
        i. Mediators have trouble filing the ROM within 10 days. Most mediators will wait to file until they are paid or wait to see if they can obtain board approval. The Commission discussed and agreed to leave it at 10 days.
        ii. Mr. Niblock moved to keep the ROM filing deadline at 10 days. Seconded by Mr. Meekins. Discussion: Nothing further. Vote – all in favor. None opposed. Motion carries, approved.
4. Request to extend 30-day filing time, MSC Rule 4, and to remove requirement to inform the parties of the filing time, MSC Rule 6
    a. Staff received this request from a mediator who often finds the current timelines are too tight and they are uncomfortable providing the filing time to the parties as this may be seen as giving legal advice. The committee discussed the 30-day filing time and the option of filing a request for a continuance if needed. Additionally, the matter would stay on the court calendar, and the parties could report to the court they needed additional time. Mediators are allowed to provide information to the parties; they cannot apply the facts of the case to the information. The mediator may tell the parties the rule regarding the time to file the documents, they may not tell the parties what will happen if they do not comply. The committee declined to take up this matter.
        i. Discussion: That is an issue between the court and the attorney.

e. New Media Committee – Mr. Wijewickrama
    i. Updates to website
    ii. Social Media Presence
    iii. Vignettes of the Rules
        1. Nothing to report
f. Standards and Advisory Opinions Committee Report – Mr. Laney
    i. Previous Matters

1. State Bar matter: Mediator acting as scribe
    a. This matter has been circling the DRC for about 2 years. We have issued AO 45, posted earlier this year. The State Bar adopted FEO 2025-2 on July 25th. This matter is now closed.
2. Approved draft AO 46 regarding UETA
    a. The Commission approved AO 46 in February regarding the Uniform Electronic Transitions Act. We received a comment asking to clarify that signatures could be conveyed by email with express intent to do so. When the email is a clear statement that provides, the party is bound to the agreement, it will work as an electronic signature. Staff reached out to AOC legal for input on the comment and the draft AO. Based on the additional information, the committee decided to revise the draft AO to clarify this position.
    b. Mr. Laney moved to adopt AO 46 with the recommended language. Seconded by Mr. Wijewickrama. Discussion: Nothing further. Vote – all in favor. None opposed. Motion carries, approved.
3. AI Again
    a. Please see Revised AO 43
        i. To address the concern that some AI programs are automatically defaulting to record and summarize meetings, the committee has updated AO 43. Is it acceptable for AI to take notes during mediation, the answer from our group is No. The Committee decided to issue notice to mediators to correct their settings for all remote tech used in mediation, and to reinforce that AI may not record the session. AI must not be operating during the mediation session, if AI is on, it is recording.
        ii. Mr. Laney makes a motion for a friendly amendment, "of" to "or", and to provide the mediation shall not be recorded. AI is content creating technology and shall not be used in a mediated settlement conference.
        iii. Because we are making substantive changes to an existing AO, if the Commission approves the recommended language, it will be posted for comment for at least 30 days.
        iv. Mr. Laney moved to adopt AO 46 with the amended language. Seconded by Judge Bragg. Discussion: Nothing further. Vote – all in favor. None opposed. Motion carries, approved.

4. Request to loosen Standard 3(c) to allow some communication with court staff
    a. Revised AO 39
        i. Staff received another request to reconsider Standard 3(c) which prohibits a mediator from sharing information with court staff. While the committee declined to modify the Standards, we revised AO 39 to provide additional best practices for mediators. Specifically, the updated language addresses the ability to recess and reconvene and communicate certain procedural matters with court staff.
        ii. We want to make it clear that the case remains in the hands of the mediator without having to infringe on confidentiality. The court needs to know more time is necessary.
        iii. The goal is to tell the court we need more time to continue discussions, but not, we need more time because…
        iv. Mr. Laney moved to adopt AO 39 with the amended language. Seconded by Ms. Stinson. Discussion: Nothing further. Vote – all in favor. None opposed. Motion carries, approved.
5. Proposed expansion of LAP exception under Standard 3(d)(10)
    a. The committee recommend slightly broadening what can be reported to LAP. Our current list is drugs and alcohol, but we would like to add mental health issue. Mediator may contact LAP and ask them to reach out to attorney. In this particular instance, the suggester said the lawyer seemed to be suffering from dementia. If a lawyer is present in a mediation and the lawyer is having some difficulty in handling their responsibilities, the mediator can contact LAP.
    b. Mr. Laney moved to adopt AO 39 with the amended language. Seconded by Ms. Stinson. Discussion: This was already posted, and the recommended changes are stylistic. If adopted the recommended changes will be forwarded to the Supreme Court. Vote – all in favor. None opposed. Motion carries, approved.

i. New Matters

6. Request to increase our advertising guidelines to allow for direct solicitation to parties
    a. We had one new matter before the committee, but we declined to take this matter up. We have not received any

complaints on this matter from the public. Mediators have always been free to solicit their colleagues. If this becomes an issue in the future, we will reconsider.

b. Discussion: How is that different from a criminal attorney sending out info? Our advertising guidelines only restrict how a mediator can list themselves on their letterhead and website for advertisement. The DRC is silent on the ability to solicit.
c. I don't want anyone to get jammed up, because they say, "you never said I couldn't do it".
d. We do have an AO that provides a mediator cannot fill in the mediator designation and send it out to parties. But realistically, the mediator advertising to pro se parties will not go anywhere, mediators advertise to their colleagues. We don't need to put something in place until this becomes an issue. Currently, it is not an issue.

6. Ad Hoc Committee Reports –
   a. eCourt Committee – Ms. De Maca Adams
      i. Update on Odyssey. I do not have anything from the committee. However, 21 counties implemented on July 21. And the last 10 counties will be implemented on October 13th, and this will complete the State level implementation. They will then move into business court in February next year.
   b. Video Observation Committee – Mr. Wijewickrama
      i. Nothing to report
   c. Cherokee Nation Mediation Program – Mr. Wijewickrama
      i. Ms. Kozlowski spoke to Chief Letts on Thursday, April 10th. Discussed progress made during Chief Saunooke's tenure. She forwarded all info to Chief Letts; he will consider with EBCI Attorney General and respond accordingly. We have not heard back from him yet.
   d. DRC Funds Committee – Mr. Niblock
      i. Nothing to report.
   e. Ad Hoc AO Review Committee – Ms. Stinson
      i. Indexing AOs – nothing to report.
   f. Green Book –Mr. Laney
      i. We are making progress; it has been slow. We are collecting material and hope to have the book done by the end of the year.
   g. Long Range Planning Committee – Mrs. Kozlowski for Mr. Bolen
      i. Nothing to report.
7. Ex Officio and Other Organization Reports.
   a. Mediation Network – Ms. Estle
      i. Ms. Estle was not present. No report.
   b. Court Staff – Ms. De Maca Adams

i. Stats for MSC, FFS, and ARB.
    1. For the Q4 reporting of the FFS matters, ending on June 30th, the FFS program reported a settlement rate of 69.8%. The settlement rate increases to 73% if cases that settle prior to trial or mediation are included.
    2. For MSC matters, Q4 settlement rate was 76.6% and increases to 78% for cases that settle prior to trial or mediation.
    3. The ARB Q4 statistics show 5,270 matters were ordered into arbitration, 2,592 cases were arbitrated, 604 were dismissed before hearing, 1,030 cases were disposed of in another way. There were 482 appeals of the order, making the appeal rate 19%.

ii. Discussion: With the 19% of cases that remain, does that mean 81% of the cases are settled? Yes. Does that include just the cases that were arbitrated? Yes. Excellent, that is more than I thought.

c. NC Court Managers Conference –Ms. Tate
    i. Nothing to report

d. NCBA Dispute Resolution Section – Mr. Igou
    i. We have a new chair, Deb Dilman, and our first council meeting is coming up on the 3rd so I will have more to report at the next meeting.

e. Industrial Commission – Mr. Howell
    i. Our data from FY 24-25 shows our overall settlement rate is 70% up to 73% if you include those that settle prior to trial. Last year it was 71%. We referred 8,620 cases to mediation, that includes cases where parties filed hearing request or no active hearing request, but a party petitioned commission to order a case to mediation. Also includes voluntary mediation that results in an order of the mediation. We also processed 8,415 reports of mediator forms, our form is MSC-5. When parties choose a mediator, they will submit an MSC-4, a designation of mediator form for the Commission to approve. The Commission confirms the mediator is a DRC certified mediator before approving. We've processed 8,308 of those forms. The number of forms processed by the IC total about 21,000. This work is performed by three full time employees, and two part time employees, so it was a busy fiscal year.
    ii. Discussion:
        1. Are you all on Odyssey? No, the IC moved to a new case management system last March. We went live with ICMS, Industrial Commission Management System. It was in development for many years. Sales Force is a wonderful company who built a program to meet our specs. We are still working to enhance and improve things.

f. Court of Appeals – Judge Stading
    i. The most recent statistics are available from May 16th of this year. Judge Arrowood keeps the statics, we have 5 mediations that were requested, 3 are pending, 2 held because 1 settled, 1 was held open for settlement.

g. Legislation - Mr. Laney
    i. The Farm Nuisance legislation is on hold. The No Weapons legislation is also on hold. Ms. Kozlowski met with Director Boyce, and he agreed to move the proposed amendments to the MSC, FFS, DCC, and Clerk legislation into the AOC's request to the General Assembly. The new legislation has been signed into law and now allows for proper reporting of abuse/neglect under HB 620. Staff will now implement all legislative changes that are necessary.

8. Update on next meeting – Mrs. Kozlowski
    a. We have not scheduled anything at this time as we have been working toward implementing eCourts. We can either schedule a remote meeting in December or hold an in-person meeting in February. We can also call on the Executive Committee if we need something in the interim. We also have the option to do a retreat in February or wait until Summer.
        i. All agreed to hold the next meeting in February of 2026, at the Judicial Center and hold the retreat in summer of 2026.
9. Adjournment – Judge Hamilton

THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION

Dispute Resolution Commission Meeting Minutes
Friday, February 28, 2025
1:00 PM The Ballantyne Hotel, Charlotte NC

Commissioners present in person: Judge Hamilton, Judge Bragg, Joy Easley, Paul Ekster, Judge Gorham, Clerk Kidd, Judge King, Ralph Meekins, DA Murray, David Niblock, Lauren Quinn, Judge Southern, Justina Tate, David Wijewickrama.
Ex Officio members present in person: Rick Igou and Ketan Soni.
DRC Staff present in person: Tara Kozlowski and Maureen Robinson.

With Regrets: Judge Stading, Frank Laney, Zach Bolen, Robin Stinson, Tina Estle, Kevin Howell, and De Maca Adams.

Mrs. Kozlowski called the meeting to Order at the request of The Honorable Judge Hamilton, Chair.

1. Welcome and Announcements – Mrs. Kozlowski
    a. Mrs. Kozlowski welcomed all to the Ballantyne for our annual retreat. We celebrate the work the Commission produces throughout the year to promote ADR practices in NC.
    b. Please welcome two new Commission Members.
        i. Joy Easley was appointed by the Speaker of the House to fill the Knowledgeable Citizen seat for a three-year term.
            1. Ms. Easley: I am an attorney by profession, worked at DA's office and in private practice. I am now Chief Magistrate in Brunswick County.
        ii. Lauren Quinn was appointed by the President of the State Bar to fill the non-mediator, attorney, who is a family law specialist seat.
            1. Ms. Quinn: I practice at Ward and Smith and am head of our family law group. I practice in all the offices except for the Asheville office, am a certified family law specialist and live in New Bern. I am glad to be here.
    c. Approval of September 20, 2024, Meeting Minutes. Judge Southern made a motion to approve the September 20, 2024, meeting minutes. Seconded by Mr. Wijewickrama. Discussion: None. Vote – all in favor. None opposed. Motion carried, approved.
2. Office Report – Mrs. Kozlowski

a. Our renewal period ended September 30th, but due to Hurricane Helena all mediators who reside in a Western North Carolina County were given a one-month extension on their renewal. Mrs. Robinson called each mediator in this area to check on their well-being and offered to walk them through renewal and waive payment if needed, per Judge Hamilton's approval.
b. Our office has been working with the AOC on multiple tasks:
    i. Our Mediator program does not translate into Odyssey, so we expect our current application to dissolve sometime this summer. We may need to use an outside program to operate our program. It is a learning curve, and we are working to maintain our required functionality in the new platforms. We are working with a configuration team to update our mediators. We have limited access to Odyssey, what we see is a public view. We are not able to pull up mediators, or view lists. I don't think anyone in Odyssey can see who is certified in what program, so court staff and the public must look through our current Mediator software. We hope to implement this new program application this summer. If we can do so, we will be able to increase mediator certification dues $25 per certification, as approved by the Commission about 5 years ago. The Commission has only increased our dues once since 2002. At that time, the AOC would not allow us to implement the fee increase as it would require an update to our software. Software that would eventually be phased out, therefore, the approved fee increase was put on hold.
c. Statement of Economic Interest Reports.
    i. Our new members, Ms. Easley and Ms. Quinn have filed their Statement of Economic Interest with the State Ethics Commission. After evaluating Ms. Joy Easley's SEI, the State Ethics Commission did not find an actual conflict of interest or the likelihood of a conflict of interest.
    ii. After evaluating Ms. Lauren Quinn's SEI, the State Ethics Commission did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.
d. Rule and Standard Amendments to the Supreme Court.
    i. The proposed rule amendments presented to the Supreme Court to be singed in October, were delayed due to questions about removing the attorney requirement to sign the final agreement for MSC matters. Our submission was reviewed in December 2024, adopted on December 11, 2024, and went into effect on January 6, 2025. All rules and standards that were proposed were adopted except for the "No Weapons" language. We anticipated that language would be rejected. All new language is already posted on our website.

Judge Hamilton arrives.

e. Staffing.

i. Mary Brooks is no longer with our office; we are looking to fill her position quickly. Additionally, Mrs. Robinson is retiring at the end of June, so this is her last meeting. There is an AOC directive that prohibits overlap hires, so we are not able to hire Mrs. Robinson's replacement until she leaves. As such, Hamilton approved hiring for a 4th position, so we have enough people to staff the office. It will take two new hires to fully replace Mrs. Robinson.

ii. I have requested Judge Hamilton allow staff to slow down our work pace a bit with all the changes. We want to produce quality, and we are not able to keep our current pace with the staffing changes. The Commission is required to hold two meeting per year, we typically operate with three to four meetings a year, but this year we will likely only hold two meetings. The Executive Committee can operate on behalf of the full Commission is action is needed prior to our next meeting. Staff has everything well set to allow the workflow to slow down a bit, and we do not anticipate any emergencies popping up at this time.

f. Budget.

i. Our budget is approximately $522,848.94 in the bank. This will decrease over the next few months, as we do not have income coming in, but only have expenses this time of year. We did pull Mrs. Robinson's salary back onto the DRC's budget to receive the AOC's approval for hiring a 4th DRC staff member. The AOC has graciously been covering Mrs. Robinson's salary for the past five years as they were not able to increase our mediator fees as requested based on limited resources with the implementation of Odyssey.

g. Request to Implement Fees.

i. Financially, we are doing well. Although, we have expenses coming up. We would like to be able to maintain a positive balance in our accounts. Staff spends a significant amount of time reviewing provisional pre-training approval packets and out of state training to determine if it is substantially compliant with DRC training. The pre-approval packet is an opportunity for a non-attorney to submit a packet for staff to determine if they will qualify to certify under the DRC's threshold requirements. We have a lot of individuals who inquire about certification, we understand that this is part of our responsibility, but we spend a lot of time on these matters. Additionally, determining if out of state training is substantially compliant with DRC training also is time consuming, as we will review the entire training packet to ensure the material is similar. The statute that we operate under, 7A-38.2, allows us to charge up to $200 per certification. Currently our application fee is $50, so we have $150 to play with. Staff is proposing a $50 fee for pre-approvals and a $50 fee for substantial compliance reviews. Requesting a fee for these services would greatly assist the Commissions ability to increase revenue, especially during the staffing changes.

1. Discussion: The Commission discussed the net loss of mediator fees expected with Odyssey, the amount of roll over in our budget each year, and how pre-approval applications operate. Staff reviewed the amount of time spent on reviewing pre-approvals, and the benefit of doing a pre-approval for an application who may not meet the threshold requirements to certify. Applications and annual mediator fees were discussed, per our enabling statute.
2. Discussion of changing the name of pre-certification packet to pre-certification review. The pre-approval process was explained that if the application is missing or has a red flag it moves to committee review. If qualifications are missing, the Mediator Certification and Training Committee reviews the application. If the applicant has an issue with past moral conduct, the Grievance and Disciplinary Committee reviews the application.
3. Discussion about out of state attorneys certifying as a mediator in NC. And that we have received multiple requests for the observations to move to 100% remote, as we have so many out of state people wanting to become mediators without having to travel to NC to complete the observation.
4. Discussion about fees not increasing for over 20 years, and a careful review of the statute allowing fees to be charged by the Commission.
5. Discussion about being able to shore up the fees to match the statute. Comments about paying a portion of the fees for a pre-approval, and the balance of the fees for the application. We have the opportunity now to shore up the fees to not limit the Commission's ability to survive and that we stay financially solvent. We need to ensure the longevity of our program.
6. Discussion about how many people will drop their certification based on dues increase. The Commission considered that if a mediator mediates one court-appointed case per year, for one hour, they earn $175 admin fee and $150 for the mediation and have earned back their mediator dues for the year.
7. Discussion on the number of certified mediators each year. The numbers have been consistent for the past seven years I have been with the Commission running around 1350+ mediators each year. We have mediators who lapse when they do not want to keep up with the new Rules or technology, and others who join because they love the technology.
8. Discussion of expenses the Commission will realize moving forward. We rely heavily on the AOC for support, but do pay staff salaries, incidental fees and expenses, and all our office supplies and equipment. We don't know what is happening with the State budget,

so our expenses could increase if we need to take on more financial responsibility for operating expenses than we have in the past.

9. Discussion around likelihood of attorneys dropping their certification due to the increase of fees. This is just another part of the business expense. The State budget is in flux, and we don't know what the future holds. That is a business expense, we need to maximize our profits.
10. Mrs. Robinson – we have not increased fees since 2004 or 2006.
11. Mrs. Kozlowski – hopefully, the one-time application fee will not stop applicants from wanting to certify, and the increase in dues is not so significant that mediators will lapse their certifications.
12. Judge Bragg makes a motion to raise the application fee and the certification fee to $200 each.
13. Mrs. Kozlowski – a preapproval could be $50, then the remaining application fee could be $150, keeping us in line with the statute.
14. Discussion of how to address applicants who apply for both MSC and FFS, where staff only conducts one background check. If the applications do not come in at the same time, then we redo the work and would charge a second application fee.
15. Mrs. Kozlowski – To clarify, we have a motion to charge $200 per application and certification on the table. If it is a non-attorney application the pre-approval is $50 and subsequent application is $150. If the applicant applies for both programs at the same time, we will only charge one application fee. Judge Hamilton, would you like to call for a vote?

ii. Judge Hamilton called for a vote: Judge Bragg made a motion to charge $200 per application. If it is a non-attorney application the pre-approval is $50 and subsequent application is $150. If the applicant applies for both programs at the same time, we will only charge one application fee. Seconded by Judge Southern. Discussion: None. Vote – all in favor. None opposed. Motion carried, approved.

iii. Mrs. Kozlowski – can we move to the topic of substantial compliance review?

1. Discussion: Staff described the process to determine if out of state training is compliant with the requirements in the DRC 40-hour Training Guidelines. Mrs. Robinson reports she can spend a week working on one request.
2. Recommendation made to charge a fee for this.
3. Mrs. Kozlowski – suggests charging $150 for the review and $50 for the application. These requests take time, as we ensure the training will prepare an applicant for DRC programs.

iv. Judge Hamilton – let's take a vote on the substantial compliance fee. Judge Southern made a motion to charge a substantial compliance review fee of

$150, and subsequent application fee of $50. Seconded by Mr. Niblock. Discussion: None. Vote – all in favor. None opposed. Motion carried, approved.

v. Request by Mrs. Robinson to change the name of the Provisional Pretraining Approval Process.

vi. Judge Hamilton allowed the request to move forward. Judge Bragg made a motion to change the name to Pre-Certification Assessment. Judge King seconded. Discussion: None. Vote – all in favor. None opposed. Motion carried, approved.

h. Odyssey/Renewal.

i. We have little information other than we are moving into eCourts at some point.

i. Training/Education.

i. We hosted a 2-hour CLE/CME on October 17, 2024, to celebrate Conflict Resolution Day. We used a group from the NCBA DR Section, the Mediators of the Roundtable for the presentation. A special thanks to the panelists: Ann Anderson, Frank Laney, Jackie Clare, Ray Owens, Ken Carlson, Trish Holland, and Rick Igou. We had over 180 participants attend the presentation and received a lot of great feedback.

ii. We have had a lot of opportunities to conduct a lot of CME trainings around the State this past year. On average, I present about 16 hours of CME credit every 6 months. I am hopeful the CMEs are working. In 2021 I logged 76 ethics calls, in 2022 the calls increased to 131, and in 2023 they increased to 158 calls. For 2024, we received 237 calls with ethics questions. The number of mediators has stayed somewhat consistent, after a drop off due to COVID and moving into remote tech. The increase in calls is a positive thing.

3. Committee Reports –

a. Executive Committee Report – Judge Hamilton

i. Executive Committee Meeting.

1. Proposed Draft AO 45. The Executive Committee held a meeting via email on December 2, 2024, under DRC Rule 1(c)(1), as there was a matter that needed to be addressed prior to this meeting. The following members participated, Zach Bolen, Robin Stinson, Frank Laney, David Wijewickrama, Judge Gorham, Judge Stading, and Judge Hamilton. Ms. Kozlowski, Ms. Robinson, and Ms. Brooks also attended. We discussed the following matter at the meeting. The Standards and Advisory Opinion Committee has been working with the State Bar for the past two year on the DRC's request for a formal ethics opinion to define a mediator's responsibility when a party asks to negotiate a term that is in violation of the Rules of Professional Conduct. The State Bar ethics subcommittee has proposed a draft Formal Ethics Opinion (FEO) that the S&AO

committee approves of. The State Bar ethics subcommittee requested the DRC issue an advisory opinion to mirror their advice to be consistent across the board and show our cooperative nature. The State Bar's ethics committee is waiting on our draft AO. For the DRC to issue our AO with the State Bar's FEO in early 2025, and comply with DRC procedure, the matter was brought to the executive committee for initial approval.

2. The Executive Committee voted unanimously to approve the proposed draft AO and requested staff to post the AO for comment.

b. Criminal Sub Committee – Judge Toni King
    i. Previous Matters.
        1. Update on DCC Pilot Program. Regarding the DRC DCC Grant Program, the 2025 grant funds of $100,000.00 from IOLTA will provide up to 1665 mediations in District Criminal Court that will free to the parties. This Pilot program is operating in conjunction with eight DRC Certified Community Mediation Centers, working in 17 counties. For the month of January, we have reported 94 mediations conducted in District Criminal Court matters, with an 81% settlement rate. This program has been working really well in Cumberland County.
        2. Question on how long we were going to run the DCC Pilot Program. Mrs. Kozlowski: The idea was to run this for one year, in 2024, then ask the General Assembly to fund the project. Based on the political climate of our State, the Executive Committee determined a few months ago to request grant funds for one more year. We are hoping 2025 provides better results, and we will be able to seek State funding for this program. If we are not able to obtain State funding, we will continue to seek grant funds through IOLTA.
        3. Discussion about offering this program Statewide. The program is available Statewide; however, not all districts elect to participate in the program. Community mediation centers are spread out over the State, and not all counties have a local center. Additionally, not all Centers that are operational are certified with the DRC.
        4. There are several reasons why Centers may opt to not certify with the DRC. Our Board feels our mediators do not need the certification, and the training could be an extra burden. However, we are supportive of the program and enjoy collaborating with the DRC.
        5. Mrs. Kozlowski: Our goal is to eventually move all Centers toward certification and providing DCC mediations in every district, but we have a long way to go.
    ii. New Matters.
        1. None.

c. Grievance and Disciplinary Committee – Judge Southern
    i. Update on complaint activity.
        1. Mediator H-23. Staff received a complaint in 2023 against mediator H-23 alleging the mediator violated The Standards of Professional Conduct, Standard 3, Confidentiality by disclosing substantive information about the mediation on the Report of Mediator. The committee found probable cause and issued a private reprimand to Mediator H-23 that included a requirement to complete a 16-hour training course within one year. Mediator H-23 completed the training course, this matter is now closed.
        2. Mediator F-24. Staff received a complaint against Mediator F-24 based on the allegation that mediator was biased toward the plaintiff and failed to hold a proper mediation. This matter is currently under investigation.
    ii. Update on conduct, fitness, and renewal application issues (character concerns raised by staff).
        1. None.
    iii. Update on conduct, fitness update on applicant and pre-approval issues (character concerns raised by staff).
        1. Applicant I-23. Staff received an Application for Certification to Conduct District Criminal Court Mediations in 2023 from applicant I-23. The applicant had multiple criminal convictions that included damage to property, several failures to appear, and drug use. The committee found probable cause that applicant I-23's past conduct was inconsistent with good moral character; however, the committee took into consideration her last conviction occurred in 2007, and the applicant had reinstated her driver's license. The committee certified applicant I-23 for a one-year probationary period. Applicant I-23 has completed the probationary period assigned by this committee and is now certified without limitations. This matter is closed.
    iv. DRC Grievance Procedure and the legal standards used in the DRC Rules.
        1. Update. Staff continues to work toward drafting language for the committee's consideration regarding new language for the DRC Rules to align the grievance and disciplinary procedures with the Commission's enabling legislation.
d. Mediator Certification and Training Committee – Mrs. Kozlowski on behalf of Mr. Bolen
    i. New Training and CME offerings approved since September 2024. The Committee has approved a few new training programs and courses for CME credit.
    ii. Applications for certification that came before the Committee.
        1. None.

iii. Previous Matters

1. DRC Rules, Rule 10 to remain consistent with DRC Rule 9. We are still on hold for revised DRC Rule 10 so we remain consistent with the Grievance and Disciplinary Committee's Rule 9.
2. Proposed amendments to adopt Administrative Fees for Insufficient Funds. We reviewed proposed amendments to our policy regarding payments and our ability to collect administrative fees for insufficient funds and credit card chargebacks at our September meeting. The commission approved the language but asked to keep this matter at committee level to determine the legality of assessing admin fees for these payment issues, and to determine the cap for admin fees if allowed. The Policy was posted for 30 days and received no comments. Staff confirmed with the AOC that the insufficient funds fee is capped at $35 and will be collected moving forward by the AOC through the DRC. The statute requires placing the payor on notice – please see the updates to the DRC payment policy.
    a. Additionally, staff met with AOC Legal and CFO to discuss implementing the administrative fee for credit card chargebacks. All agreed, the statutes are silent on the ability to charge an admin fee, likely due to the ability to argue against the requested chargeback. Therefore, legal recommends we do not include an admin fee in our Policy. The main issue the DRC is having is our processing company NIC is not putting the DRC on timely notice, so we have not been able to argue against the charge. As the DRC moves into Odyssey, it is not clear if we will continue to work with NIC, but staff will continue efforts to ensure better communication between our processing company and the DRC to avoid issues in the future.
    b. Questions about using a different payment method, such as Zelle. Mrs. Robinson: Unfortunately, we need to stay within the AOC's Policy. The Zelle terms of service may not work with our needs.
    c. Mrs. Kozlowski: Please see the revised proposed DRC Payment Policies. This matter has already been approved and posted for 30 days, today's revisions reduce the fee from $50 to $35 for insufficient funds and delete the proposed text to charge an admin fee for chargeback. Therefore, this does not need to be re-posted and will go live if approved.
        i. Judge Hamilton asked for a motion to approve. DA Murry made a motion to approve. Seconded by Mr. Meekins. Discussion: None. Vote – all in favor.

3. Proposed amendments for Dated Training Policy. The Commission approved amending the language in the DRC Dated Training Policy to require any applicant to complete 2 hours of CME if they have not submitted their application to the DRC for certification within a year of completing their training. Staff posted the proposed language for 30 days and received a comment. The committee determined the comment did not relate to the proposed changes and voted to recommend the Commission adopt the original proposed amendments. Please see the proposed DRC Dated Training Policy.
    a. Discussion: The Dated Training Policy allows a few years between when the mediator completes their training and can certify without the need for additional training. This amendment would fill the gap and provide CME during the period after training and before certification.
    b. Judge Hamilton asked for a motion to approve. Judge Bragg made a motion to approve. Seconded by Judge Gorham. Discussion: None. Vote – all in favor.

i. New Matters

4. Proposed amendments to the Trainer Guidelines. The MSC and FFS Rules both require prerequisite courses to be completed for certain applicants before they can attend the full 16- or 40-hour training. This language was requested by trainers, to ensure the course attendees had the base knowledge to understand the training. Staff has discovered a few applicants who attend the courses out of order. To remain in compliance with the Rules, staff requested to place a prerequisite check in place for certain applicants prior to attending the 16- or 40-hour training course. The course participants would contact the DRC to request a Prerequisite Course Form to be completed by staff. The participant would then provide the form to the trainer prior to attending the course. The committee voted to approve the trainer guidelines per staff's recommendation. Proposed amended Guidelines are not required to be posted for comment, however, the approved language was shared with all DRC Certified Trainers and modified based on suggestions received. The trainers who commented, and made recommendations approve the version before you today. Please see the MSC and FFS Training Guidelines.
    a. Judge Hamilton asked for a motion to approve. Judge Southern made a motion to approve. Seconded by Judge Bragg. Discussion: None. Vote – all in favor.
5. DRC Training for Court Staff and Judges. This committee is working with staff to promote DRC training for judges and court staff. We are working toward obtaining a small window of time at

court management conferences as well as in the School of Govt training for Judges across the state.

e. Civil Sub Committee – Mrs. Kozlowski on behalf of Ms. Stinson
    i. Previous Matters.
        1. Forms still pending with AOC civil forms subcommittee. All form amendments are on hold with the AOC until Odyssey is up and running statewide.
        2. Public Records Mediation program. The matter of the public records mediation program is still pending before this committee.
        3. Update on the Clerk Program. The Clerk training is now available, and we have a group of interested mediators working to track common issues they have with the Clerk program for future consideration. The Chair of the Civil Subcommittee would like to request Judge Hamilton create an ad-hoc committee to work on revising the Clerk Rules, allowing committee members to be pulled from DRC Members as well as the mediators from the public side.
            a. Judge Hamilton approved the request. The Chair has ability to create ad hoc committee upon request under DRC Rule 1(c)(2).
            b. We have a group of individuals who have expressed interest in serving on this committee, Frank Laney, Frank Johns, Colleen Byers, Judge Jay Bryan, Clerk Kidd, and Clerk Mark Kleinschmidt.
        4. Proposed amendments to the Farm Nuisance Rules. The Farm Nuisance Rule amendments are on hold until we can modify the programs enabling legislation.
        5. Proposed No Weapons legislation. In 2024, the Commission adopted proposed rule changes to prohibit weapons in a mediated settlement conference. The Supreme Court declined to include the language in the Rule amendments as the request is not a rule of procedure. The Supreme Court felt the General Assembly would be to address these issues, especially as the GA is the only regulatory body who may regulate the carrying of a concealed handgun, NCGS 14-415.23(a). The committee proposes draft legislation for NCGS 14-415.11 and 7A-38.1, modifications are highlighted in yellow.
            b. Judge Hamilton asked for a motion to approve. Ms. Easley made a motion to approve. Seconded by Mr. Wijewickrama. Discussion: None. Vote – all in favor.
        6. Proposed No Weapons AO 47. Additionally, the committee proposed draft AO 47, giving best practices to mediators who wish to prohibit weapons during the mediated settlement conference. If approved, the AO will be posted for 30 days.

a. Discussion: Concerns were expressed about taking this position in an AO as the language may be aspirational in nature. Additional concerns about the conceal carry language were discussed. However, Rule 6(a)(1) that provides the mediator is in charge of the conference and allows the mediator to remain in control at all times.
c. Recommendation was made to issue the AO in response to one of our mediators, under Rule 6(a)(1), asking if they may prohibit a dangerous weapon in a mediation and safety protocols. Recommendation to remove some language from the draft.
d. Judge Hamilton asked for a motion to approve. Mr. Wijewickrama made a motion to approve. Seconded by Ms. Quinn. Discussion: None. Vote – all in favor.

ii. New Matters
1. Proposal to amend the Report of Mediator for agreements that require 3rd party approval. Staff has received multiple requests to amend the Report of Mediator to allow a mediator to report a matter is settled contingent on a 3rd party approval. These matters are currently being called an impasse, as there is not a final agreement on all matters. However, mediators report court staff want to know if the matter is waiting for final approval from an agency or regulatory body. The committee has asked staff to further research the implications of this request to see if it is viable.

f. New Media Committee – Mr. Wijewickrama
i. Updates to website. Staff continues to work to ensure all posted material has the correct trademarked logo. Under the Public Sanctions portion of the website, Commission staff added: "Public Sanctions issued by the North Carolina Dispute Resolution Commission, prior to 2019 are not published below". Brochures – all DRC brochures were updated to include a QR code on them. The code directs to the DRC website. New link created under the "More Information" section of the website "Attorney's Guide for Mediation in North Carolina". Staff modified the certification packet mailed to newly certified mediators. All information available on the website is now included in an email via links, and staff is only mailing out hard copies of the brochures and the mediators initial certification. The Labor Department's Mediation Program was added to the DRC's "Other Mediation Resources" page. The new pro-rated fee schedule was added to the MSC and FFS Application pages.
ii. Social Media Presence.
1. No updates.
iii. Vignettes of the Rules.
1. No updates.

g. Standards and Advisory Opinions Committee Report – Mrs. Kozlowski on behalf of Mr. Laney
    i. Previous Matters
        1. State Bar matter: Mediator acting as scribe. Approved draft AO 45. This matter has been circling the DRC for about 2 years. This committee provided a draft AO to the Executive Committee for approval, as the State Bar is hoping to post their FEO around the same time our AO goes live. The Executive Committee approved the draft, and the proposed AO was posted for 30 days. We received several comments on the proposed draft. The committee reviewed the comments and adjusted the AO that is being recommended to the full Commission today. This has been circulating for about 2 years, and we are tying to provide the best guidance to our mediators. The committee recommends the final approved draft be adopted.
            a. Discussion: The mediator lawyer shall not transmit…the State Bar Ethics committee has reviewed this and provided comments. Their comments were integrated to the final draft.
            b. Special thanks to Frank Laney for spearheading this conversation, this is a well thought out document.
            c. Judge Hamilton asked for a motion to approve. Judge Bragg made a motion to approve. Seconded by Mr. Meekins. Discussion: None. Vote – all in favor.
        2. Proposed draft AO 44 regarding processing fees. This AO was revised to align with State Bar's position for Attorneys. The Commission adopted proposed language for an AO addressing the payment processing fees associated with paying though electronic means. This Commission approved the AO in April of 2024, posted the AO for comment, and adopted the AO in September of 2024. Judge Hamilton requested staff to run the adopted AO by the State Bar to ensure compliance with the RPCs. The AO was revised to apply to both designated mediators and court appointed mediators. The State Bar's position is the attorney may not profit from the assessed fees. Our AO aligns with fees charged by the AOC and therefore do not run contrary to the State Bar. The revisions to the AO do not require this document to be posted for comment again, if approved, it will go live.
            a. Judge Hamilton asked for a motion to approve. Judge Southern made a motion to approve. Seconded by Judge Gorham. Discussion: Typos were pointed out and corrected. Vote – all in favor.

3. Proposed draft AO 46 regarding UETA. This Committee considered two COA opinions dealing with the enforcement of settlement agreements based on signature block of an email under the Uniform Electronic Transitions Act and drafted a proposed AO to address commonly asked questions. If the Commission approves proposed AO 46, it will be posted for 30 days for comment.
    a. Relevant cases: Garland v. Orange County, Glenwood v. Glenwood.
    b. Judge Hamilton asked for a motion to approve. Judge Bragg made a motion to approve. Seconded by Judge King. Discussion: None. Vote – all in favor.
4. AI. Again. This matter has been through this committee on multiple occasions. AI creates content, mediators cannot create content. However, the concern now is the technology automatically defaulting to AI to record and summarize meetings. The Committee decided to issue notice to mediators to correct their settings for all remote tech used in a mediation, and we will look to revising an old AO to reinforce that AI may not record the session.

ii. New Matters

1. Request to define the mediator's inability to draft. The committee discussed at length the request to define the mediator's inability to draft in a mediation. After careful consideration, the committee felt creating a bright line rule would be possible while the landscape is still moving. The committee felt the mediator should be direct with the parties and attorneys and let them know it is their responsibility to draft any final documents.
2. Request to loosen Standard 3(c) to allow some communication with court staff. Standard 3(c) which prohibits a mediator from sharing information with court staff. The committee discussed this at length and determined not to amend the language in the Standard.
    a. However, the committee would like to address educating mediators on how to recess and reconvene. The Committee will look to producing a statement from the DRC on how mediations should flow.
3. Proposed expansion of LAP exception under Standard 3(d)(10). Staff received a request to report a mediator who was not remembering simple items and was appearing to have some memory and mental health issues. The goal would be to expand the current Standard to match the LAP Mission Statement to include mental health as a reportable matter.
    a. Currently 3(d)(10) states, if a mediator or mediator-observer witnesses concerning behavior of an attorney during a mediation, then that behavior may be reported to the North

Carolina Lawyer Assistance Program for the purpose of providing assistance to the attorney for alcohol or substance abuse.

b. LAP Mission Statement: NC LAP is a service of the North Carolina State Bar which provides free, confidential, non-disciplinary assistance to lawyers, judges and law students in addressing mental health issues, including problems with drugs or alcohol, and other life stresses which impair or may impair an attorney's ability to effectively practice law…

a. Judge Hamilton asked for a motion to approve. DA Murray made a motion to approve. Seconded by David Niblock. Discussion: None. Vote – all in favor.

4. Ad Hoc Committee Reports –
   a. eCourt Committee – Ms. De Maca Adams
      i. Update on Odyssey. Ms. Adams was not able to attend.
      ii. Judge Hamilton: By the time we meet again, all counties should be under Odyssey.
   b. Video Observation Committee – Mr. Wijewickrama
      i. Nothing to report.
   c. Cherokee Nation Mediation Program – Mr. Wijewickrama
      i. Update on progress. Mrs. Kozlowski has reached out to Judge Letts, and they have exchanged a few emails, but have not set a time yet to discuss certifying mediators who mediate on the reservation.
   d. DRC Funds Committee – Mr. Niblock
      i. Nothing to report.
   e. Ad Hoc AO Review Committee – Mr. Soni on behalf of Ms. Stinson
      i. Indexing AOs. The Commission voted to index the AOs for searching capabilities. Ketan Soni has volunteered to attempt to index the AOs.
      ii. Mr. Soni: there is nothing to update, we are still working on the final product.
   f. Green Book – Mrs. Kozlowski on behalf of Mr. Laney
      i. Update on progress. We are delayed a bit, but we are still working and hope to have a book out to you all soon.
   g. Long Range Planning Committee – Mrs. Kozlowski on behalf of Mr. Bolen
      i. Update. We will continue to look at ways to bring ADR into civil district jury trial matters. It is still pending.
5. Ex Officio and Other Organization Reports.
   a. Mediation Network – Mrs. Kozlowski on behalf of Ms. Estle
      i. The Mediation Network has hired ED, Ann Howell, she will start in 2-3 weeks. She has worked for OAH in the past. MNNC is very excited. Things are going well for the network.
   b. Court Staff – Mrs. Kozlowski on behalf of Ms. De Maca Adams

i. Stats for MSC, FFS, and ARB. The reports have some comparison charts for your review. I am concerned we are not receiving the same statistics as we are moving into eCourts.
ii. We have a settlement rate of 63% for MSC, that moves up to 66% if you include cases that settle prior to trial. The FFS program has a settlement rate of 76%, that moves up to 79% if you include cases that settle before trial.

c. NC Court Managers Conference –Ms. Tate
i. Nothing to report

d. NCBA Dispute Resolution Section – Mr. Igou
i. Speaking of AI we sponsored a roundtable; it was very informative and is posted online.
ii. Looking ahead, we have an annual meeting on March 28th.

e. Industrial Commission –Mr. Howell
i. Nothing to report

f. Court of Appeals – Judge Stading
i. Nothing to report.

g. Legislation – Mrs. Kozlowski on behalf of Mr. Laney
i. We provided three pieces of legislation we provide to the AOC in October. Initially, the Director said the legislation would not be included in this year's proposal to the general assembly. We submitted the request to update the Farm Nuisance legislation, and the MSC and FFS legislation to allow for proper reporting of abuse/neglect. I have requested meetings to determine why but I have not received a response. I will keep you all posted.

6. Judge Hamilton adds the matter to revisit the annual certification fee to the agenda.
a. Judge Bragg: Five years ago, we passed a $25 increase, it has not taken effect due to eCourts. Dues have not increased since 2004. Our enabling statute allows us to charge $200 per certification, and $200 for annual fees per certification. Based on the work, and scope of what we do, increasing mediator fees is not unreasonable. My bar dues are $300 a year. I would like to make a motion to increase certification to $200 per annual certification and the dually certified annual fee of $400. I don't think we will lose a lot of mediators. More work can be done by DRC staff, we have the authority to govern public records. NC is growing, we need more mediators.
b. Discussion: With a law enforcement background, public records is a present challenge that needs to be addressed.
i. Discussion: The Commission considered the impact of this increase, but decided it was warranted as fees have not been increased in over 20 years.
ii. Questions about the possibility of increasing fees incrementally. However, it was noted that if we do incrementally, the AOC may not be able to do this in Odyssey. Mrs. Kozlowski: we may not be able to implement a graduated system. I like the idea but not sure if it possible.
iii. The Commission considered the financial impact of mediators failing to renew based on the fee increase, However, the final determination was that

our obligation is to look after this commission. We need to increase fees in a meaningful way – and not delay it.

iv. Mrs. Robinson reports that Florida mediator fees are $495.

v. Mrs. Kozlowski: having additional funds would allow for us to hire quality staff to be able to address all pending issues timely.

vi. Paul Ekster seconds the motion. Increase the fee to $200 per annual certification and $400 for annual dual fees. Inactive status half of each.

vii. All agree to implement this increase as soon as we can get into eCourts

c. Judge Hamilton asked for a vote. To recap, Judge Bragg made a motion to approve. Seconded by Paul Ekster. Discussion: No further discussion. Vote – all in favor.

7. Update on next meeting – Mrs. Kozlowski
   a. Sometime in August!
8. Adjournment – Judge Hamilton

Move to adjourn