

# **THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION**



## **ANNUAL REPORT FISCAL YEAR 2021-2022**

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October 19, 2022

Ladies and Gentlemen:

I am pleased to present the N.C. Dispute Resolution Commission's Annual Report for Fiscal Year (FY) 2021 – 2022.

Commission members and staff are keenly aware of the important role with which we have been entrusted and are committed to the faithful execution of the Commission's statutory charge to certify and regulate the conduct of mediators and mediator trainers who are serving North Carolina's court-ordered Mediated Settlement Conference, Family Financial Settlement Conference, Clerk Mediation and District Criminal Court Mediation Programs. This Report details the exemplary work of the Commission and its staff in the discharge of those statutory obligations during the last fiscal year.

The Commission undertakes its work in order to educate and raise awareness about North Carolina's court-ordered mediation programs, to ensure that our mediators are highly ethical people of good moral character, and to maintain the public trust and confidence in and integrity of our certified mediators and our state's court-ordered mediation programs.

The Report also discusses the Commission's goals for FY 2022-2023. Please feel free to contact me if there are questions or concerns you would like the Commission to address, or comments you would like to make. With best wishes,

Sincerely,

A handwritten signature in blue ink that reads "Phyllis M. Gorham". The signature is written in a cursive, flowing style.

Judge Phyllis Gorham, Chair  
NC Dispute Resolution Commission

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## **1. INTRODUCTION**

The North Carolina Dispute Resolution Commission (Commission) was established in 1995 by G.S. § 7A-38.2. The Commission is charged primarily with administering mediator and mediator training program certification and with regulating the conduct of mediators and mediator training program personnel. The Commission also helps to support mediated settlement conference programs operating in North Carolina's courts, including: the superior courts' Mediated Settlement Conference (MSC) Program, the district courts' Settlement Procedures in Equitable Distribution and Other Family Financial Cases (FFS) Program, the district courts' District Criminal Court Mediation (DCC) Program, the Clerk Mediation (CMP) Program, and the Pre-litigation Farm Nuisance Mediation (Farm) Program. In addition to certifying and regulating mediators and providing program support, the Commission also recommends policy, rules, and rule revisions relating to dispute resolution to the General Assembly and Supreme Court; seeks to promote mediator education and skills development; interfaces with and serves as a resource for other state agencies offering mediation services or seeking to provide such services; and serves as a clearinghouse for dispute resolution information.

Over the past twenty-seven years, mediation has become institutionalized in our courts. The programs the Commission helps to implement enjoy the support of judges, court staff, attorneys, and the public. The work of mediators results in many cases settling earlier than they would have otherwise and enables judges to better manage their caseloads. Moreover, the programs are cost-effective in that they do not rely on taxpayer dollars. Rather, the MSC, FFS, Clerk and Pre-litigation Programs operate on a "party-pay" model, in which the parties referred to mediation share the costs of mediation equally, or as otherwise agreed to by the parties during the mediation. Mediators waive fees for indigent parties. In turn, mediators fund the work of the Commission and its staff in the form of certification and certification renewal fees.

This Annual Report describes the activities and accomplishments of the Commission for the fiscal year period from July 1, 2021, through June 30, 2022.

## **2. MEMBERSHIP**

### **A. Commission Members**

On June 18, 2021, Governor Roy Cooper signed into law legislative Senate Bill 255, providing the Commission increase from 17 Members to 18 Members, to include for a new Commission seat for court staff. The Commission is currently an eighteen-member body. In accordance with G.S. § 7A-38.2, its membership consists of: five judges, including two superior and two district court judges (the additional judge has often been a member of the North Carolina Court of Appeals); a clerk of superior court; five mediators, including two who are certified to conduct mediated settlement conferences in superior court, two who are certified to conduct family financial settlement conferences in district court, and one who is certified to conduct criminal district court mediations; a district attorney; a court management staff member; two practicing attorneys not certified as mediators, one of whom shall be a family law specialist; and three citizens knowledgeable about mediation. Members who were serving as of June 30, 2022, and their appointing authorities are listed below.

**Zachery Bolen** (Raleigh), knowledgeable citizen member, appointed by the Senate President Pro Tempore on June 29, 2020, for a term expiring on September 30, 2023.

**LeAnn Nease Brown** (Chapel Hill), certified superior court mediator, appointed by the Chief Justice on November 8, 2016, for a term expiring September 30, 2019. Reappointed to the Commission by the Chief Justice on October 1, 2019, for a term expiring September 30, 2022.

**Benjamin David** (New Hanover), district attorney, appointed by the Chief Justice on March 9, 2021, for a term expiring on September 30, 2023.

**The Honorable Phyllis Gorham** (Wilmington), superior court judge, appointed by the Chief Justice on October 1, 2019, for a term expiring on September 30, 2022. Judge Gorham was appointed Chair of the DRC by Chief Justice Cheri Beasley in October of 2020, for a term expiring on September 30, 2022.

**Debra A. Griffiths** (Raleigh), certified family financial mediator member, appointed by the Chief Justice on September 26, 2018, for a term expiring on September 30, 2021. Reappointed by the Chief Justice for a term expiring on September 30, 2024. Ms. Griffiths resigned from the Commission in March of 2022. Her seat was unfilled as of June 30, 2022.

**The Honorable Lori Hamilton** (Lexington), senior resident superior court judge, appointed by the Chief Justice on September 28, 2021, for a term expiring on September 30, 2024.

**Lisa Johnson-Tonkins** (Greensboro), clerk of superior court, appointed by the Chief Justice on October 1, 2020, for a term expiring September 30, 2023.

**The Honorable Toni King** (Fayetteville), district court judge, appointed by the Chief Justice on September 28, 2021, for a term expiring on September 30, 2024.

**Frank Laney** (Cary), certified district criminal court mediator, appointed by the Chief Justice on November 15, 2021, for a term expiring on September 30, 2023.

**Barbara Morgenstern** (Greensboro), practicing attorney not certified as a mediator, family law specialist, appointed by the NC State Bar President on July 29, 2019, for a term expiring September 30, 2022.

**N. David Niblock** (Winston-Salem), certified family financial mediator member, appointed by the Chief Justice on April 18, 2022, retroactive to September 30, 2021, for a term expiring September 30, 2024.

**Ketan Soni** (Charlotte), certified superior court mediator, appointed by the Chief Justice on October 1, 2020, for a term expiring September 30, 2023.

**The Honorable William Southern** (Dobson), district court judge appointed by the Chief Justice on September 28, 2021, for a term expiring September 30, 2024.

**Harold Randolph Sumner** (Gastonia), knowledgeable citizen, appointed by the Speaker of the House of Representatives Tim Moore, on September 2, 2021, for a term expiring September 30, 2024.

**Justina Tate** (Morganton), court management staff, appointed by the Chief Justice on September 21, 2021, for a term expiring on September 30, 2024 (new seat).

**The Honorable John M. Tyson** (Raleigh), NC court of appeals judge, appointed by the Chief Justice on September 21, 2017, for a term expiring on September 30, 2020. Reappointed to the Commission by the Chief Justice on October 1, 2020, for a term expiring September 30, 2023. Judge John M. Tyson was elected to the position of Vice-Chair of the Commission at the December 2020 Commission meeting.

**David A. Wijewickrama** (Waynesville), knowledgeable citizen, appointed by the Governor on October 11, 2019, for a term expiring September 30, 2022.

**Charlot F. Wood** (Winston-Salem), practicing attorney not certified as a mediator, appointed by the NC State Bar President on January 27, 2017, for a term expiring September 30, 2017. Reappointed by the NC State Bar President on September 8, 2017, for a term expiring September 30, 2020. Reappointed to the Commission by the NC State Bar President on July 31, 2020, for a term expiring September 30, 2023.

**Jayne Zanglein** (Sylva), district criminal court mediator, appointed by the Chief Justice on October 1, 2020, for a term expiring on September 30, 2023. Jayne Zanglein resigned from the Commission on November 5, 2021. Jayne Zanglein's seat was filled by Frank Laney.

**B. Ex-Officio Members**

A number of *ex-officio* members also attend Commission meetings. Although *ex-officio* members do not vote on matters before the full Commission and its committees, they actively participate in committee and Commission meetings. Serving as *ex-officio* members as of June 30, 2022, were:

**Tina Estle** (Fayetteville), Director, Cumberland County Dispute Resolution Center, representing the Mediation Network of North Carolina.

**Sarah Kromer** (Charlotte), Chair, NC Bar Association's Dispute Resolution Section.

**DeShield Greene** (Raleigh), Court Management Specialist, NCAOC Court Programs and Management Services Division.

**Tammy Nance** (Raleigh), Chief Deputy Commissioner, NC Industrial Commission.

**Diann Seigle** (Raleigh), OSHA and Medicaid Mediation Programs Liaison, NCDRC Certified Trainer.

**STATE ETHICS COMMISSION REVIEW.** The Dispute Resolution Commission is a covered agency under the North Carolina State Government Ethics Act. During FY 2021-2022, Commission members and its staff liaison complied with all State Ethics Commission (SEC) requirements pertaining to training and the filing of Statements of Economic Interest (SEI) with the SEC. Following review of each SEI filed, the SEC found



no conflicts of interest on the part of any member of the Commission that would prohibit his/her service.

### **3. COMMISSION'S OFFICE**

During FY 2021-2022, the Commission's office operated with a staff of three: Executive Director **Tara L. Kozlowski**, Administrative Assistant, **Maureen McCarthy Robinson**, and Secretary **Mary E. Brooks**. Office staff supports the work of the Commission and its committees; create drafts of rules, policies, advisory opinions for committee review; processes applications and application renewals for mediator certification and certification of mediator training programs; reviews complaints; and supports court staff, judges, mediators, and attorneys in implementing North Carolina's mandatory mediated settlement conference programs. Staff maintains the Commission's website, which can be accessed at [www.ncdrc.gov](http://www.ncdrc.gov) and publishes articles and news about the Commission on a regular basis. Additionally, the Commission provides information and updates through social media on LinkedIn and Twitter. The Commission's office is in the North Carolina Judicial Center located at 901 Corporate Center Drive in Raleigh, NC.

### **4. INTERFACE WITH OTHER AGENCIES AND PROGRAMS**

In addition to North Carolina's state courts, dispute resolution programs and services are also operating in many other venues within the state. Though the Commission was established under the Judicial Department and is largely a creature of the courts, it has not hesitated to respond to requests for assistance from agencies and offices housed and working outside the courts. The NC Industrial Commission (mediation of workers' compensation claims); the NC Office of Administrative Hearings; the Federal Eastern, Middle, and Western Districts of North Carolina; the NC Office of State Personnel; the NC Department of Insurance (disaster mediation); the United States Department of Agriculture's Mediation Program (targeting farmers and lending institutions); and a number of smaller state and federal agencies all operate established mediation programs with assistance, in part, from mediators and trainers certified by the Commission.

### **5. BUDGET**

Commission revenues are deposited in N.C. Administrative Office of the Court's (NCAOC) Fund 220052265. Fees collected from mediators and mediation training programs for certifications and certification renewals constitute the Commission's sole source of revenue. FY 2021-2022 collections for certifications and renewals, plus our legislative carryforward from previous years, totaled \$321,566.72. The Commission

received federal funds (via the American Recovery Act) in the amount of \$1,614.75 to cover a \$1,500.00 bonus (plus FICA costs of \$114.75) paid to a DRC employee in December 2021. This fiscal year, as in all past fiscal years, the Commission fulfilled its charge to fund its operations **without authorization or expenditure of any tax dollars.**

## **6. CERTIFICATIONS ISSUED**

The total number of outstanding certifications by program as of June 30, 2021, were as follows: 1017 active Mediated Settlement Conference Program (MSC) certifications, 372 active Family Financial Settlement Conference Program (FFS) certifications, 111 active Clerk Mediation Program (Clerk) certifications (to conduct guardianship and estate mediations), and 44 active District Criminal Court (DCC) certifications.\* In addition, there were 119 inactive MSC, 33 inactive FFS, and 11 inactive CMP certifications.\*\*

\* These numbers reflect total certifications outstanding and not the total number of mediators. The number of mediators is less than the total number of certifications in that a number of mediators hold dual certifications, *i.e.*, both MSC and FFS certification or multiple certifications.

\*\* Inactive mediators may not conduct mediated settlement conferences and their names do not appear in the Commission's mediator database accessible at [www.ncdrc.gov](http://www.ncdrc.gov). However, they continue to receive information and updates from the Commission and may reactivate their certification(s) upon request.

## **7. PROGRAM STATISTICS**

The NCAOC FY 2021-2022 Statistical and Operations Reports provide data as to the implementation and efficacy of the MSC and FFS Programs. In the MSC Program, it was reported that 3,564 cases were mediated, and of those, 2,215 cases, or 62% were resolved at a mediated settlement conference. If one includes cases that were reported as settled prior to mediation or during a recess in that computation, the percentage of resolved cases rises to 68%. The Commission considers this latter percentage, *i.e.*, 68%, to be more representative of the true impact of the MSC Program, believing that the order to mediate serves as a catalyst for these early settlements. In addition, research conducted in 2012 suggests that settlement rates are likely higher in that many cases which impasse at the table, but go on to settle in the days and weeks ahead as attorneys and parties continue to discuss offers made at mediation.

In the FFS program, 1,072 cases were mediated, and 795 cases, or 74% were resolved in whole or in part at the mediated settlement conference. If one also considers, as above, cases resolved after referral but prior to a conference or during recess, 77.8% of FFS cases were resolved. These settlement rates are slightly higher than the percentages of mediated cases that settled in FY 2020-2021. The Reports track data by individual judicial district as well as provide statewide totals and are attached as Appendices to this Annual Report.

Caseload statistics for the Clerk Mediation Program have been disappointing to date. For FY 2021-2022, the Clerk Mediation Program, statewide reports show 15 cases were mediated. One case ended in impasse, six cases settled in mediation, two cases partially settled in mediation, one case settled outside of mediation, with five cases pending as of June 30, 2022. The statistics received came from four counties, 96 counties did not report any activity for the Clerk Mediation Program.

Statistics are not currently maintained for the District Criminal Court Program. However, feedback received from participating districts and community mediation centers indicated a high settlement rate among the minor misdemeanor matters that entered mediation. The community mediation centers indicate a drop in cases entering mediation, due in part to the difficulty of collecting the mediation fee prior to the mediation and in part due to court closures from COVID-19. The Commission is currently considering options on how to reinvigorate this program.

## **8. COMMISSION STRUCTURE**

In this fiscal year, the Commission operated with seven standing committees. The committees undertake the work of the Commission and make recommendations to the full body. Committees meet as needed, generally at least once per quarter, usually by conference call or by Webinar which offers the ability to review and edit documents during the call.

### **A. Standing Committees**

**Executive/Operations Committee:** Judge Gorham, Chair, from July 1, 2021 – June 30, 2022. This Committee is charged with considering matters relating to legislation, budget, and personnel.

**Standards and Advisory Opinions Committee:** Judge Rebecca Knight, Chair, from July 1, 2021 – April 18, 2022. Ms. Morgenstern, Chair, from April 18, 2022 – June 30, 2021. This Committee is responsible for reviewing matters relating to the Standards of Professional Conduct for Mediators, including suggesting amendments to the Standards;

assisting staff in responding to inquiries regarding ethics: and drafting Advisory Opinions for consideration by the Commission.

**Grievance and Disciplinary Committee:** Ms. Griffiths, Chair, from July 1, 2021 – March 25, 2022. Ms. Nease Brown, Chair, March 26, 2022 – June 30, 2022. This Committee reviews character, conduct, and fitness matters, including matters self-reported by mediators at any time during the year and matters disclosed by applicants or otherwise discovered by Commission staff in the context of mediator certification and certification renewal applications. This Committee also investigates, and reviews complaints filed by court staff, litigants, attorneys, and others related to mediator moral character, conduct, or fitness to practice.

**Mediator Certification and Training Committee:** Judge Tyson, Chair, from July 1, 2021 – June 30, 2022. This Committee considers issues that arise in connection with mediator training programs and mediator certification or certification renewal applications which relate to an applicant's education, training, and/or professional experience. This Committee also makes recommendations on rule changes regarding certification requirements for mediator and mediator training programs. This Committee is also responsible for overseeing the Commission's continuing mediator education reporting requirement and with making recommendations on certification fees.

**Civil Subcommittee:** Judge Farris, Chair, from July 1, 2021 – September 28, 2021. Ms. Wood, Chair, September 29, 2021 – June 30, 2022. This Committee is charged with helping to ensure that all of North Carolina's mediation programs operate effectively and efficiently through the civil courts. The committee considers recommendations and amendments to program enabling statutes and rules to achieve that end.

**Criminal Subcommittee:** Judge Farris, Co-Chair, from July 1, 2021 – September 28, 2021. District Attorney David, Co-Chair, from September 29, 2021 – June 30, 2022. Ms. Estle, Co-Chair, from July 1, 2021 – June 30, 2022. This Committee is charged with helping to ensure that all of North Carolina's mediation programs operate effectively and efficiently through the criminal courts. The committee considers recommendations and amendments to program enabling statutes and rules to achieve that end.

**New Media Committee:** Judge Hill, Chair, from July 1, 2021 – September 28, 2021. Mr. Soni, Chair, September 29, 2021 – June 30, 2022. This Committee is charged with overseeing Commission outreach to judges and court staff, lawyers, mediators, and the general public. Specifically, this Committee is tasked with maintaining the Commission's website at [www.ncdrc.gov](http://www.ncdrc.gov); maintaining the Commission's page on Juno, the NCAOC's

internal website; and with implementing and maintaining the Commission's new social media platforms on Twitter and LinkedIn.

## **B. Ad Hoc Committees**

The Commission also establishes ad hoc committees to address specific matters or issues that arise and are more temporary in nature. This fiscal year the Commission operated with four Ad Hoc Committees:

**Ad Hoc eCourts/Statistics Committee:** Ms. Greene, Chair. This Committee is charged with providing guidance to the NCAOC, as they proceed to implement a state-wide Integrated Court Management System over the coming years. The Committee is responsible for creating accurate workflows for all Commission programs to provide the ICMS vendor a basic understanding of the Commission programs. The Committee also makes recommendations to the NCAOC's system analyst of what data the Commission would like to receive on mediation once the ICMS is in place.

**Ad Hoc Long Range Planning Committee:** Ms. Nease Brown, Chair. This Committee makes recommendations to the full Commission on matters regarding future planning, and growth for the Commission.

**Ad Hoc Video Observation Committee:** Mr. Wijewickrama. This Committee was established to create guidelines and make recommendations to the full Commission regarding the use of observation videos for application purposes. Each applicant must observe two mediations if applying as an attorney and observe five mediations if applying as a non-attorney.

**Ad Hoc Attendance Review Committee:** Mr. Soni, Chair. This Committee is charged with investigating the benefits of in-person and remote mediation. The attendance rule flipped from in-person mediation conferences to remote conferences in June of 2020 due to safety concerns surrounding COVID-19. The Supreme Court adopted new Attendance Rules with the understanding the Commission could request the Rules revert to the in-person requirement at a time deemed safe to do so. Based on feedback received from litigants, mediators, attorneys, and other interested stakeholders, Chair Gorham created this ad-hoc committee to thoroughly investigate the attendance issue. Feedback included comments that remote mediation provided unexpected benefits to mediation, such as access to justice and low-cost benefits to parties. The committee is comprised of four Commission Members, three Ex-Officio Members, and three members of the public, all of whom either engaged in the practice of mediation or directs a mediation program. The Committee has been tasked to review the pilot remote training program, the observation requirements, and

Rule 4 attendance for all programs. The Committee makes recommendation to the full Commission on all findings.

## **9. COMMISSION BUSINESS in FY 2021-2022**

The full Commission met via remote technology three times this fiscal year: November 19, 2021, February 25, 2022, and June 3, 2022. Notice of meeting dates and locations were posted on the Commission's website in advance of meetings. Minutes from the meetings are also archived on the Commission's website, [www.ncdrc.gov](http://www.ncdrc.gov).

During this fiscal year, the Commission and its Committees undertook a number of projects designed to improve operations of the Mediated Settlement Conference (MSC), Family Financial Settlement (FFS), Clerk (Clerk), Farm Nuisance (Farm), and District Criminal Court (DCC) Mediation Programs and to facilitate the work of North Carolina State courts and mediators. Goals met during this fiscal year and other projects undertaken by the Commission are highlighted below.

### **A. Mediator Education Provided Statewide.**

The Commission, working through the Mediator Certification and Training Committee, reviewed and approved several continuing mediation education courses. The courses were taught all over the state, by a variety of different sponsors. Commission staff also provided several courses for mediators to attend and meet their annual educational requirement. The Commission has approved educational courses to be offered live, via webinars, and by podcasts. COVID-19 has delayed the production of podcasts; however, staff anticipates podcasts will be made available to mediators and the public during FY 22-23.

### **B. Renewal Application and Self-Reporting Continuing Mediator Education (CME).**

The Commission adopted a mandatory Continuing Mediator Education Policy during fiscal year 2015-2016, which became effective during the FY 2017-2018 renewal period. The policy requires each active, certified mediator to annually complete two hours of approved CME which relates either to program enabling legislation, the N.C. Supreme Court's program rules, Standards of Professional Conduct for Mediators, grievance procedures of the Commission, and/or updates in case law involving mediation. In FY 2018-19, the NCAOC technology team created a new application that provides each mediator a list of CME courses available for credit. The mediator may now self-report their completed course online anytime throughout the year and renew their certification(s) without delay.

### **C. Advisory Opinions Adopted and Updated.**

The Commission adopts Advisory Opinions in response to mediator requests for assistance in resolving ethical dilemmas and rule interpretation questions or upon request of a Commission member. Advisory Opinions may also be issued in situations where discipline has been imposed and the Commission wishes to alert other mediators to the circumstances involved. The Commission did not adopt a new Advisory Opinion this year.

### **D. Program Rules, Policies, and Guidelines of the Commission Continuously Reviewed.**

The Commission completed an extensive review of Rules for the Dispute Resolution Commission, Mediated Settlement Conference Program, Family Financial Settlement Conference Program, Clerk Mediation Program, District Criminal Court Mediation Program, and the Standards of Professional Conduct for Mediators and undertook some revisions. The Rule revisions submitted to the Supreme Court last fiscal year, on March 18, 2021, were adopted by the Supreme Court on August 25, 2021, and went into effect on October 1, 2021. All policies, affected by the new Rules, were amended to correspond with the Rule change.

The Rule revisions adopted by the Commission this fiscal year have not been submitted to the Supreme Court of North Carolina for review. The DRC adopted amendments include the following:

1. FFS Rule 8(a)(1)(c) redefines a board-certified family law attorney as a North Carolina State Bar board certified family law specialist.
2. FFS Rule 8(a)(2)(a) clarifies the Advanced Practitioner applicant must have received their designation in the area of family mediation.
3. FFS Rule 8(a)(2)(c) removed the stale grandfather language for certification.
4. FFS Rule 8(a)(3) provides the six-hour training course on North Carolina legal terminology, court structure, and civil procedure shall be a prerequisite for the forty-hour FFS Mediation Training.
5. MSC Rule 6(b)(4) and Rule 11(g)(3) allow a mediator to report a partial settlement in a superior court mediation case.
6. MSC and FFS Rule 6(b)(1)(j), DCC Rule 6(b)(1)(k), Farm Nuisance Rule 5(b)(1)(j), and Clerk Rule 6(b)(1)(i), requires the mediator to notify the parties prior to the mediation that recording the conference is strictly prohibited.

The Commission provided a proposed Standard 9 addressing discrimination, adopted by the Commission in fiscal year 20-21, to the Supreme Court of North Carolina for review on March 18, 2021. As of July 1, 2022, the standard remained pending before the Supreme Court.

Judge Gorham created an Ad Hoc Attendance Committee, consisting of four Commission Members, three Ex-Officio Members, and three knowledgeable citizens, to review the DRC's Program Rules regarding attendance. The Committee considered the move to remote attendance as the default in 2020 due to COVID-19, the progress of technology and the use of technology, and the interest of all stakeholders of the mediation process. The Committee made recommendations to the full Commission regarding remote training courses, remote observations, and remote attendance vs. in person attendance for the mediation settlement conference.

The Commission regularly reviews its policies, procedures, and guidelines for consistency with each other and with statutory and rule amendments and revises them as needed. All policy revisions were posted for comment to the Commission's website.

#### **E. Regulatory Role Fulfilled.**

During this fiscal year the Commission addressed a few regulatory concerns, including denying certification to individuals whose certification applications raised ethical concerns and investigating complaints. The Commission continues to take seriously its charge to regulate mediator and mediator trainer conduct thereby protecting the public, encouraging ethical conduct on the part of its certified mediators, and ensuring that program rules are being followed, while balancing the due process rights of its certified mediators against whom complaints may be filed.

#### **F. Review of District Criminal Court Program.**

During this fiscal year the Commission began an investigation into the viability of the District Criminal Court Program (DCC). The program has been state funded in the past, and currently operates on a defendant-pay based system. The Community Mediation Centers handling DCC cases are reporting difficulty in collecting the mediation fees, where cases are continued to multiple court dates and creating excess work for court staff. The Commission began discussions with several community mediation centers and the Mediation Network of North Carolina, to determine all options for reinvigorating this program. The Criminal Subcommittee is working with other stakeholders for a permanent solution for the DCC program.



## **G. Communications and Outreach Improved.**

This fiscal year the Commission, working through its New Media Committee, continued to make significant strides in improving communications and outreach. The committee and Commission staff work regularly with an NCAOC consultant to enhance the Commission's website at [www.ncdrc.gov](http://www.ncdrc.gov). The Commission utilizes media platforms including Twitter and LinkedIn on a regular basis and will be providing podcasts as soon as practicable. In addition, staff published a newsletter after each Commission meeting.

The Commission offers one video observation for the MSC Program and one video observation for the FFS Program. The availability of a video observation reduces the number of live observations each prospective mediator must complete to fulfill the application requirements.

The Commission voted to approve a new DRC logo designed by a graphic artist with the NCAOC. The Commission retained outside counsel, Coates and Bennett, to handle the federal trademark application. The application remains pending as of July 1, 2022.

## **H. Research and Development.**

The Long Range Planning Committee continued to work on a project with the Commission's approval to research and investigate Online Dispute Resolution Programs around the country. Commission staff worked in collaboration with staff from the Administrative Office of the Courts to create a questionnaire that was distributed to several jurisdictions around the country who operate ODR program(s). The project revealed the progress ODR programs have made across the county, the benefits to the Courts when offering an ODR program, as well as the rough financial estimate to implement such a program in our Courts. However, the NCAOC does not have the resources of capacity to take on this project during the implementation of eCourts. Once Odyssey has gone live, the project will be taken into consideration.

## **I. Celebrated Conflict Resolution Week, October 17-23, 2021.**

The Commission in collaboration with the NCAOC's Custody Mediation Program and the Dispute Resolution Section of the North Carolina Bar Association (NCBA) received a proclamation from Chief Justice Newby, declaring October 17-23, 2021, as Conflict Resolution Week in North Carolina. Governor Roy Cooper also signed a proclamation recognizing the week of October 17-23, 2021, as Conflict Resolution Week in North Carolina. The Dispute Resolution Section of the NCBA, Custody Mediation Program, and

the Commission co-sponsored a webinar program on Thursday, October 21, 2020, featuring continuing mediation education and continuing legal education courses, including remarks from Supreme Court Chief Justice Paul Newby, Director of the Administrative Office of the Courts, Judge Heath, and Chair of the Dispute Resolution Commission, Judge Gorham. The Commission is proud to engage in educational outreach about alternatives to litigation for resolving conflicts, including mediation, arbitration, collaborative law, etc.

## **10. PLANS & GOALS FOR FISCAL YEAR 2022-2023**

In FY 2022-2023, the Commission will focus on the following projects, among others:

**A. Engage in Long Range Planning.** In an effort to maintain the Commission's place in promoting ADR across the State, the Commission intends to continue its focus on long range planning in FY 22-23.

**B. Celebrate Conflict Resolution Day, October 20, 2022.** The Commission is honored to co-sponsor a celebration of Conflict Resolution Week on October 20, 2022. The Commission has teamed up with the NCAOC Custody Mediation Program and the Dispute Resolution Section of the NCBA to provide two hours of continuing mediation education and 3 hours of continuing legal education, including an hour of ethics credit. The training courses will include a brief message from the Chief Justice of the Supreme Court of North Carolina, Paul Newby, NCAOC Director, Judge Heath, and DRC Chair, Judge Phyllis Gorham. The program will be provided via WebEx as a live webinar and will be recorded and posted for future views.

**C. Continue Website Overhaul.** The Commission and its staff will continue to work with NCAOC website designers and consultants to fully overhaul, update the appearance, streamline content, and enhance the functionality of the Commission's website, [www.ncdrc.gov](http://www.ncdrc.gov).

**D. Expand outreach through social media and other channels.** The Commission will embrace and expand its outreach to Commission stakeholders and the public through the Commission's Twitter and LinkedIn accounts. The Commission hopes to record and disseminate videos and public service announcements about NC's mediation programs, the Commission, and mediation as an effective conflict resolution process.

**E. Continue efforts to introduce legislation of importance to the Commission.** The Civil and Criminal District Court Subcommittees will continue to work with NCAOC to

address concerns and introduce rule modifications and new legislation as necessary to move the Commission forward.

**F. Encourage certification of all mediators working in the District Criminal Court Program.** The Commission will continue to work with the Mediation Network of North Carolina (MNNC), local community mediation centers, local district attorneys, and chief district court judges to encourage local community mediation centers to adopt the NC Supreme Court Rules for the District Criminal Court Mediation Program and seek mediator certification of mediators affiliated with the centers from the Commission to conduct mediations in cases in the District Criminal Court Program. Currently eleven (11) community mediation centers require their mediators to be certified by the Commission. By encouraging certification, certified mediators serving the district criminal courts will be bound by the enabling legislation, DCC program rules and the N.C. Supreme Court's Standards of Professional Conduct for Mediators, thereby insuring uniformity among programs, and accountability of center mediators.

**G. Ensure informative, accessible, and affordable CME opportunities.** The Commission and its staff will continue to work in partnership with the NCBA, the NCAOC, the NC State Bar, and other organizations and individuals to ensure that a wide variety of CME approved programs are available which are accessible and affordable to certified mediators who must comply with the Commission's Mandatory CME Policy.

**H. Submit approved amendments to the Commission Rules, Program Rules, and the Standards of Professional Conduct to the NC Supreme Court for review and adoption.** The Commission hopes to adopt, post for comment, review comments, and finalize all such amendments for submission to the Supreme Court of NC during the 2022-2023 fiscal year.

**I. The Commission will continue to interface and work with:** 1) other agencies and organizations with mediation programs, 2) the NC State Bar, 3) the Dispute Resolution Section of the NCBA, and others as necessary to promote dispute resolution in North Carolina and the programs that the Commission helps to support.

**J. Continue regulatory oversight.** The Commission shall continue to ensure that only qualified individuals of good moral character become certified as mediators, and to investigate and promptly address complaints regarding mediator conduct, character, and fitness to practice.

**K. Continue Commission operations.** The Commission and its staff shall continue to operate the Commission's office efficiently and cost-effectively while serving the needs

of mediators, court personnel, attorneys, and the public, as those needs relate to North Carolina's mandatory court mediation programs.

**L. Communicate regularly with mediators.** The Commission and its staff shall continue to inform the Commission's certified mediators about amendments to enabling legislation, program rules, Standards, newly adopted advisory opinions, case law involving mediation, and other matters relevant to their service as mediators to our courts, through its newsletter, email announcements, website postings, potential social media channels, and the like.

## **11. CONCLUSION**

As it has done every year since its creation in 1995, Commission members and staff worked diligently this fiscal year to ensure that the Mediated Settlement Conference, Family Financial Settlement, Clerk, Farm, and District Criminal Court Mediation Programs operated effectively and efficiently. The Commission strives to meet its charge of ensuring effective and ethical mediator performance through its consistent application of the rules regarding certification and by insisting on high ethical standards through its regulatory authority. In the coming fiscal year, the Commission pledges to continue its work to make the mediation process responsive to the changing needs of North Carolina State's court system and its citizens through innovation and thoughtful re-evaluation of the mediation process and the role and work of mediators.

MEDIATION SETTLEMENT CONFERENCE ACTIVITY-FINAL FY: 01JUL2021 – 30JUN2022 (COMPILED 26JUL2022)

(NO EVENTS DATES PRIOR TO 01JUL2017 ARE CONSIDERED)

DISTRICT	BEGIN PENDING	ENTRIES	ORDERED OR SENT TO MEDIATED SETTLEMENT CONFERENCE (OMSC)	VOLUNTARILY SUBMITTED TO MEDIATION SETTLEMENT CONFERENCE (VMSC)	ORDERED OR SUBMITTED TO OTHER SETTLEMENT PROCEDURE (MEDO)	CASES COMPLETING PROCESS	ORDERED EXEMPTED FROM ADR (MEDE)	REPORTED ALL ISSUES RESOLVED AT ADR (MEDA)	REPORTED IMPASSE (NOT RESOLVED) AT ADR (MEDI)	REPORTED SETTLED PRIOR TO OR DURING ADR RECESS (MEDS)	DISPOSED WITHOUT ADR SESSION (MEDB)	END PENDING
01	28	0	0	0	0	15	0	10	5	0	0	13
02	96	53	53	0	0	34	0	16	13	0	5	115
03A	110	115	109	6	0	143	0	53	36	42	12	82
03B	212	234	234	0	0	73	0	44	19	0	10	373
04	113	117	114	3	0	92	0	56	28	0	8	138
05	470	282	280	2	0	325	1	73	32	9	210	427
06A	98	34	34	0	0	9	0	9	0	0	0	123
06B	56	1	1	0	0	15	0	14	1	0	0	42
07A	134	99	95	3	1	74	2	7	22	32	11	159
07BC	217	164	159	5	0	132	0	29	24	61	18	249
08A	24	49	49	0	0	42	0	15	8	7	12	31
08B	111	131	128	0	3	140	0	37	11	9	83	102
09	94	115	115	0	0	128	1	55	22	0	50	81
10	269	0	0	0	0	252	0	148	77	12	15	17
11A	95	109	98	11	0	86	0	36	26	8	16	118
11B	702	269	269	0	0	222	44	76	34	0	68	749
12	397	254	254	0	0	320	26	78	40	58	118	331
13A	107	80	80	0	0	99	0	21	9	10	59	88
13B	637	240	240	0	0	157	0	20	26	2	109	720
14	188	241	237	4	0	248	1	85	56	58	48	181
15A	127	91	90	1	0	75	2	28	20	0	25	143
15B	61	121	117	4	0	120	0	36	20	10	54	62
16A	61	45	9	12	24	61	22	12	2	0	25	45
16B	46	24	23	0	1	43	0	35	6	2	0	27
17A	76	29	29	0	0	22	0	20	2	0	0	83
17B	45	51	40	11	0	21	0	16	3	2	0	75
18	675	301	301	0	0	250	0	123	60	0	67	726
19A	266	57	57	0	0	57	0	35	20	0	2	266
19B	49	59	59	0	0	48	0	24	11	8	5	60
19C	78	102	101	1	0	109	0	55	23	19	12	71
19D	150	18	18	0	0	92	0	28	27	5	32	76

MEDIATION SETTLEMENT CONFERENCE ACTIVITY-FINAL FY: 01JUL2021 – 30JUN2022 (COMPILED 26JUL2022)												
(NO EVENTS DATES PRIOR TO 01JUL2017 ARE CONSIDERED)												
DISTRICT	BEGIN PENDING	ENTRIES	ORDERED OR SENT TO MEDIATED SETTLEMENT CONFERENCE (OMSC)	VOLUNTARILY SUBMITTED TO MEDIATION SETTLEMENT CONFERENCE (VMSC)	ORDERED OR SUBMITTED TO OTHER SETTLEMENT PROCEDURE (MEDO)	CASES COMPLETING PROCESS	ORDERED EXEMPTED FROM ADR (MEDE)	REPORTED ALL ISSUES RESOLVED AT ADR (MEDA)	REPORTED IMPASSE (NOT RESOLVED) AT ADR (MEDI)	REPORTED SETTLED PRIOR TO OR DURING ADR RECESS (MEDS)	DISPOSED WITHOUT ADR SESSION (MEDB)	END PENDING
20A	28	55	52	3	0	46	0	13	12	2	19	37
20B	102	123	118	5	0	137	0	40	39	0	58	88
21	991	234	228	6	0	180	3	92	54	0	31	1045
22A	196	149	147	2	0	209	1	82	63	20	43	136
22B	152	179	177	2	0	178	0	41	33	68	36	153
23	42	75	68	7	0	61	2	20	24	8	7	56
24	87	82	65	17	0	60	0	15	27	0	18	109
25A	194	62	62	0	0	18	0	10	8	0	0	238
25B	160	101	101	0	0	72	0	25	28	9	10	189
26	983	1064	1044	18	2	898	6	360	240	215	77	1149
27A	102	138	116	22	0	131	0	62	38	10	21	109
27B	351	100	93	7	0	297	2	43	21	0	231	154
28	413	161	148	13	0	93	0	45	35	0	13	481
29A	163	50	50	0	0	26	0	18	8	0	0	187
29B	103	102	100	2	0	98	1	43	24	12	18	107
30A	117	61	57	2	2	34	1	13	6	0	14	144
30B	53	72	72	0	0	51	0	13	10	0	28	74
Statewide	10029	6293	6091	169	33	6093	115	2229	1353	698	1698	10229

FAMILY FINANCIAL ACTIVITY: FINAL FY: 01JUL2021 -- 30JUN2022 (COMPILED 26JUL2022)														
(NO EVENTS DATES PRIOR TO 01JUL2017 ARE CONSIDERED)														
DISTRICT	BEGIN PENDING	ENTRIES	ORDERED TO MEDIATION SETTLEMENT CONFERENCE (MSC)	SUBMITTED TO OTHER SETTLEMENT PROCEDURE (OSP)	VOLUNTARILY SUBMITTED TO MEDIATION SETTLEMENT CONFERENCE (VMSC)	ORDERED TO JUDICIAL SETTLEMENT CONFERENCE (JSC)	CASES COMPLETING PROCESS	REPORTED ALL ISSUES RESOLVED AT ADR (ADRS)	ORDERED EXEMPTED FROM ADR (ADRE)	REPORTED SETTLED PRIOR TO OR DURING ADR RECESS (ADRT)	REPORTED PARTIALLY RESOLVED AT ADR (ADRP)	REPORTED IMPASSE (NOT RESOLVED) AT ADR (ADRI)	DISPOSED WITHOUT ADR SESSION (ADRW)	END PENDING
01	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02	30	15	13	0	2	0	18	7	1	0	2	8	0	27
03A	48	26	26	0	0	0	32	17	0	0	0	14	1	42
03B	68	130	130	0	0	0	159	21	1	109	4	9	15	39
04	123	21	1	0	20	0	30	6	3	1	1	1	18	114
05	358	233	233	0	0	0	198	73	0	0	1	1	123	393
06	20	17	11	1	4	1	18	5	1	1	1	5	5	19
07	0	10	1	0	9	0	10	5	0	0	1	4	0	0
08	18	22	22	0	0	0	10	4	0	1	0	2	3	30
09	1	0	0	0	0	0	0	0	0	0	0	0	0	1
10	207	302	300	0	1	1	148	89	1	1	7	12	38	361
11	315	221	221	0	0	0	160	14	4	0	1	10	131	376
12	318	274	273	0	0	1	302	96	12	6	18	29	141	290
13	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14	81	35	31	0	2	2	36	25	2	0	2	4	3	80
15A	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15B	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16A	17	32	28	0	3	1	40	18	2	0	2	8	10	9
16B	139	28	28	0	0	0	0	0	0	0	0	0	0	167
17A	15	17	11	0	6	0	6	3	0	0	1	1	1	26
17B	105	51	51	0	0	0	50	5	3	0	0	3	39	106
18	362	204	203	0	1	0	221	55	2	0	14	12	138	345
19A	108	36	36	0	0	0	8	5	0	0	2	1	0	136
19B	39	52	38	0	0	14	54	19	3	21	1	5	5	37
19C	22	31	29	0	2	0	28	15	1	2	5	4	1	25
19D	125	76	74	0	2	0	102	46	0	28	2	26	0	99
20A	4	34	34	0	0	0	22	8	0	0	0	4	10	16
20B	300	100	100	0	0	0	28	12	0	0	0	15	1	372
21	288	79	79	0	0	0	37	10	0	0	0	5	22	330
22A	0	74	31	0	43	0	74	30	0	0	13	31	0	0
22B	1	3	0	0	3	0	3	1	0	0	2	0	0	1
23	38	22	22	0	0	0	8	0	2	1	1	4	0	52
24	32	62	62	0	0	0	62	23	2	0	2	10	25	32
25	146	167	167	0	0	0	58	24	15	3	0	6	10	255
26	133	1	0	1	0	0	0	0	0	0	0	0	0	134
27A	3	0	0	0	0	0	0	0	0	0	0	0	0	3
27B	161	0	0	0	0	0	110	0	0	0	0	0	110	51

**FAMILY FINANCIAL ACTIVITY: FINAL FY: 01JUL2021 -- 30JUN2022 (COMPILED 26JUL2022)**

**(NO EVENTS DATES PRIOR TO 01JUL2017 ARE CONSIDERED)**

DISTRICT	BEGIN PENDING	ENTRIES	ORDERED TO MEDIATION SETTLEMENT CONFERENCE (MSC)	SUBMITTED TO OTHER SETTLEMENT PROCEDURE (OSP)	VOLUNTARILY SUBMITTED TO MEDIATION SETTLEMENT CONFERENCE (VMSC)	ORDERED TO JUDICIAL SETTLEMENT CONFERENCE (JSC)	CASES COMPLETING PROCESS	REPORTED ALL ISSUES RESOLVED AT ADR (ADRS)	ORDERED EXEMPTED FROM ADR (ADRE)	REPORTED SETTLED PRIOR TO OR DURING ADR RECESS (ADRT)	REPORTED PARTIALLY RESOLVED AT ADR (ADRP)	REPORTED IMPASSE (NOT RESOLVED) AT ADR (ADRI)	DISPOSED WITHOUT ADR SESSION (ADRW)	END PENDING
28	108	92	92	0	0	0	126	36	0	0	6	10	74	74
29A	30	53	53	0	0	0	41	14	2	0	2	1	22	42
29B	68	61	30	5	14	12	34	12	0	0	2	16	4	95
30	40	54	53	0	1	0	47	13	0	2	1	14	17	47
<b>Statewide</b>	<b>3871</b>	<b>2635</b>	<b>2483</b>	<b>7</b>	<b>113</b>	<b>32</b>	<b>2280</b>	<b>711</b>	<b>57</b>	<b>176</b>	<b>94</b>	<b>275</b>	<b>967</b>	<b>4226</b>