

# THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION



## ANNUAL REPORT FISCAL YEAR 2022-2023

**Post Office Box 2448  
Raleigh, North Carolina 27602  
(919) 890-1415  
[www.ncdrc.gov](http://www.ncdrc.gov)**





October 27, 2023

Ladies and Gentlemen:

I am pleased to present the N.C. Dispute Resolution Commission's Annual Report for Fiscal Year (FY) 2022 – 2023.

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 2023-2024. 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,

Judge Phyllis Gorham, Chair  
NC Dispute Resolution Commission

# TABLE OF CONTENTS

<b>From the Chair</b>	<b>3</b>
<b>1. Introduction</b>	<b>5</b>
<b>2. A. Commission Members</b>	<b>6</b>
<b>B. Ex-Officio Members</b>	<b>8</b>
<b>3. Commission’s Office</b>	<b>9</b>
<b>4. Interface with Other Agencies or Programs</b>	<b>9</b>
<b>5. Budget</b>	<b>10</b>
<b>6. Certifications Issued FY 22-23</b>	<b>10</b>
<b>7. Program Statistics FY 22-23</b>	<b>10</b>
<b>8. Commission Structure in FY 22-23</b>	<b>11</b>
<b>9. Commission Business in FY 22-23</b>	<b>14</b>
<b>10. Plans and Goals for FY 2023-2024</b>	<b>19</b>
<b>11. Conclusion</b>	<b>21</b>
<b>Addendum 1: MSC Program Statistics Chart</b>	<b>22</b>
<b>Addendum 2: FFS Program Statistics Chart</b>	<b>23</b>



## **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, 2022, through June 30, 2023.

## **2. MEMBERSHIP**

### **A. Commission Members**

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; two practicing attorneys not certified as mediators, one of whom shall be a family law specialist; three citizens knowledgeable about mediation; and a court management staff member. Members who were serving as of June 30, 2023, 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.

**The Honorable Christopher Bragg** (Monroe), certified superior court mediator, appointed by Chief Justice Paul Newby on October 1, 2022, for a term expiring September 30, 2025.

**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. (Replaced by Judge Christopher Bragg).

**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. (Replaced by H. David Niblock).

**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. Ms. Johnson-Tonkins resigned her seat on January 26, 2023, leaving the seat vacant.

**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. (Replaced by Alice Stubbs.)

**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.

**Alice Stubbs** (Raleigh), non-certified family law specialist appointed by Darrin D. Jordan, President of the NC State Bar on October 1, 2022, for a term expiring September 30, 2025.

**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.

**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. reappointed by Governor Roy Cooper on October 1, 2022, for a term expiring September 30, 2025.

**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.

#### **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.

**Jim Cooley** (Charlotte), Chair, NC Bar Association's Dispute Resolution Section.

**De Maca Adams** (Raleigh), Court Management Specialist, NCAOC Court Programs and Management Services Division.

**Deshield Greene** (Raleigh), Court Management Specialists, NCAOC Court Programs and Management Services Division. Ms. Greene resigned her position with the NCAOC in January of 2023.

**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 2022-2023, 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 2022-2023, 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 2022-2023 collections for certifications and renewals, plus our legislative carryforward from previous years, totaled \$369,488.00. 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, 2023, were as follows: 991 active Mediated Settlement Conference Program (MSC) certifications, 374 active Family Financial Settlement Conference Program (FFS) certifications, 95 active Clerk Mediation Program (Clerk) certifications (to conduct guardianship and estate mediations), and 46 active District Criminal Court (DCC) certifications.\* In addition, there were 111 inactive MSC, 33 inactive FFS, and 14 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 2022-2023 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 3257 cases were mediated, and of those, 1978 cases, or 61% were resolved at a mediated settlement conference. If one includes the 733 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, 1093 cases were mediated, and 778 cases, or 71% were resolved in whole or in part at the mediated settlement conference. If one also considers, as above, the 197 cases resolved after referral but prior to a conference or during recess, 76% of FFS cases were resolved. These settlement rates are slightly lower than the percentages of mediated cases that settled in FY 2021-2022. 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 2022-2023, the Clerk Mediation Program, statewide reports show 11 cases were mediated. One case ended in impasse, six cases settled in mediation, three cases settled outside of mediation, with one case pending as of June 30, 2023. 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. Feedback received from participating districts and community mediation centers indicated a high settlement rate among the minor misdemeanor matters that entered mediation. However, the community mediation centers indicate a drop in cases entering mediation. 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, 2022 – June 30, 2023. This Committee is charged with considering matters relating to legislation, budget, and personnel.

**Standards and Advisory Opinions Committee:** Mr. Laney, Chair, from July 1, 2022 – June 30, 2023. 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:** Judge Hamilton, Chair, from July 1, 2022 – June 30, 2023. 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, 2022 – June 30, 2023. 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:** Ms. Wood, Chair, from July 1, 2022 – June 30, 2023. 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:** District Attorney David, Co-Chair, from July 1, 2022 – June 30, 2023. Ms. Estle, Co-Chair, from July 1, 2022 – June 30, 2023. 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:** Mr. Soni, Chair, from July 1, 2022 – June 30, 2023. 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, from July 1, 2022 – December 31, 2022. Ms. Adams, Chair, January 1, 2023 – June 30, 2023. 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:** Mr. Bolen, Chair, from July 1, 2022 – June 30, 2023. 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, Chair, from July 1, 2022 – June 30, 2023. 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, from July 1, 2022 – April 21, 2023. This Committee is charged with investigating the benefits of in-person and remote mediation and to determine the best practice moving forward after COVID. 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. The Committee proposed amendments to the attendance rules for all programs, the proposed language was reviewed and approved by the Commission, posted for comment, and adopted by the Commission. The proposed amendments were submitted to the North Carolina Supreme Court for consideration and were adopted April 4, 2023. The Chair requested the committee be dissolved at the Commission's April 21, 2023, meeting.

**Ad Hoc Funds Committee:** Mr. Laney, Chair, from January 27, 2023 – June 30, 2023. This Committee is charged with managing the excess budget in the Commission’s financial account. The Commission determined the excess funds should be utilized to promote ADR practices in the State. The Committee acknowledges the funds are to be used with caution as the Commission does not receive state funding and relies solely on receipts from certified mediators and trainers.

**Ad Hoc Cherokee Nation:** Mr. Wijewickrama, Chair, from April 21, 2023 – June 30, 2023. This Committee has been tasked to work with the Cherokee Nation to determine the feasibility of providing certification for mediators who mediated in the Cherokee Nation Courts.

**Ad Hoc AO Review Committee:** Mr. Laney, Chair, from April 21, 2023 – June 30, 2023. This Committee has been tasked with reviewing the Commission’s 43 Advisory Opinions to determine if they are accurate under the current legislation, rules, and standards. Additionally, the Committee has been asked to review the AO’s for consistency.

**Ad Hoc Green Book Committee:** Mr. Laney, Chair, from April 21, 2023 – June 30, 2023. This Committee has been charged with overseeing the revision of the second edition of the book, *Alternative Dispute Resolution in North Carolina, A New Civil Procedure* (“Green Book”).

## **9. COMMISSION BUSINESS in FY 2022-2023**

The full Commission met in person, with the option of attending via remote technology, three times this fiscal year: September 30, 2022, January 27, 2023, and April 21, 2023. 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.

#### **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 self-reports 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 North Carolina Supreme Court on November 28, 2022, were adopted by the Supreme Court on April 4, 2023, and went into effect on May 1, 2023. All policies, affected by the new Rules or Standards, were amended to correspond with the Rule or Standard change.

The Rule revisions adopted by the North Carolina Supreme Court this fiscal year include the following:

### **1. Proposed Amendments to MSC Program Rules**

- a. Rule 2(c). The Commission proposed giving the mediator the ability to declare on their mediator profile, their preferred method of mediation, in person, remote, or any method.
- b. Rule 4(a)(2). The Commission proposed a new attendance method that would allow the parties and mediator to dictate the method of mediation used. The default falls to in person, if the mediator will accept in person cases, and the parties and mediator cannot agree.
  - i. Comment to Rule 4(a)(2)(e)(1) promotes video conferencing for all remote mediations.
- c. Rule 6(b)(1)(j). The Commission proposed clarifying recording the mediation is a sanctionable offence.
- d. Rule 6(b)(4)(a) and 11(g)(3). The Commission proposed to allow for partial settlement reporting in MSC. (Similar to the FFS Rules.)
- e. Rule 8(a)(2)(b)(3)(iii). The Commission proposed to allow an applicant with an advanced degree in Alternative Dispute Resolution, from an accredited institution, to qualify for certification for a non-attorney applicant after 5 years of professional work experience of an executive nature.

### **2. Proposed Amendments to FFS Program Rules.**

- a. Rule 2(c). The Commission proposed giving the mediator the ability to declare on their mediator profile, their preferred method of mediation, in person, remote, or any method.
- b. Rule 4(a)(2). The Commission proposed a new attendance method that would allow the parties and mediator to dictate the method of mediation used. The default falls to in person, if the mediator will accept in person cases, and the parties and mediator cannot agree.
  - i. Comment to Rule 4(a)(2)(e)(1) promotes video conferencing for all remote mediations.
- c. Rule 6(b)(1)(j). The Commission proposed clarifying recording the mediation is a sanctionable offence.
- d. Rule 8(a)(1). The Commission proposed the 12-hour basic of family law course be a prerequisite for the 40-hour training.
- e. Rule 8(a)(1)(c). The Commission proposed to clarify the classification of a family law specialist in NC.
- f. Rule 8(a)(2)(a). The Commission proposed to clarify the Association for Conflict Resolution (ACR) designation that will qualify for certification is the Family Mediator designation. (ACR has expanded their designations to include more areas than family law.)
- g. Rule 8(a)(2)(c). The Commission proposed to remove the expired grandfather language under certification.
- h. Rule 8(a)(3). The Commission proposed the 6-hour legal terminology training be a prerequisite for the 40-hour training. (Similar to the MSC Rules.)



- i. Rule 9(a)(8). The Commission proposed removing the training requirement for DRC Certified Trainers to teach family law as a portion of the mediation training.

### **3. Proposed Amendments to the Clerk Rules**

- a. Rule 2(c). The Commission proposed giving the mediator the ability to declare on their mediator profile, their preferred method of mediation, in person, remote, or any method.
- b. Rule 4(a)(1). The Commission proposed a new attendance method that would allow the parties and mediator to dictate the method of mediation used. The default falls to in person, if the mediator will accept in person cases, and the parties and mediator cannot agree.
  - i. Comment to Rule 4(a)(1)(e)(1) promotes video conferencing for all remote mediations.
- c. Rule 6(b)(1)(i). The Commission proposed clarifying recording the mediation is a sanctionable offence.

### **4. Proposed Amendments to the DCC Rules**

- a. Rule 6(b)(1)(k). The Commission proposed clarifying recording the mediation is a sanctionable offence.

### **5. Proposed Amendments to the Farm Rules**

- a. Rule 3(d). The Commission proposed giving the mediator the ability to declare on their mediator profile, their preferred method of mediation, in person, remote, or any method.
- b. Rule 5(b)(1)(j). The Commission proposed clarifying recording the mediation is a sanctionable offence.

### **6. Proposed Amendments to the Standards of Professional Conduct for Mediators**

- a. Standard 9. The Commission proposed addressing discrimination, by adopting an anti-discrimination Standard.

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 have reported 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. The Commission sought to include funding for the DCC Program in the NCAOC's annual budget, however, the request was denied. The Commission increased staff hours for Ms. Brooks, from 20 to 25 hours per week, to allow time for her to investigate and apply for grant funds to provide to the centers. The Commission would not retain any funds awarded, but would act as a fiscal sponsor of the funds distributed to the centers for mediations performed.

#### **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 Commission 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, 2023.

#### **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 NCAOC 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 16-22, 2022.**

The Commission sponsored a webinar program on Thursday, October 20, 2022, 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 2023-2024**

In FY 2023-2024, 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 23-24.

**B. Celebrate Conflict Resolution Day, October 19, 2023.** The Commission is honored to sponsor a celebration of Conflict Resolution Week on October 19, 2023. The Commission will provide two hours of continuing mediation education and 4.25 hours of continuing legal education, including two hours of ethics credit. The program will be live with access via WebEx for remote attendees 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 2023-2024 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; and 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: 01JUL2022 -- 30JUN2023 (COMPILED 26JUL2023)**

**(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	TOTAL CASELOAD	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)	REPORTED PARTIAL SETTLEMENT (MEDP)	DISPOSED WITHOUT ADR SESSION (MEDB)	CASES COMPLETING PROCESS	END PENDING
01	20	0	0	0	0	20	0	3	4	0	0	0	7	13
02	115	50	50	0	0	165	0	17	13	0	0	3	33	132
03A	83	104	103	1	0	187	0	33	35	33	0	14	115	72
03B	387	161	161	0	0	548	0	73	19	0	0	3	95	453
04	158	99	95	4	0	257	0	37	21	0	0	8	66	191
05	427	301	297	4	0	728	0	53	34	6	0	194	287	441
06A	123	7	7	0	0	130	0	0	4	0	0	0	4	126
06B	44	14	14	0	0	58	0	3	1	0	0	1	5	53
07A	196	112	103	9	0	308	1	14	12	26	0	37	90	218
07BC	251	121	114	7	0	372	0	0	16	71	0	27	114	258
08A	32	43	43	0	0	75	1	14	9	2	0	15	41	34
08B	107	126	124	0	2	233	0	24	14	5	0	74	117	116
09	86	94	93	0	1	180	1	40	19	0	0	34	94	86
**10	17	398	398	0	0	415	0	158	85	5	0	15	263	152
**11A	118	135	119	16	0	253	0	29	16	10	0	6	61	192
**11B	749	255	252	0	0	1004	16	54	22	2	0	107	201	778
12	380	231	231	0	0	611	35	69	60	57	0	8	229	382
13A	91	21	20	1	0	112	0	15	7	3	0	35	60	52
13B	759	215	215	0	0	974	0	34	18	1	0	132	185	789
14	170	221	217	4	0	391	2	76	50	32	0	63	223	168
15A	97	84	84	0	0	181	1	38	29	0	0	38	106	75
15B	58	93	89	4	0	151	0	23	17	13	0	50	103	48
16A	64	49	14	27	8	113	0	23	11	5	0	16	55	58
16B	51	27	27	0	0	78	0	22	9	2	0	1	34	44
17A	88	28	28	0	0	116	0	6	3	1	0	0	10	106
17B	70	22	14	8	0	92	0	4	0	0	0	0	4	88
18	762	364	364	0	0	1126	1	140	75	78	0	6	300	826
19A	290	93	93	0	0	383	0	29	17	0	0	3	49	334
19B	103	74	74	0	0	177	1	29	9	13	0	40	92	85
19C	73	114	113	1	0	187	0	45	29	33	0	2	109	78
19D	168	53	46	0	7	221	0	35	17	12	0	65	129	92
20A	35	33	30	3	0	68	1	18	8	1	0	11	39	29
20B	90	134	123	11	0	224	1	41	32	0	0	53	127	97
21	1181	1	1	0	0	1182	0	94	46	1	0	26	167	1015
22A	151	196	196	0	0	347	3	68	62	21	0	39	193	154
22B	240	112	109	3	0	352	0	47	35	105	0	24	211	141
23	75	64	60	4	0	139	1	20	19	4	0	4	48	91
24	113	82	75	7	0	195	0	25	13	0	0	39	77	118
25A	238	63	63	0	0	301	0	4	7	0	0	0	11	290
25B	205	111	111	0	0	316	0	31	29	4	0	2	66	250
26	1163	1036	1032	2	2	2199	0	316	225	166	0	10	717	1482
27A	111	116	103	13	0	227	0	38	34	12	0	13	97	130
27B	172	89	76	13	0	261	0	30	15	0	0	1	46	215
28	478	122	120	2	0	600	0	10	3	0	0	6	19	581
29A	188	69	69	0	0	257	0	17	2	1	0	0	20	237
29B	104	104	100	4	0	208	1	38	32	8	0	22	101	107
30A	144	84	80	3	1	228	4	22	23	0	0	15	64	164
30B	71	66	66	0	0	137	0	19	19	0	0	20	58	79
<b>Total</b>	<b>10896</b>	<b>6191</b>	<b>6016</b>	<b>151</b>	<b>21</b>	<b>17084</b>	<b>70</b>	<b>1978</b>	<b>1279</b>	<b>733</b>	<b>0</b>	<b>1282</b>	<b>5342</b>	<b>11720</b>

Total Caseload includes the number of cases pending at the start of the fiscal year as well as those new cases ordered to mediation / arbitration. 0

\*Some begin pending numbers changed by local audit.

\*\*Pilot districts transitioned to Odyssey mid-year. Statistics were generated from CaseWise through Dec 2023, and from Odyssey starting January 2023. Begin begin pending numbers are based on end pending numbers from end of year final SO FY21-22 report.

**FAMILY FINANCIAL ACTIVITY:FINAL EOY: 01JUL2022 -- 30JUN2023  
(COMPILED 26JUL2023)**

**(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)	TOTAL CASE LOAD	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)	CASES COMPLETING PROCESS	END PENDING
01	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
02	22	21	21	0	0	0	43	5	0	0	0	7	2	14	29
03A	55	46	46	0	0	0	101	21	0	0	0	16	6	43	58
03B	69	125	125	0	0	0	194	26	1	110	4	7	13	161	33
04	127	16	0	0	16	0	143	12	0	0	1	2	1	16	127
05	422	223	223	0	0	0	645	71	1	0	0	9	115	196	449
06	19	13	7	0	5	1	32	2	0	0	1	2	1	6	26
07	0	6	3	0	3	0	6	4	0	0	0	2	0	6	0
08	32	17	17	0	0	0	49	3	0	0	0	8	1	12	37
09	1	0	0	0	0	0	1	0	0	0	0	0	0	0	1
**10	361	235	233	0	1	1	596	26	0	3	2	6	22	59	537
**11	376	191	191	0	0	0	567	5	0	4	0	3	67	79	468
12	249	298	298	0	0	0	547	80	24	18	16	38	140	316	231
13	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
14	99	41	31	0	7	3	140	29	6	1	4	9	1	50	90
15A	0	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	0
16A	7	21	18	0	3	0	28	11	0	0	2	5	3	21	7
16B	176	49	49	0	0	0	225	0	0	0	0	0	0	0	225
17A	35	5	5	0	0	0	40	13	0	0	0	0	4	17	23
17B	121	65	65	0	0	0	186	11	3	1	2	7	79	103	83
18	367	195	194	0	1	0	562	60	2	0	12	22	125	221	341
19A	138	38	37	0	1	0	176	14	1	0	0	7	1	23	153
19B	41	46	31	0	1	14	87	34	3	14	2	10	1	64	23
19C	25	23	23	0	0	0	48	15	0	0	1	8	2	26	22
19D	140	119	115	0	4	0	259	66	1	38	2	23	9	139	120
20A	17	43	43	0	0	0	60	23	1	0	0	2	21	47	13
20B	384	150	150	0	0	0	534	9	0	0	1	14	0	24	510
21	331	78	78	0	0	0	409	35	0	0	0	4	15	54	355
22A	2	71	23	0	48	0	73	30	0	0	6	37	0	73	0
22B	4	10	1	0	9	0	14	3	0	0	0	3	0	6	8
23	44	52	52	0	0	0	96	10	0	4	1	7	7	29	67
24	34	53	53	0	0	0	87	12	0	0	2	1	19	34	53
25	258	172	172	0	0	0	430	12	0	0	2	5	53	72	358
26	134	0	0	0	0	0	134	0	0	0	0	0	0	0	134
27A	3	0	0	0	0	0	3	0	0	0	0	0	0	0	3
27B	123	0	0	0	0	0	123	0	0	0	0	0	71	71	52
28	85	90	90	0	0	0	175	28	0	0	2	9	58	97	78
29A	38	47	47	0	0	0	85	21	1	0	1	6	22	51	34
29B	110	70	24	1	18	27	180	10	1	4	0	17	13	45	135
30	50	57	57	0	0	0	107	9	0	0	4	19	20	52	59
<b>Total</b>	<b>4499</b>	<b>2686</b>	<b>2522</b>	<b>1</b>	<b>117</b>	<b>46</b>	<b>7185</b>	<b>710</b>	<b>45</b>	<b>197</b>	<b>68</b>	<b>315</b>	<b>892</b>	<b>2227</b>	<b>4938</b>

*Some districts reported no activity or did not report status. Total Caseload includes the number of cases pending at the start of the fiscal year as well as those new cases ordered to mediation/ arbitration.*

*\*Some begin pending numbers changed by local audit.*

*\*\*Pilot districts transitioned to Odyssey mid-year. Statistics were generated from CaseWise through Dec 2023, and from Odyssey starting January 2023. Begin begin pending numbers are based on end pending numbers from end of year final SO FY21-22 report.*