



DRC Inactive Status Policy

(Adopted by the Dispute Resolution Commission on February 17, 2006; revised February 27, 2015; May 12, 2017)

The Commission recognizes that mediators may sometimes be temporarily unable to mediate actively within the courts, but not wish to relinquish their certification(s). For that reason, the Commission has established an **inactive** certification category. In adopting this *Policy on Inactive Status*, the Commission wishes to encourage mediators to elect inactive status rather than allowing their certifications to simply lapse. During the period that a mediator is inactive, s/he will remain in the Commission's database, though his or her contact and biographical information will not be visible to the public, and continue to receive notifications of policy and rule changes as well as copies of newly adopted advisory opinions, newsletters, and other important information relating to mediation and mediated settlement conference programs. It is the Commission's expectation that inactive mediators will take their responsibility to review these materials seriously, and will seek to remain current in their understanding of the mediation process and our mediated settlement conference programs. Mediators may apply for inactive status at any time during the year and may seek inactive status for purposes of one or all the certifications that they hold.

A mediator who holds inactive status for purposes of the Mediated Settlement Conference Program shall not mediate any matter referred to mediation within the context of the Mediated Settlement Conference (MSC) Program (N.C.G.S. 7A-38.1), Clerk Mediation Program (N.C.G.S. 7A-38.3B), or Pre-litigation Farm Nuisance Mediation Program (N.C.G.S. 7A-38.3), whether upon court appointment or party selection. (An inactive MSC mediator who holds active Family Financial Settlement (FFS) mediator certification may be eligible to mediate Clerk referrals.)

A mediator who holds inactive status for purposes of the Family Financial Settlement (FFS) Program shall not mediate any matter referred to mediation within the context of the Family Financial Settlement Program and in which the mediator is court-appointed to mediate (N.C.G.S. 7A-38.4A) or any Clerk Mediation Program referrals (N.C.G.S. 7A-38.3B). An inactive FFS mediator may still mediate FFS cases upon party selection. (An inactive FFS mediator who holds active MSC certification may be eligible to mediate Clerk referrals.)

A mediator seeking inactive status shall:

- (a) Notify the Commission in writing specifying the certification(s) for which the mediator seeks to be inactive;
- (b) Agree in writing not to mediate any matter which the mediator is no longer eligible to mediate as set forth above;
- (c) No longer hold him or herself out to the public as active. Any promotional material the mediator continues to use and which references his/her certification, shall specify that the mediator is inactive, e.g., "DRC certified superior court mediator (inactive)", including on any websites, resumes, letterhead, business cards, brochures, or related materials, (See also DRC Advertising Policy at: <https://www.nccourts.gov/documents/publications/advertising-guidelines-for-mediators>;
- (d) Complete an annual renewal application for each year inactive status continues;
- (e) Pay a reduced inactive certification fee for each year inactive status continues; and
- (f) Comply with any other requirements adopted by the Commission regarding inactive status.

If at the time a mediator transitions to inactive status, he or she has been appointed by a judge or Clerk to mediate a matter or has been selected by the parties to do so and that selection has been submitted to the court or to the Clerk, the mediator shall immediately notify the judge or Clerk and any attorneys or *pro se* parties involved in the case that s/he has become inactive and is no longer eligible to serve as a mediator in the matter, except that if the mediator is inactive FFS, s/he is still eligible to mediate any pending FFS case for which s/he was party selected to mediate. The inactive mediator may use form AOC-CV-837 to withdraw. A mediator holding inactive status who mediates cases that he or she is prohibited from mediating due to the inactive status, risks disciplinary action.

The Commission encourages but does not require a mediator holding inactive status to comply with the DRC's CME Policy by completing two (2.0) hours of approved CME on an annual basis which addresses G.S. §7A-38.1, G.S. §7A-38.4A, Rules of the NC Supreme Court for the MSC and FFS Programs, Rules of the NC Industrial Commission, Standards of Professional Conduct for Mediators, Grievance and disciplinary procedures of the DRC, advisory opinions adopted to date by the DRC, or case law updates involving mediation.

Any mediator who becomes inactive after May 12, 2017, the effective date of this amended DRC Inactive Status Policy, remains inactive for more than five (5) consecutive years, and seeks to return to active status shall:

- (a) Notify the Commission in writing of his or her intention to return to active status; and
- (b) Have completed 2.0 hours of Commission approved CME within one year of the date that s/he requests to return to active status, and
- (c) Pay an administrative fee in the amount of \$25 to reactivate his/her certification(s).