



DRC Dated and Out-of-State Training Policy

(Adopted by the Dispute Resolution Commission on July 14, 2006; revised on February 27, 2015, and September 15, 2017.)

Mediated settlement conference program rules require that all mediators be trained in basic mediation theory, processes, and techniques and that all mediators demonstrate familiarity with North Carolina statutes, rules, and practices governing mediated settlement conferences (MSC/FFS/Clerk Rule 8). To that end and in the interest of protecting both the public and the courts, the Commission has adopted this Policy. This Policy is intended to ensure that all mediators certified by the Commission are current in their understanding of the mediation process and are familiar with their role as mediator, including understanding their case management responsibilities and ethical obligations as a mediator for the North Carolina courts. This Policy applies to:

- Original applications for certification in which the 40 or 16-hour training program required by MSC Rule 8.A or FFS Rule 8.A(2) is completed more than three (3) years prior to submission of the application;
- Applications filed by applicants for the MSC and/or FFS programs whose mediator training was completed in another state; and
- Original applications for certification in the Clerk program in which the 10-hour training program required by Clerk Rule 8.B was completed more than ten (10) years prior to submission of the application.

I. ORIGINAL APPLICATIONS FOR FFS AND MSC CERTIFICATION SUBMITTED WITH DATED TRAINING.

A. Training completed less than three years prior to application for mediator certification.

An applicant for MSC or FFS certification whose training was completed less than three years prior to application shall be required to verify on the application that the applicant has read and studied current versions of the enabling legislation, program rules, Standards of Professional Conduct for Mediators, Advisory Opinion Policy, and all advisory opinions adopted to date.

B. Training completed more than three years but less than seven years prior to application for mediator certification.

A Commission approved 40 or 16-hour (if the applicant is already certified as either an MSC or FFS mediator) training program completed more than three years but less than seven years prior to the date of application for certification, shall be deemed to be dated training pursuant to MSC Rule 8.D and FFS Rule 8.E and the applicant shall, in the discretion of Commission staff, be required to **either**:

1. provide a letter stating that s/he has studied, and is familiar with current versions of the statutes, program rules, and Standards of Professional Conduct for Mediators, the Commission's Advisory Opinion Policy, and all advisory opinions adopted to date by the Commission for the program for which s/he seeks certification; **or**
2. attend a 16-hour supplemental training course or those portions of a North Carolina approved 40-hour training program wherein the statutes, rules, and practice governing mediated settlement are discussed and complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable.
3. In determining whether the applicant shall complete (1) or (2) above, staff shall consider:
 - a. The time frame since training was completed;
 - b. The number of policy, rule or other changes in the program that have occurred since training;
 - c. Whether the applicant has attended any courses or other educational activities focused on the mediation process *and* NC program statutes, rules, and practice since the date of completion of his/her 40 or 16-hour training program,
 - d. Whether the applicant has been attending mediations as, *e.g.*, an attorney advocate or insurance adjuster, since the date of completion of his/her 40 or 16-hour training program; and
 - e. Whether the applicant has been actively mediating since the date of completion of his/her 40 or 16-hour training program, *e.g.*, mediating for a community mediation center, mediating family disputes, or mediating disputes pre-litigation.
4. The applicant will need to provide evidence in satisfaction of 3(a)-(e) above, *e.g.*, a CLE record, other record of attendance at training, and/or identification of mediations attended or cases/disputes mediated. Applicant must also comply with all requirements set forth in section C below.

C. Training completed more than seven but less than twelve years prior to application for mediator certification.

A Commission approved 40 or 16-hour (if the applicant is already certified as either an MSC or FFS mediator) training program completed more than seven, but less than twelve years prior to application for certification, shall be deemed to be dated training pursuant to MSC Rule 8.D and FFS Rule 8.E and the applicant shall be required to attend a Commission approved 16-hour supplemental training course or those portions of a 40-hour training program wherein the statutes, rules, and practice governing mediated settlement are discussed and to complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable, and complete additional requirements as set forth in Section IV below.

D. Training completed more than twelve years prior to application for mediator certification.

A Commission approved 40 or 16-hour (if the applicant is already certified as either an MSC or FFS mediator) training program completed more than twelve years prior to date of application for certification, shall be deemed dated and not in compliance with MSC/FFS Rule 8. The applicant shall be required to complete a full forty-hour Commission approved course, unless the applicant can demonstrate that s/he has been actively involved in the process of mediation during a substantial portion of the twelve year period. An applicant who can demonstrate such ongoing involvement with the process shall be required to attend a North Carolina approved 16-hour supplemental course or those portions of a 40-hour training program wherein the statutes, rules, and practice governing mediated settlement are discussed, and to complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable, and complete the additional requirements set forth in Section IV below. In making a determination as to which course shall be required, staff may consider those factors set forth in I.B(3) above.

E. Training completed by applicants for dual certification.

An applicant for **dual** certification shall complete additional training consistent with the timeframes set forth in I-III above. However, an applicant seeking dual certification shall be required to complete only one 16-hour course, *i.e.*, **either** a 16-hour MSC **or** FFS training, *and* to complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable, *and* to provide a letter certifying that s/he has read and studied current versions of the statutes and rules of the program for which s/he will NOT be taking a 16-hour training course. However, if any of the training submitted is more than twelve years old at the time of application, such applicant shall be required to complete **either** a full 40-hour MSC **or** FFS training program and provide a letter certifying that s/he has read and studied current versions of the statutes and rules of the program for which s/he will NOT be taking a 40-hour training course, unless the applicant can demonstrate that s/he has been actively involved in the process of mediation during a substantial portion of the twelve year period. An applicant who can demonstrate such ongoing involvement with the process shall be required to attend a North Carolina approved 16-hour supplemental course or those portions of a 40-hour training program wherein the statutes, rules, and practice governing mediated settlement are discussed, and to complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable, and complete the additional requirements set forth in section C below. In making a determination as to which course shall be required, staff may consider those factors set forth in I.B(3) above.

II. MSC OR FFS TRAINING COMPLETED OUTSIDE NORTH CAROLINA.

A. MSC Training.

Training completed in another state and submitted in satisfaction of MSC Rule 8.A must be a sustained, comprehensive training program of at least 40-hours duration and intended to prepare the attendee to mediate in a trial court mediation program. The training must also substantially comply with the curriculum set forth in MSC Rule 9.A and guidelines adopted by the Commission clarifying those curriculum requirements.

B. FFS Training.

Training completed in another state and submitted in satisfaction of FFS Rule 8.A (2), may be either:

1. a sustained, comprehensive family and divorce mediation training program of at least 40 hours duration approved by ACR, or
2. a sustained, comprehensive family and divorce mediation training program of at least 40 hour duration which substantially complies with the curriculum set forth in FFS Rule 9.A and guidelines adopted by the Commission clarifying those curriculum requirements.

C. Training deemed substantially compliant.

Training programs not approved by the Commission and offered outside North Carolina do not usually include discussion of North Carolina statutes, rules, and practice governing mediated settlement conferences. An applicant completing such training may apply to the Commission for partial credit by submitting a detailed agenda, a list of trainers, and, if available, biographical information on the trainers, to the Commission's office with a request that part of the program s/he attended be deemed substantially compliant with the curriculum set forth in MSC Rule 9.A or FFS Rule 9.A, as applicable, and guidelines clarifying the curriculums. If the agenda does not specify, the applicant shall indicate who sponsored the training, the type of cases s/he was being trained to mediate and the duration and dates of the training. The applicant may also indicate whether s/he was approved, registered, certified, or otherwise qualified to mediate in another state, the date s/he was so qualified and the approximate number of cases s/he has mediated to date. The Commission's office may request any additional information it needs in order to make its determination.

An applicant whose training is found to be substantially compliant in part, although not North Carolina focused, **or** is deemed substantially compliant with the Rule 9.A curriculum, but is determined to be dated pursuant to Section I above, shall be required to attend a 16-hour supplemental training course or those portions of a North Carolina approved 40-hour training program wherein the statutes, rules, and practice governing mediated settlement, and the Standards of Professional Conduct for Mediators, are discussed, and to complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable. Such an applicant seeking **dual** certification shall be required to complete only one 16-hour course, *i.e.*, **either** a 16-hour MSC **or** FFS training, and to complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable, and to provide a letter certifying that s/he has read and studied current versions of the statutes and rules of the program for which they will **NOT** be taking a 16-hour training course. In addition, the applicant shall complete all other requirements for certification set forth in both the MSC and FFS program rules and Section IV below.

D. Training not deemed substantially compliant.

If the out-of-state training cannot be deemed substantially compliant with the MSC or FFS Rule 9.A curriculum, as applicable, or was completed more than 12 years prior to the date of application, the applicant shall be required to complete a full forty-hour Commission approved course unless the

applicant can demonstrate that s/he has been actively involved in the process of mediation during a substantial portion of the twelve year period. An applicant who can demonstrate such ongoing involvement with the process shall be required to attend a North Carolina approved 16-hour supplemental course or those portions of a 40-hour training program wherein the statutes, rules, and practice governing mediated settlement are discussed, and to complete the exam required by MSC Rule 9.A(8) or FFS Rule 9.A(11), as applicable, and to complete the additional requirements set forth in Section IV below. In making a determination as to which course shall be required, staff may consider those factors in I.B(3) above.

III. APPLICANTS FOR CLERK CERTIFICATION IN GUARDIANSHIP AND ESTATE MATTERS WITH DATED CLERK TRAINING.

A. Training completed less than ten years prior to application.

An applicant for Clerk certification in estate and guardianship matters whose training was completed less than ten years prior to application shall be required to verify on the application that the applicant has read and studied current versions of the enabling legislation, program rules, Standards of Professional Conduct for Mediators, Advisory Opinion Policy, and all advisory opinions adopted to date.

B. Training completed more than ten years prior to application.

A Commission approved 10-hour Clerk training program completed more than ten years prior to date of submission of an application for certification shall be deemed dated and not in compliance with Clerk Rule 8.B. The applicant shall be required to complete a full 10-hour Commission approved Clerk training program in estate and guardianship matters.

IV. OTHER REQUIREMENTS.

In addition to meeting training requirements, applicants must also meet all other requirements for certification or certification reinstatement set forth in Commission rules, including:

A. Complete and file with the Commission's office a current application for each certification or reinstatement of a certification sought;

B. Meet all the training, professional, experience, and other requirements currently in effect for each certification or reinstatement of certification sought;

C. Be of good moral character and fit to practice as a mediator (all certification applicants must undergo a background check); and

D. Pay the pro-rated certification fee(s) for the program(s) for the fiscal year for which the applicant seeks reinstatement.

V. Commission staff may, as they deem appropriate, interpret the provisions of this policy broadly.