Guidelines for Amplifying Rules for Certification of 24-Hour District Criminal Court Mediation Training Programs

(Adopted by the Commission on November 2, 2007; amended on March 1, 2020; November 19, 2021; December 18, 2023.)

These Guidelines are intended to amplify Rules 7 and 8 of the Rules Implementing Mediation in Matters Pending in District Criminal Court (DCC). All trainers seeking the Commission's certification of a 24-hour district criminal court mediation training program, should read Rules 7 and 8 carefully and review these Guidelines prior to submitting their training package to the Dispute Resolution Commission. Trainer's packages shall include:

A. a detailed agenda identifying topics to be covered, and time frames allocated to each topic;

B. a list of trainers who will cover each topic, with each trainer's resume;

C. the total number of hours and days the program will run (in class training programs must total at least 16 hours and community center apprenticeship must total at least 8 hours);

D. a complete copy of all materials to be distributed to participants as handouts, including copies of any texts, of role-play scenarios to be used, and the exam to be administered pursuant to Rule 8(a)(11); and

E. if the course will be taught through remote technology, a detailed outline of how the class will be offered, i.e., the platform to be used, who will manage the administrative settings on the platform, the settings used, etc.

Any questions should be directed to the Commission's office at (919) 890-1415.

1. **IN-PERSON OR REMOTE INSTRUCTION.** The training course may be offered in-person or through remote instruction. The platform used to provide remote training shall be at the trainer's discretion. All remote training shall be conducted live, and participants must appear by video throughout the entire training. The trainer(s) shall control "host" functions or "maintain control" over platform functions at all times. For both methods of training, participants must be able to interact with the trainer during the presentation, i.e., participants can ask questions and receive answers during the live training session.

2. **TIME FRAMES**. All training programs must total at least 24 hours. Because the materials presented will be new to most participants and because the pace of training is intensive, a training day should not exceed nine hours, not including lunch. There may be a short (10 to 15

minute) break each morning and each afternoon. Additional breaks or breaks of a longer duration may not be included as a part of a 24-hour calculation. The lunch break may not be included as a part of the 24-hour program unless training continues through lunch. While breaks are optional, they must be used each half day or are lost. If a trainer elects to skip breaks, that does not mean that the time which could have been allotted to breaks may be deducted from the requirement for a 24-hour program. That is, if a trainer elects to skip breaks, a program may not conclude 30 minutes short of eight hours each day or 1 hour and 15 minutes short of 24 hours the last day assuming the training is presented over a 2 ½ day period. The training may be offered over a 2 ½ day period or offered over two or three weekends. The weekends need not be consecutive but should be spaced relatively closely.

3. **CLASS SIZE AND ACCOMMODATION**. At no time should the number of participants exceed 25 for in-person courses and 22 for remote courses. The number of remote participants is limited to the trainer's ability to see all participants on the same computer screen during the training. Trainers must provide sufficient numbers of faculty and other training staff to ensure that participants have a meaningful training experience, including individual attention and an opportunity to actively participate in discussions and role- plays. Trainers must ensure that the training site is spacious enough to accommodate participants and offers an environment substantially free of distractions or other impediments to learning. Sufficient space for role-play and other break-out sessions should be readily accessible.

4. **PROGRAM CONTENT.** Rule 8 of the Supreme Court Rules lists the topics that a training program must cover during the course of a 24-hour program. The wide array of topics is intended to ensure participants' full exposure to the mediation process. The majority of the 24 hours should be used to cover the curriculum listed in Rule 8.

The Commission intends that trainers have some discretion in determining the content of their training program. However, to ensure that the Rule 8 curriculum is fully covered, trainers are required to devote at least the following minimum amounts of time to each of the curriculum topics set forth in Rule 8 and to discuss at least the concepts set forth below in association with each curriculum requirement:

A. **Conflict resolution, negotiation, and mediation theory.** (one and a half hours minimum) Under this topic, define and note the differences among the various dispute resolution alternatives and explain when it may be effective to mediate and when not. Rule 8(a)(1)

B. **Mediation process and techniques, including the process and techniques of court-ordered mediation**. (Two and a half hours minimum) Under this topic, cover the stages of mediation, negotiation, communication skills; provide participants with a "tool box" of strategies and techniques for moving the mediation forward; cover logistics issues, including scheduling, intake, reporting, collecting fees, and evaluation; and discuss ways to identify and handle potentially volatile situations. Rule 8(a)(2).

C. Agreement Writing. (One hour minimum). Trainers shall provide instruction on how to effectively put the agreed upon terms in writing for the parties. Rule 8(a)(3).

D. Communication and Information Gathering. (Two hours minimum) Under this topic, discuss communication theory and topics such as re-framing, learning styles, body language, and diversity issues, including use of interpreters and translators in mediation. Rule 8(a)(4).

E. Standards of conduct for mediators including, but not limited to Standards of Professional Conduct adopted by the NC Supreme Court. (Two hours minimum) Under this topic, cover the North Carolina Standards of Professional Conduct for Mediators, discuss the interplay between the NC Standards and other professional standards to which the mediator may be accountable, discuss mediator dilemmas, and discuss the Commission's Advisory Opinion Policy and Advisory Opinions adopted under that Policy. Rule 8(a)(5).

F. Statutes, rules, forms and practice governing district criminal court mediation in North Carolina. (Three hours minimum) The trainers will ensure that their program has a North Carolina focus and cover the relationship of the North Carolina courts to district criminal court mediation and discuss relevant court procedures and processes. The particular characteristics and dynamics of court-based mediation shall be discussed and explored with participants. The three-hour minimum shall include time spent covering the statute, rules, forms, and practice governing mediation in district criminal court as well as time spent taking and discussing the exam. Rule 8(a)(11).

G. Simulations of mediations involving student participation as mediator, complainant and defendant, which simulations shall be supervised, observed and evaluated by program faculty. (Two hours minimum, including set-up, role play and debriefing time) A certified program will be expected to include at least two simulations during the 24-hourswith each participant playing the various roles of mediator, complainant, and defendant at least once. It is expected that there will be variety among the fact simulations and disputes presented in the simulations. Rule 8(a)(8).

H. Courtroom protocol. (Half hour minimum) Under this topic, cover appropriate attire for mediators, pre-mediation preparation, courtroom decorum, case processing and administration. Rule 8 (a)(9).

I. Domestic violence awareness. (Half hour minimum) Trainers shall discuss how to identify domestic violence perpetrators and victims and define the best practice to share community resources providing treatment and assistance. Rule 8(a)(10).

J. Satisfactory completion of an exam by all students testing their familiarity with the statutes, rules, and practice governing district criminal court mediation in North Carolina. The Commission shall approve the test and an answer key, provided by each trainer. The trainer shall administer the exam to the participants and discuss the answers with them. Rule 8(a)(11). Course participants are required to score an 85% or above.

5. ENSURING THE QUALITY OF THE FACULTY. An experienced, qualified faculty is essential to the success of any training program. An applicant shall specify those individuals who will serve as the primary faculty. The application materials shall include a resume for each primary faculty member describing the member's experience and education in mediation and other relevant experience. Applicants are strongly encouraged to develop a multi-faculty presentation. Specifically, there are certain areas of expertise that should be represented. The lead trainer(s) of the faculty must have three years' experience conducting district criminal court mediations. At least one member of the faculty must possess demonstrated expertise in dispute resolution theory. And at least one member of the faculty must have a background in education, communication theory, psychology, or other related disciplines. The application should also demonstrate that sufficient faculty or other trained observers will be present to ensure that participants receive individual feedback during and after simulations. Ideally, one faculty member or observer should be available for each group participating in a simulation. At a minimum, at least one faculty member or observer must be present for every two groups participating in a simulated mediation. Resumes need not be supplied for those who provide such observation and feedback if they are not also primary trainers.

6. ENSURING THE QUALITY OF THE COURSE MATERIALS. To be certified, a training program must include quality written materials that adequately cover all aspects of the required curriculum, including materials relating to the North Carolina statutes, rules, and Standards of Conduct. Training programs will not be certified on the basis of an outline or agenda summarizing the presentation. Rather, the applicant must submit a final working draft of the program materials that will be used in conjunction with the training program. The materials submitted should also include (1) the role play scenarios that will be used in the simulated mediations; and (2) the exam required under Rule 8(a)(11).

7. ENSURING A NORTH CAROLINA FOCUS. Applicants must demonstrate that training will be focused on the particulars of North Carolina's program, statute, rules, and Standards of Conduct. Trainers who are based in other states or who have conducted training in other states, must be mindful of the specific provisions of the North Carolina rules, statutes and Standards and tailor their North Carolina efforts accordingly.

8. APPRENTICESHIP TO PREPARE FOR CERTIFICATION. Each applicant shall participate in an apprenticeship program with a community mediation center. The applicant shall enter the apprenticeship program within 12 months from the date of the applicants training completion date. The apprenticeship shall provide a minimum of eight hours of hands-on training for each applicant. The applicant shall shadow the district criminal court mediation process and attend district criminal court under the supervision of staff affiliated with the community mediation center. The community mediation center shall provide a minimum of three hours of local center

processes, local court processes, agreement writing, and local domestic violence processes introduction to each applicant. The applicant shall check in with the center during their scheduled time and review their daily progress with the center supervisor responsible for the apprenticeship program. At the conclusion of the eight-hour apprenticeship, the community mediation center shall provide a detailed letter of completion certifying the type of training received, to the Dispute Resolution Commission with the application for certification. Any observations or co-mediations conducted under this training program do not qualify for the required observations and co-mediations under DCC Rule 7(a)(2)(c).

9. EVALUATION OF TRAINING PROGRAM. Each training program must include an opportunity for participants to evaluate the program. The Commission may provide a standard evaluation survey to be completed by each participant with the results forwarded to the DRC. In addition, each certified trainer must provide a participant list to permit the DRC to conduct follow-up interviews with participants regarding the program's quality. Upon request, each trainer must also agree to supply copies of completed participant evaluations to the Commission and to permit a DRC representative to attend the program for purposes of quality assurances. All remote training shall be recorded for auditing purposes only. The trainer shall provide the Commission a copy of all recorded training within 10 days of the completion of the course. Upon confirmation of receipt of the course by the DRC, the trainer may delete the recorded material. The recording shall not be replayed for training purposes under any circumstances. The Commission may delete the recording after three months or completion of audit, whichever comes first.

10. RESPONSIBILITY TO KEEP COMMISSION UPDATED. Following certification, all trainers shall advise the Commission immediately of any revisions to the agenda, changes in the identity of principal trainers and any significant revisions to the contents of course notebooks or other handouts. Trainers shall not conduct any additional training sessions until the Commission has approved any such changes. Trainers shall submit a current agenda each time they renew their training program's certification. The Commission reserves the right to at any time seek additional information from trainers.

11. ADVERTISING AND REGISTRATION MATERIALS. A trainer may **not** commence a training program until such time as the program has, been certified by the Commission. All materials advertising certified mediator training programs to the public must identify the Dispute Resolution Commission as the body responsible for mediator certification in North Carolina and provide a telephone number for the Commission. Any promotional or registration materials published prior to a training program's certification by the Commission shall contain the following admonition: "WARNING: Although certification of this program is expected, [Provider] cannot guarantee that the training program will be certified or that it will lead to criminal court mediator certification for those attending." The Commission reserves the right to require a trainer to submit copies of a program's promotional or registration materials for review at any time either prior to or following certification.