



# THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION

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## POLICY

### Advisory Opinion Policy

(Adopted by the Commission on August 28, 1998; amended on September 13, 2014; May 16, 2014; and March 1, 2020.)

#### **I. Formal Advisory Opinions of the Commission**

The Dispute Resolution Commission shall consider issuing non-binding, written advisory opinions under the following circumstances:

- A. Upon submission of a written request signed by a mediator participating in a mediated settlement conference authorized by the North Carolina General Statutes, or under the aegis of a North Carolina State agency, or a U.S. District Court in North Carolina if such mediator is bound by state or federal rules to adhere to the Commission's Standards of Professional Conduct for Mediators if such request is based upon actual events occurring or issues arising in cases in which the requesting mediator is or has been involved.
- B. Upon submission of a written request from a person or persons conducting approved mediation training programs if the requests are based upon actual events occurring or issues arising in an approved training program.
- C. Upon submission of a request at the initiation of a Commission member or the Commission if the opinion sought has general application or may potentially benefit mediators, the courts, or the public as formal statements of the Commission on such matters.
- D. Upon the imposition of sanctions against a certified mediator or training program certified by the Commission under Commission Rules, in particular Rules 9 and 10.
- E. Upon submission of a request at the initiation of a Commission member or the Commission as to a matter that interfaces with the N.C. State Bar or other professional regulatory agency regarding inconsistencies and/or conflicts between the Commission's rules and the rules of said entity.

#### **II. Limitations on the Issuance of Opinions**

With respect to Section I above, the Commission will **not** issue written advisory opinions in the following circumstances:

- A. In response to hypothetical questions;
- B. In response to questions arising out of cases or circumstances in which the requesting party was not personally involved;

- C. In response to complaints about another mediator, a mediator training program, or a member of the Commission;
- D. In response to requests made on behalf of another person or entity; or
- E. In response to requests which appear to have been made to obtain an opinion as a substitute for a judgment the mediator or trainer should normally be expected to make.

### **III. Informal Advice**

Any certified mediator or person conducting an approved mediator training program may seek informal advice from the Commission's Executive Director or designee, or a member or ex-officio member of the Commission about any matter at any time and in any manner consistent with professional courtesy, provided it is understood that the advice is not an advisory opinion of the Commission. Any person considering filing a complaint against a mediator is encouraged to seek such informal advice prior to filing a written complaint with the Commission. The Commission expects persons conducting approved mediation training programs to be helpful and responsive to reasonable post-training requests for informal advice on specific issues arising out of actual mediations which do not warrant a formal Commission advisory opinion.

### **IV. Publication of Formal Advisory Opinions**

Formal advisory opinions of the Commission shall become public records and may be published without disclosing the identity of the case or parties involved or the factual basis or circumstances upon which the opinion was based.

### **V. Confidentiality**

All oral and written requests for informal advice or for formal advisory opinions shall be logged by Commission staff and the requesting party's confidentiality shall be maintained unless otherwise requested by the requesting party.