

MSC RULE 8 EFFECTIVE APRIL 2014

RULE 8. MEDIATOR CERTIFICATION AND DECERTIFICATION

The Commission may receive and approve applications for certification of persons to be appointed as superior court mediators. For certification, a person shall:

- A.** Have completed a minimum of 40 hours in a [trial court mediation training program](#) certified by the Commission, or have completed a 16-hour supplemental trial court mediation training certified by the Commission after having been certified by the Commission as a family financial mediator;

- B.** Have the following training, experience and qualifications:
 - (1)** An attorney may be certified if he or she:
 - (a)** is either:
 - (i)** a member in good standing of the North Carolina State Bar; or
 - (ii)** a member similarly in good standing of the bar of another state and a graduate of a law school recognized as accredited by the North Carolina Board of Law Examiners; demonstrates familiarity with North Carolina court structure, legal terminology and civil procedure; and provides to the Commission three letters of reference as to the applicant's good character, including at least one letter from a person with knowledge of the applicant's practice as an attorney; and
 - (b)** has at least five years of experience after date of licensure as a judge, practicing attorney, law professor and/or mediator or equivalent experience.

Any current or former attorney who is disqualified by the attorney licensing authority of any state shall be ineligible to be certified under this Rule 8.B(1) or Rule 8.B(2).

- (2)** A non-attorney may be certified if he or she has:
 - (a)** completed a [six-hour training](#) on North Carolina court organization, legal terminology, civil court procedure, the

attorney-client privilege, the unauthorized practice of law and common legal issues arising in superior court cases, provided by a trainer certified by the Commission;

- (b) provided to the Commission three letters of reference as to the applicant's good character, including at least one letter from a person with knowledge of the applicant's experience claimed in Rule 8.B(2)(c);
- (c) completed either:
 - (i) a minimum of 20 hours of basic mediation training provided by a trainer acceptable to the Commission; and after completing the 20-hour training, mediating at least 30 disputes, over the course of at least three years, or equivalent experience, and possess a four-year college degree from an accredited institution, except that the four-year degree requirement shall not be applicable to mediators certified prior to January 1, 2005, and have four years of professional, management or administrative experience in a professional, business or governmental entity; or
 - (ii) ten years of professional, management or administrative experience in a professional, business or governmental entity and possess a four-year college degree from an accredited institution, except that the four-year degree requirement shall not be applicable to mediators certified prior to January 1, 2005.

C. Have Completed the Following Observations:

- (1) All applicants.** All applicants for certification shall observe two mediated settlement conferences, at least one of which shall be of a superior court case.
- (2) Non-attorney applicants.** Non-attorney applicants for certification shall observe three mediated settlement conferences in addition to those required by (1) above and which are conducted by at least two different mediators. At least one of these additional observations shall be of a superior court case.
- (3) Conferences eligible for observation.** Conferences eligible for observation under (1) and (2) above shall be those in cases pending before the North Carolina Superior Court, the North Carolina Court of Appeals, the North Carolina Industrial Commission, the North

Carolina Office of Administrative Hearings, or the United States District Courts for North Carolina that are ordered to mediation or conducted by agreement of the parties which incorporates the rules of mediation of one of those entities.

Conferences eligible for observation shall also include those conducted in disputes prior to litigation which are mediated by agreement of the parties incorporating the rules for mediation of one of the entities named above.

All such conferences shall be conducted by certified superior court mediators pursuant to rules adopted by one of the above entities and shall be observed from their beginning to settlement or impasse. Observations shall be reported on an NCAOC form.

(4) All observers shall conform their conduct to the Commission's [Requirements for Observer Conduct](#).

- D.** Demonstrate familiarity with the statute, rules and practice governing mediated settlement conferences in North Carolina;
- E.** Be of good moral character and adhere to any standards of practice for mediators acting pursuant to these Rules adopted by the Supreme Court. An applicant for certification shall disclose on his/her application(s) any of the following: any pending criminal matters; any criminal convictions; and any disbarments or other revocations or suspensions of any professional license or certification, including suspension or revocation of any license, certification, registration or qualification to serve as a mediator in another state or country for any reason other than to pay a renewal fee. In addition, an applicant for certification shall disclose on his/her application(s) any of the following which occurred within ten years of the date the application(s) is filed with the Commission: any pending disciplinary complaint(s) filed with, or any private or public sanctions(s) imposed by a professional licensing or regulatory body, including any body regulating mediator conduct; any judicial sanction(s); any civil judgment(s); any tax lien(s); or any bankruptcy filing(s). Once certified, a mediator shall report to the Commission within (30) days of receiving notice any subsequent criminal conviction(s); any disbarment(s) or revocation(s) of a professional license(s), other disciplinary complaint(s) filed with or actions taken by, a professional licensing or regulatory body; any judicial sanction(s); any tax lien(s); any civil judgment(s) or any filing(s) for bankruptcy.
- F.** Submit proof of qualifications set out in this section on a form provided by the Commission;

- G.** Pay all administrative fees established by the NCAOC upon the recommendation of the Commission;
- H.** Agree to accept as payment in full of a party's share of the mediator's fee, the fee ordered by the court pursuant to Rule 7;
- I.** Comply with the requirements of the Commission for continuing mediator education or training. (These requirements may include completion of training or self-study designed to improve a mediator's communication, negotiation, facilitation or mediation skills; completion of observations; service as a mentor to a less experienced mediator; being mentored by a more experienced mediator; or serving as a trainer. Mediators shall report on a Commission approved form.);
- J.** Once certified, agree to make reasonable efforts to assist mediator certification applicants in completing their observation requirements.
- K.** No mediator who held a professional license and relied upon that license to qualify for certification under subsections B(1) or B(2) above shall be decertified or denied recertification because that mediator's license lapses, is relinquished or becomes inactive; provided, however, that this subsection shall not apply to any mediator whose professional license is revoked, suspended, lapsed, relinquished or becomes inactive due to disciplinary action or the threat of same from his/her licensing authority. Any mediator whose professional license is revoked, suspended, lapsed, or relinquished, or who becomes inactive, shall report such matter to the Commission.

If a mediator's professional license lapses, is relinquished or becomes inactive, s/he shall be required to complete all otherwise voluntary continuing mediator education requirements adopted by the Commission as part of its annual certification renewal process and to report completion of those hours to the Commission's office annually.

Certification may be revoked or not renewed at any time it is shown to the satisfaction of the Commission that a mediator no longer meets the above qualifications or has not faithfully observed these rules or those of any district in which he or she has served as a mediator. Any person who is or has been disqualified by a professional licensing authority of any state for misconduct shall be ineligible to be certified under this Rule.