



### NEW AMENDMENTS ADOPTED BY THE NC SUPREME COURT

On April 4, 2023, the North Carolina Supreme Court (NCSC) adopted Amendments to the Standards of Professional Conduct for Mediators, MSC, FFS, Clerk, District Criminal Court, and Farm Nuisance Rules. These amendments become effective on May 1, 2023. To view all amendments, visit the [NCSC Webpage](#). Below is a brief description of the amendments made to the Standards and Rules.

**Standards of Professional Conduct:** The NCSC adopted **Standard 9** Unlawful Discrimination Prohibited. A mediator shall not engage in unlawful discriminatory conduct within the mediation process.

**MSC/FFS/Clerk Rule 2 Designation of Mediator, and Farm Nuisance Rule 3 Selection of the Mediator:** Mediators may declare on their mediator profile their preferred method to conduct a conference by selecting, in person, remote, or any method. **MSC/FFS/Clerk Rule 4** allows the mediator and the parties to dictate the method in which the conference will be conducted. If the parties, attorneys, and mediator cannot agree on the method, the mediation method will default to the mediator's designated attendance method. If the mediator selected any method or failed to designate their attendance method on their profile, then the mediation shall be conducted in person. Upon a motion of a party and notice to the mediator, and all parties, the court may order the conference be conducted in person, by remote technology, or by using a hybrid of in person attendance and remote technology. The Rule allows a mediator to withdraw if the order contradicts the method the mediator has declared on their mediator profile. Additionally, the Attendance Rule requires all parties and persons who attend the mediation to comply with safety guidelines in place for trial court proceedings at the time of the conference. The Comment to **Rule 4** states that if a conference is conducted using remote technology, the mediator should ensure that the parties are able to fully communicate with all other participants and videoconferencing is encouraged.

**MSC/FFS/DCC/Clerk Rule 6(b) and Farm Rule 5(b): Duties of the Mediator, Informing the Parties.** Two subsections were added to the mediator's duty, Informing the Parties. The mediator shall define and describe to the parties that any recording of the conference is prohibited, and that parties may be subject to sanctions for violating the Rules.

**MSC Rule 6 Reporting Results of the Mediated Settlement Conference and 11 Rules for Neutral Evaluation.** Mediators and neutral evaluators can now report if a partial settlement has been reached and shall report the claims for relief that were resolved and the names of parties that have no claims remaining for trial. The Report of Mediator forms have been updated to reflect these amendments.

**MSC Rule 8 Mediator Certification and Decertification.** Applicants holding a master's degree or doctoral degree in alternative dispute resolution studies and five years of high-level management experience may be eligible for certification as a superior court mediator.

**FFS Rule 8 Mediator Certification and Decertification.** All applicants shall complete 12 hours of basic NC family law education before attending a certified FFS training course. Non-attorney applicants shall complete a 6-hour course consisting of NC legal terminology, court structure and civil procedures training, conducted by a certified trainer before attending a certified FFS training course. The Rule clarifies that a “Family Mediator” Advanced Practitioner with the ACR qualifies for certification. The amendment also clarifies the proper name of a NC State Bar board certified family law specialist.

**FFS Rule 9 Certified Training Programs.** The requirement that an overview of family law be included in the certified family training courses was removed.

Should you have any questions regarding these amendments, ethical concerns, or any other issues with your mediation practice, please feel free to contact NCDRC staff.

### Open For Comment

At the recent April Commission meeting, the following amendments were approved and are now open for comment until June 1, 2023. To review the documents, please visit the [Commission Seeks Comment page](#). Please forward any comments to [DRCMediators@nccourts.org](mailto:DRCMediators@nccourts.org). All comments will be shared with the full Commission.

MSC Rule 8(3)(c) Conferences Eligible for Observations - amendment allows applicants to observe NC Dept. of Labor Mediations.

MSC Rule 4(g), FFS Rule 4(f), Clerk Rule 4(e) and Clerk Rule 5(c) prohibits weapons as identified in NC State 14-269 (a) and 14-409.39 from being permitted into a mediation.

Standard 3 amendment allows a mediator to testify, give an affidavit or tender a copy of an agreement reached in mediation, if a rule promulgated by an entity created by statute requires the mediator to do so.

### New Observation Policy for MSC and FFS Applicants

The NCDRC amended the Observation Policy that now requires all attorney applicants to observe one live in person mediation, and one either by remote means, or by observing the DRC approved online observation video.

Non-Attorney applicants will be required to observe the DRC approved video, and an observation conducted by remote means, or two observations of a live conference conducted by remote means, and three observations conducted in person.

As a reminder, MSC Rule 8(a)(3)(10) and FFS Rule 8(a)(12) states The applicant must agree, once certified, to make reasonable efforts to assist applicants for mediator certification in completing their observation requirements.

## International Delegates Learn About North Carolina Alternative Dispute Resolution

A delegation from the Republic of Ghana in West Africa recently met with officials from the [North Carolina Dispute Resolution Commission](#) (NCDRC) and others to learn about alternative dispute resolution programs in North Carolina. “We are delighted to host these representatives from Ghana,” said Tara Kozlowski, executive director of the NCDRC. “We are happy to share information regarding our successful alternative dispute resolution programs here in North Carolina in the hopes that they may be replicated in the Republic of Ghana.”

The delegation consisted of representatives from Ghana’s [Ministry of Justice and Attorney General’s Department](#). The program, which was held at the North Carolina Judicial Center which is home to the North Carolina Administrative Office of the Court’s (NCAOC), included presenters from the [N.C. Department of Labor](#), the [N.C. Industrial Commission](#), the NCAOC’s [Custody Mediation Program](#), and the NCDRC’s office staff with NCDRC Commissioner Frank Laney. The purpose of the event was to hold a professional dialogue on North Carolina alternative dispute resolution and mediation practices.



*From left to right, NCDRC Administrative Assistants Mary Brooks and Maureen Robinson, DOL REDA Administrator Harriet Hopkins, Court Management Specialist DeMaca Adams, Mr. Samuel George Lamptey, Mrs. Nana Oye Nartey, NCDRC Executive Director Tara Kozlowski, Mr. Isaac Akomanyi, and Mrs. Reina Koranteng.*



**Listen to the Commission’s first Podcast “Beyond Neutrality” and receive one-hour of CME credit (no CLE credit is available).**

**[Episode One - The Beginning Beyond Neutrality! \(buzzsprout.com\)](#)**

**Episode One - Tara Kozlowski and Maureen Robinson discuss ethical questions and concerns from certified mediators regarding Rules, Standards, Forms, and Advisory Opinions.**

**To report the podcast on your mediator profile, select “Beyond Neutrality—The Beginning PODCAST”.**

### Commission Staff:

**Tara L. Kozlowski, Executive Director**

[Tara.L.Kozlowski@nccourts.org](mailto:Tara.L.Kozlowski@nccourts.org)

**Maureen M. Robinson, Administrative Assistant**

[Maureen.M.Robinson@nccourts.org](mailto:Maureen.M.Robinson@nccourts.org)

**Mary E. Brooks, Administrative Secretary**

[Mary.E.Brooks@nccourts.org](mailto:Mary.E.Brooks@nccourts.org)

Follow the NCDRC on Twitter [@NC\\_DRC](#)

Website: [www.ncdrc.org](http://www.ncdrc.org)

Office: 919-890-1415

Fax: 919-890-1935

Email: [DRCMediators@nccourts.org](mailto:DRCMediators@nccourts.org)