

DISPUTE RESOLUTION COMMISSION



NEWS AND UPDATES

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MEDIATOR RENEWAL FY 2020-21

Mediator renewal began on July 1, 2020 and will run until September 30, 2020. Mediators may now self-report their CME on their renewal application. To find a current list of approved CME Opportunities, please visit the [Continuing Mediator Education page](#).

OPEN FOR COMMENT

The Commission held a meeting via WebEx on Friday, August 7, 2020. Many items were discussed and are now posted on the [Commission's Seeks Comment](#) webpage:

DRC Rule 10 - The Mediator Certification and Training Committee: The proposed language creates a 30-day period for an applicant to appeal staff's denial of an application for certification. The current Rules do not have a time-frame for the applicant to appeal a denial. The Proposed language to Rule 10 is now open for comment until September 16, 2020.

Rule 9 - (MSC & FFS) Certification of Training Programs: The proposed language creates two additions to the trainer's requirements, substance abuse and technology training, for all mediators. The Proposed language to Rule 9 is now open for comment until September 16, 2020.

MSC Rule 8 - Mediator Certification and Decertification: The proposed language requires non-attorney applicants to attend a 6-hour Court Structure and Terminology course before attending a 40-hour MSC Training course. The proposed language also includes a revision to the qualifications on non-attorney applicants. The proposed language to Rule 8 is now open for comment until September 16, 2020.

DRC Advertising Policy - After staff spoke with the Judicial Standards Commission, it was recommended that certified mediators who were judges and now retired from the bench, to be sure to include on any form of mediator advertisement(s) the term "Retired". Using the term "Judge" may be perceived as using the prestige of their past position to advance their personal business interest. The Policy is now open for comment until September 16, 2020.

Standards of Professional Conduct - Standard 3(d)(5) - Confidentiality: The proposed language added other professional licensing boards established by the General Assembly. The addition to the Standard is now open for comment until September 16, 2020.

Standards of Professional Conduct - The Commission approved a new amendment: Standard 9 Discrimination Prohibited. The proposed standard was derived from the ABA anti-discrimination language, adopted in 2016. The proposed language removes the defined classes from the ABA's language as protected categories are evolving, thus allowing the Commission to present a more inclusive and concise standard. The addition to the Standard is now open for comment until September 16, 2020.

Newly Adopted Observer Guidelines

DRC Observation Guideline—The Commission approved new Observation Guidelines providing an option for all MSC applicants to complete one observation by viewing an observation video created by the NCBA Dispute Resolution Section. Additionally, the Commission has approved a temporary guideline to allow for applicants to complete their observation requirements remotely during the time of COVID-19. The DRC Observation Guideline went into effect on August 7, 2020. The newly adopted Guidelines are now posted on [Observer Conduct and Guidelines for Applicants and Fulfilling Observation Requirements](#) webpage.

UPDATES TO ADVISORY OPINIONS

The Supreme Court of North Carolina adopted amendments to MSC, FFS, Clerk and District Criminal Court Program Rules on June 3, 2020, with an effective date of June 10, 2020. These newly adopted rules flipped the physical attendance requirement to remote attendance (MSC Rule 4, FFS Rule 4, Clerk Rule 4, DCC Rule 5). While these rule changes are temporary, there are a number of Advisory Opinions that have been affected by these rule changes. AO 2 is temporarily suspended. The warning placed on AO 19, 24, 25 and 35 provides the new attendance rules do not affect the substantive advice contained within the AO.

Advisory Opinion 2(2000) - This opinion has been temporarily suspended. The AO instructs the mediator to hold the mediation in person, rather than by telephone.

Advisory Opinion 19(2011) - Warning language placed on AO. Party-selected mediators may charge an advanced deposit for their services, however they may not postpone or refuse to conduct a mediation when a party is unable to pay a deposit.

Advisory Opinion 24(2013) - Warning language placed on AO. Mediators are advised to avoid taking positions in disputes over attendance.

Advisory Opinion 25(2013) - Warning language placed on AO. Mediators are advised to avoid taking positions in disputes over attendance. Absent an order of the court dispensing with mediation, a mediator should conduct the mediation and advise the parties to direct any questions about attendance to the court.

Advisory Opinion 35(2018) - Warning language placed on AO. A mediator has an obligation to raise the issue of settlement authority in a situation where an attorney comes to mediation without their client and requests the conference to proceed.



The Commission would like to thank the following Commissioners who are rotating off on September 30, 2020. Their dedication to the Commission has been greatly appreciated and will be missed.



Judge William A. Webb has served on the Commission for the past six years, and as chair for the past four. He was originally appointed to serve as a commissioner on November 24, 2014, by Chief Justice Mark Martin, and subsequently reappointed by Chief Martin for a second term on September 21, 2017. Judge Webb was named chair by Chief Martin on November 8, 2016 and was again reappointed on September 26, 2018. Judge Webb is the first African American to serve as chair of the Commission.



Susan Hicks was originally appointed by Chief Justice Sarah Parker on February 24, 2012 to replace the clerk member that had retired. Ms. Hicks was reappointed on November 4, 2014 by Chief Justice Mark Martin and again on September 20, 2017. At its November 15, 2018 meeting, commissioners elected Ms. Hicks as the first non-attorney vice-chair.



Thomas Clare has served on the Commission for the past six years and served as the chair of the New Media Committee. Mr. Clare was originally appointed on October 1, 2014 by Senate President Pro-Tempore Phil Berger and was reappointed for a second term on September 30, 2017.



Diann Seigle was originally appointed by Chief Justice Sarah Parker on May 16, 2013 to replace the District Criminal Court member who resigned. Ms. Seigle was reappointed on November 4, 2014 by Chief Justice Mark Martin and reappointed for a second term on September 30, 2017. Ms. Seigle served as the chair of the Standards and Advisory Opinion Committee.

Commission staff is working to keep all certified mediators up-to-date on newly signed orders, filing deadlines, and helpful hints on how to conduct distant mediations during this difficult time. Please see the [DRC website](#), for "Important Information for Mediators to Know" containing information about state, federal, N.C. Business Court, and N.C. Industrial Commission mediations. It is recommended that mediators check the page frequently for newly posted information. Additionally, staff has posted a number of articles, provided by mediators, on how to conduct mediations through remote technology and Guidelines for Notaries.

The DRC office is closed during this time however staff is working remotely. The phones are checked daily for any messages, or you may email staff at DRCMediators@nccourts.org, we will do our best to respond as quickly as possible.

**SAVE THE DATE
CONFLICT RESOLUTION DAY 2020!**

The Dispute Resolution Commission is planning its annual reception for Conflict Resolution Day on **Thursday, October 15, 2020. More information to follow!**

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