

# DISPUTE RESOLUTION COMMISSION

## NEWS AND UPDATES

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March 2021

DRCMediators@nccourts.org

919-890-1415

### Commission Adopts New Advisory Opinion AO-41 (2021)

This AO addresses whether or not a mediator has the duty to communicate with a lienholder, after a mediation has been scheduled, but prior to the actual mediation. This AO also addresses Standard 3. Confidentiality. What can a mediator share with a nonparticipant to the mediation conference and how does a lienholder become a participant to the mediation. To read AO-41 and all Approved Advisory Opinions, visit the [DRC Advisory Opinions and Policy webpage](#).

### COVID-19 Updates.

The Chief Justice allowed Emergency Directive 1 to expire, stating each district should enact any rules necessary for court proceedings to protect their courts, staff and programs. This allows the DRC Rules to guide mediators, as local rules may not be inconsistent with the DRC rules. DRC Rules provide for all mediations to be conducted through the use of remote technology. In-person mediations may only be held if all parties and the mediator consent to hold the mediation in-person, or by Court Order. A party to a case may file a motion for the court to order the mediation in-person. However, these orders are case by case determinations, not a blanket order. If a mediator is ordered to mediate in person, they may withdraw.

### OPEN FOR COMMENT

At the March 5, 2021 meeting, the Commission approved changes to the following documents.

All items are posted on the [Commission Seeks Comment webpage](#):

**Advisory Opinion B-2020:** This advisory opinion was written in regards to the recent Court of Appeals case Mitchell v. Boswell No, COA19-1077 (N.C. Ct. App. Nov. 3, 2020). This AO addresses the duties of the mediator when a party is unable to sign a settlement agreement reached during a mediation.

**MSC 4(c) Finalizing Agreement, MSC Rule 10(c)(9)(b) Inadmissibility of Settlement Proceedings, MSC Rule 15 Definitions and Clerk Rule 4(b):** Changes made to these rules address what happens when a party required to attend a mediation does not attend in person. The party shall be available via electronic means, to sign a final agreement, of if the party is unable to sign via electronic means, provide written authority to the party's designee.

All comments should be emailed to the Commission at [DRCMediators@nccourts.org](mailto:DRCMediators@nccourts.org) on or before April 12, 2021. All comments will be shared with the full Commission.



## FY 2021 –22 Renewal Begins on July 1, 2021

NCDRC staff would like to remind all certified mediators that two hours of CME will be required to complete your FY 2021-22 Renewal Applicant. To find a current list of CME opportunities, please visit the [NCDRC CME Page for Mediators](#). To report your CME before July 1, log into your mediator profile and click on the course(s) you have taken.

*\*Inactive and newly certified mediators (mediators certified between July 1, 2020 - June 30, 2021 are not required to complete CME, however, they are still required to complete a FY 21-22 Renewal Application and pay their fees.*

### Keep Up-To-Date on All Things Related to the NCDRC

The [NCDRC webpage](#) is routinely updated, be sure to check out the page for important updates.

Staff also emails all certified mediators with updates, don't miss out, be sure to contact staff with your new email address.

### DID YOU KNOW.....

There is a [Mediator's Toolbox](#) created just for NCDRC Certified Mediators?

The webpage includes everything you may need to practice as a mediator, Program Rules, Program Forms, Mediator Ethics and Court Contacts. Also included are links to the Current CME Opportunities, Renewal Information, Mediator Ethics, DRC Advisory Opinions and Polices, and the Commission Seeks Comment.

## Commission makes changes to MSC and FFS Trainer Guidelines

At the March 5, 2021 meeting the Commission approved changes to the MSC and FFS Trainer Guidelines. The newly approved Guidelines require that an hour of technology training be included in the 40-hour and 16-hour courses. The Commission feels that with the implantation of AOC's eCourts system, it would be beneficial for certified mediators to have a better understanding on how to file forms using the new system. The amendments to the MSC and FFS Training Guidelines will go into effect at such time the North Carolina Supreme Court adopts changes to the MSC and FFS Rule 9.

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