

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE RULES OF
MEDIATION FOR MATTERS IN DISTRICT CRIMINAL COURT

Pursuant to subsection 7A-38.3D(d) of the General Statutes of North Carolina, the Court hereby amends Rule 7 of the Rules of Mediation for Matters in District Criminal Court.

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Rule 7. Mediator Certification and Decertification

(a) The Commission may receive and approve applications for the certification of persons to be appointed as district criminal court mediators. In order to be certified, an applicant must satisfy the requirements of this subsection.

- (1) The applicant must be affiliated, at the time of application, with a community mediation center established under N.C.G.S. § 7A-38.5 as either a volunteer or staff mediator, and must have received the community mediation center's endorsement that he or she possesses the training, experience, and skills necessary to mediate criminal matters in district court.
- (2) The applicant must have the following training and experience:
 - a. The applicant must:
 1. have a four-year degree from an accredited college or university; have four years of post-high school education through an accredited college, university, or junior college; have four years of full-time work experience; or have any combination thereof;
 2. have two years of experience as a staff or volunteer mediator at a community mediation center; or
 3. have an Advanced Practitioner Designation from the Association for Conflict Resolution.
 - b. The applicant must have completed either:
 1. twenty-four hours of training in a Commission-certified district criminal court mediation training program; or

2. forty hours of Commission-certified superior court or family financial mediation training and four hours of additional training about the rules, procedures, and practices for mediating criminal matters in district court.
- c. The applicant must:
1. observe at least two court-referred district court mediations for criminal matters, conducted by a mediator certified under these rules; and
 2. co-mediate or solo-mediate at least three court-referred district court mediations for criminal matters, under the observation of staff affiliated with a community mediation center whose district criminal court mediation training program has been certified by the Commission under Rule 8.

The observation, co-mediation, and solo-mediation requirements set forth in this subsection may be waived in the event the applicant demonstrates that she or he has at least five years of experience mediating criminal matters in district court, and the center which the applicant has served verifies the experience claimed.

- (3) The applicant must demonstrate familiarity with the statutes, rules, and practices governing mediations for criminal matters in district court in North Carolina;
- (4) The applicant must be of good moral character and adhere to the Standards of Professional Conduct for Mediators when acting under these rules. On his or her application(s) for certification or application(s) for certification renewal, an applicant shall disclose any:
 - a. pending criminal charges;
 - b. criminal convictions;
 - c. restraining orders issued against him or her;
 - d. failures to appear;
 - e. ~~pending or~~ closed grievances or complaints filed with a professional licensing, certifying, or regulatory body, whether in North Carolina, another state, or another country;
 - f. disciplinary action taken against him or her by a professional licensing, certifying, or regulatory body,

whether in North Carolina, another state, or another country, including, but not limited to, disbarment, revocation, decertification, or suspension of any professional license or certification, including the suspension or revocation of any license, certification, registration, or qualification to serve as a mediator in another state or country, even if stayed;

- g. judicial sanctions imposed against him or her in any jurisdiction;~~or~~
- h. civil judgments, tax liens, and bankruptcy filings that occurred within the ten years preceding the date that the initial or renewal application was filed with the Commission;~~or~~
- i. pending grievances or complaints filed with a professional licensing, certifying, or regulatory body, whether in North Carolina, another state, or another country.

~~A mediator shall report to the Commission any of the above enumerated matters arising subsequent to the disclosures reported on the initial or renewal application for certification within thirty days of receiving notice of the matter.~~

If a matter listed in subsections (a)(4)(a) through (a)(4)(h) of this rule arises after a mediator submits his or her initial or renewal application for certification, then the mediator shall report the matter to the Commission no later than thirty days after receiving notice of the matter.

If a pending grievance or complaint described in subsection (a)(4)(i) of this rule is filed after a mediator submits his or her initial or renewal application for certification, then the mediator shall report the matter to the Commission no later than thirty days after receiving notice of the matter or, if a response to the grievance or complaint is permitted by the professional licensing, certifying, or regulatory body, no later than thirty days after the due date for the response.

As referenced in this subsection, criminal charges or convictions (excluding infractions) shall include felonies, misdemeanors, or misdemeanor traffic violations (including driving while impaired) under the law of North Carolina or another state, or under the law of a federal, military, or foreign jurisdiction, regardless of whether the adjudication was withheld (prayer for judgment continued) or the imposition of a sentence was suspended.

- (5) The applicant must commit to serving as a district court mediator under the direct supervision of a community mediation center authorized under N.C.G.S. § 7A-38.5 for a period of at least two years.
- (6) The applicant must comply with the requirements of the Commission for continuing mediator education and training.
- (7) The applicant must submit proof of qualifications set out in this rule on a form provided by the Commission.

(b) The Mediation Network of North Carolina, or individual community mediation centers participating in the program, shall assist the Commission in implementing the certification process established in this rule by:

- (1) documenting subsection (a) of this rule for the mediator and the Commission;
- (2) reviewing the documentation with the mediator in a face-to-face meeting scheduled no less than thirty days from the mediator's request to apply for certification;
- (3) making a written recommendation on the applicant's certification to the Commission, which shall come from center staff familiar with the applicant and the applicant's character and experience; and
- (4) forwarding the documentation for subsection (a) of this rule and the recommendation to the Commission, along with the mediator's completed certification application form.

(c) A mediator's certification may be revoked or not renewed if, at any time, it is shown to the satisfaction of the Commission that a mediator no longer meets the qualifications described in this rule 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 for certification under this rule. Certification renewal shall be required every two years.

(d) A community mediation center may withdraw its affiliation with a mediator who has been certified under these rules. Such disaffiliation does not revoke the mediator's certification. A mediator's certification is portable, and a mediator may agree to be affiliated with a different center. However, to mediate criminal matters in district court under this program, a mediator must be affiliated with the community mediation center providing services in that judicial district. A mediator may be affiliated with more than one center and provide services in the county served by those centers.

A community mediation center that receives or initiates a complaint against a mediator who is affiliated with its program and certified under these rules shall notify

the Commission and forward a copy of the complaint to the Commission within thirty days of its receipt by the center, regardless of whether the center was able to successfully resolve the complaint. For purposes of this rule, a “complaint” is a concern raised by a mediation participant, court official, attorney, or community mediation center staff member or volunteer that suggests: (i) that the mediator may have engaged in conduct that violates these rules, the Standards of Professional Conduct for Mediators, or any local court rules adopted to implement the program in a district the mediator serves; or (ii) that the mediator has engaged in conduct that raises an issue about the mediator’s character or practice. If a community mediation center withdraws its affiliation with a mediator who has been certified under these rules, then the community mediation center shall notify the Commission within thirty days of the disaffiliation. The center shall cooperate with the Commission if it investigates any such complaints.


(e) Commission staff shall notify the executive director of the Mediation Network of North Carolina, and the executive director of the community mediation center that is sponsoring the application of an applicant seeking certification as a district criminal court mediator, of any matter regarding the character, conduct, or fitness to practice of the applicant. Staff shall notify the executive director of the Mediation Network of North Carolina and the executive director of the community mediation center with whom a mediator is affiliated of any finding of probable cause by the Commission under Rule 9 of the Rules of the Dispute Resolution Commission, after review of any complaint filed against the mediator alleging an issue of character, conduct, or fitness to practice.

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These amendments to the Rules of Mediation for Matters in District Criminal Court become effective on 1 October 2021.


This order shall be published in the North Carolina Reports and posted on the rules web page of the Supreme Court of North Carolina.

Ordered by the Court in Conference, this the 25th day of August 2021.



For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this
the 27th day of August 2021.



AMY L. FUNDERBURK
Clerk of the Supreme Court