

# NORTH CAROLINA REPORTS

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SUPREME COURT OF NORTH CAROLINA



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RALEIGH  
2021

**ORDER AMENDING THE RULES FOR SETTLEMENT  
PROCEDURES IN DISTRICT COURT  
FAMILY FINANCIAL CASES**

Pursuant to subsection 7A-38.4A(k) and subsection 7A-38.4A(o) of the General Statutes of North Carolina, the Court hereby amends Rules 2, 4, 6, 7, and 8 of the Rules for Settlement Procedures in District Court Family Financial Cases.

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**Rule 2. Designation of the Mediator**

**(a) Designation of a Mediator by Agreement of the Parties.** By agreement, the parties may designate a family financial mediator certified under these rules by filing a Designation of Mediator in Family Financial Case, Form AOC CV-825 (Designation Form), with the court at the scheduling and discovery conference. The Designation Form shall state: (i) the name, address, and telephone number of the designated mediator; (ii) the rate of compensation of the mediator; (iii) that the mediator and opposing counsel have agreed upon the designation and rate of compensation; and (iv) that the mediator is certified under these rules.

~~If the parties wish to designate a mediator who is not certified under these rules, the parties may nominate a noncertified mediator by filing a Designation Form with the court at the scheduling and discovery conference. If the parties choose to nominate a mediator, then the Designation Form shall state: (i) the name, address, and telephone number of the mediator; (ii) the training, experience, and other qualifications of the mediator; (iii) the rate of compensation of the mediator; (iv) that the mediator and opposing counsel have agreed upon the nomination; and (v) the rate of compensation, if any. The court shall approve the nomination if, in the court's opinion, the nominee is qualified to serve as the mediator and the parties and the nominee have agreed on the rate of compensation.~~

A copy of each form submitted to the court and the court's order requiring a mediated settlement conference shall be delivered to the mediator by the parties.

**(b) Appointment of a Mediator by the Court.** If the parties cannot agree on the designation of a certified mediator, then the parties shall notify the court by filing a Designation Form requesting that the court appoint a certified mediator. The Designation Form shall be filed at the scheduling and discovery conference and state that the attorneys for the parties have discussed the designation of a mediator and have

been unable to agree on a mediator. Upon receipt of a Designation Form requesting the appointment of a mediator, or upon the parties' failure to file a Designation Form with the court, the court shall appoint a family financial mediator certified under these rules who has expressed a willingness to mediate disputes within the judicial district.

In appointing a mediator, the court shall rotate through a list of available certified mediators. Appointments shall be made without regard to race, gender, religious affiliation, or whether the mediator is a licensed attorney. The court shall retain discretion to depart from a strict rotation of mediators when, in the court's discretion, there is good cause in a case to do so.

As part of the application or certification renewal process, all mediators shall designate the judicial districts in which they are willing to accept court appointments. Each designation is a representation that the designating mediator has read and will abide by the local rules for, and will accept appointments from, the designated district and will not charge for travel time and expenses incurred in carrying out his or her duties associated with those appointments. A mediator's refusal to accept an appointment in a judicial district designated by the mediator may be grounds for the mediator's removal from the district's appointment list by the Dispute Resolution Commission (Commission) or the chief district court judge.

The Commission shall provide the district court judges in each judicial district a list of certified family financial mediators requesting appointments in that district. The list shall contain each mediator's name, address, and telephone number. The list shall be provided to the judges electronically through the Commission's website at <https://www.ncdrc.gov>.

The Commission shall promptly notify the district court of any disciplinary action taken with respect to a mediator on the list of certified mediators for the judicial district.

(c) **Mediator Information.** To assist the parties in designating a mediator, the Commission shall assemble, maintain, and post a list of certified family financial mediators on its website at <https://www.ncdrc.gov>, accompanied by each mediator's contact information and the judicial districts in which each mediator is available to serve. When a mediator has supplied it to the Commission, the list shall also provide the mediator's biographical information, including information about the mediator's education, professional experience, and mediation training and experience.

(d) **Withdrawal or Disqualification of the Mediator.**

- (1) Any party may move the chief district court judge of the judicial district where the case is pending for an order disqualifying the mediator using a Notice of Withdrawal/Disqualification of Mediator and Order for Substitution of Mediator, Form AOC DRC-20. For good cause, an order disqualifying the mediator shall be entered.
- (2) A mediator who wishes to withdraw from a case may file a Notice of Withdrawal/Disqualification of Mediator and Order for Substitution of Mediator, Form AOC-DRC-20, with the chief district court judge of the judicial district where the case is pending.
- (3) If a mediator withdraws or is disqualified, then a substitute mediator shall be designated or appointed under this rule. A mediator who has withdrawn or been disqualified shall not be entitled to receive an administrative fee, unless the mediation has been commenced.

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**Rule 4. Duties of Parties, Attorneys, and Other Participants in Mediated Settlement Conferences**

(a) **Attendance.**

- (1) The following persons shall attend a mediated settlement conference:
  - a. The parties.
  - b. At least one counsel of record for each party whose counsel has appeared in the case.
- (2) Any party or ~~other~~ person required to attend a mediated settlement conference shall ~~physically attend the conference until attend the conference using remote technology; for example, by telephone, videoconference, or other electronic means. The conference shall conclude when an agreement is reduced to writing and signed, as provided in subsection (b) of this rule, or until when an impasse has been is declared. Any such party or person may have the attendance requirement excused or modified, including permitting participation without physical attendance, by~~ Notwithstanding this remote attendance requirement, the conference may be conducted in person if:

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- a. ~~agreement of all parties and persons required to attend the conference and the mediator; or the mediator and all parties and persons required to attend the conference agree to conduct the conference in person and to comply with all federal, state, and local safety guidelines that have been issued; or~~
- b. ~~order of the court, upon motion of a party and notice to the mediator and to all parties and persons required to attend the conference and the mediator, so orders.~~

(b) **Scheduling.** Participants required to attend the mediated settlement conference shall promptly notify the mediator, after selection or appointment, of any significant problems that they may have with the dates for mediated settlement conference sessions before the completion deadline, and shall inform the mediator of any problems that arise before an anticipated conference session is scheduled by the mediator. If a scheduling conflict in another court proceeding arises after a conference session has been scheduled by the mediator, then participants shall promptly attempt to resolve the conflict under Rule 3.1 of the General Rules of Practice for the Superior and District Courts, or, if applicable, the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina on 20 June 1985.

(c) **Finalizing Agreement.**

- (1) If an agreement is reached at the mediated settlement conference, then the parties shall reduce the essential terms of the agreement to writing.
  - a. If the parties conclude the mediated settlement conference with a written document containing all of the terms of their agreement for property distribution and do not intend to submit their agreement to the court for approval, then the agreement shall be signed by all parties and formally acknowledged as required by N.C.G.S. § 50-20(d). If the parties conclude the conference with a written document containing all of the terms of their agreement and intend to submit their agreement to the court for approval, then the agreement shall be signed by all parties, but need not be formally acknowledged. In all cases, the mediator shall report a settlement to the court and include in the report the name of the person responsible for filing closing documents with the court.

- b. If the parties reach an agreement at the mediated settlement conference regarding property distribution and do not intend to submit their agreement to the court for approval, but are unable to complete a final document reflecting their settlement or have it signed and acknowledged as required by N.C.G.S. § 50-20(d), then the parties shall produce a written summary of their understanding and use it to guide them in writing any agreements as may be required to give legal effect to their understanding. If the parties intend to submit their agreement to the court for approval, then the agreement must be in writing and signed by the parties, but need not be formally acknowledged. The mediator shall facilitate the production of the summary and shall either:
  1. report to the court that the matter has been settled and include in the report the name of the person responsible for filing closing documents with the court; or
  2. declare, in the mediator's discretion, a recess of the mediated settlement conference.

If a recess is declared, then the mediator may schedule another session of the conference if the mediator determines that it would assist the parties in finalizing a settlement.

- (2) In all cases where an agreement is reached after being ordered to mediation, whether prior to, or during, the mediation, or during a recess, the parties shall file a consent judgment or voluntary dismissal with the court within thirty days of the agreement or before the expiration of the mediation deadline, whichever is later. The mediator shall report to the court that the matter has been settled and who reported the settlement.
- (3) An agreement regarding the distribution of property, reached at a proceeding conducted under this section or during a recess of the mediated settlement conference, which has not been approved by a court, shall not be enforceable unless it has been reduced to writing, signed by the parties, and acknowledged as required under N.C.G.S. § 50-20(d).

(d) **Payment of the Mediator's Fee.** The parties shall pay the mediator's fee as provided by Rule 7.

(e) **No Recording.** There shall be no stenographic, audio, or video recording of the mediation process by any participant. This prohibition includes recording either surreptitiously or with the agreement of the parties.

Comment

**Comment to Rule 4(c).** Consistent with N.C.G.S. § 7A-38.4A(j), no settlement shall be enforceable unless it has been reduced to writing and signed by the parties. When a settlement is reached during a mediated settlement conference, the mediator shall ensure that the terms of the agreement are reduced to writing and signed by the parties and their attorneys before ending the conference.

Cases in which an agreement on all issues has been reached should be disposed of as expeditiously as

possible. This assures that the mediator and the parties move the case toward disposition while honoring the private nature of the mediation process and the mediator's duty of confidentiality. If the parties wish to keep the terms of the settlement confidential, then they may timely file closing documents with the court, as long as those documents do not contain confidential terms (e.g., a voluntary dismissal or consent judgment resolving all claims). Mediators will not be required by local rules to submit agreements to the court.

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**Rule 6. Authority and Duties of the Mediator**

(a) **Authority of the Mediator.**

- (1) **Control of the Mediated Settlement Conference.** The mediator shall at all times be in control of the mediated settlement conference and the procedures to be followed. The mediator's conduct shall be governed by the Standards of Professional Conduct for Mediators.
- (2) **Private Consultation.** The mediator may communicate privately with any participant during the mediated settlement conference. However, there shall be no ex parte communication before or outside the conference between the mediator and any counsel or party regarding any aspect of the proceeding, except about scheduling matters. Nothing in this rule prevents the mediator from engaging in ex parte communications with the consent of the parties for the purpose of assisting settlement negotiations.

(b) **Duties of the Mediator.**

- (1) **Informing the Parties.** At the beginning of the mediated settlement conference, the mediator shall define and describe for the parties:
  - a. the process of mediation;
  - b. the differences between mediation and other forms of conflict resolution;
  - c. the costs of the mediated settlement conference;
  - d. the fact that the mediated settlement conference is not a trial, that the mediator is not a judge, and that the parties retain their right to a trial if they do not reach settlement;
  - e. the circumstances under which the mediator may meet and communicate privately with any of the parties, or with any other person;
  - f. whether, and under what conditions, communications with the mediator will be held in confidence during the mediated settlement conference;
  - g. the inadmissibility of conduct and statements as provided by N.C.G.S. § 7A-38.4A(j);
  - h. the duties and responsibilities of the mediator and the participants; and
  - i. the fact that any agreement reached will be reached by mutual consent.
- (2) **Disclosure.** The mediator has a duty to be impartial and to disclose to all participants any circumstance bearing on possible bias, prejudice, or partiality.
- (3) **Declaring Impasse.** It is the duty of the mediator to determine in a timely manner that an impasse exists and that the mediated settlement conference should end. To that end, the mediator shall inquire of and consider the desires of the parties to cease or continue the conference.
- (4) **Reporting Results of the Mediated Settlement Conference.**
  - a. The mediator shall report the results of the mediated settlement conference and any settlement reached by the parties prior to, or during, a recess of the conference to the court. Mediators shall also report the



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results of mediations held in other district court family financial cases in which a mediated settlement conference was not ordered by the court. The report shall be filed on a Report of Mediator in Family Financial Case, Form AOC-CV-827, within ten days of the conclusion of the conference or within ten days of being notified of the settlement, and shall include the names of the persons who attended the conference, if a conference was held. If a partial agreement was reached at the conference, then the report shall state the issues that remain for trial. Local rules shall not require the mediator to send a copy of the parties' agreement to the court.

- b. If an agreement upon all issues was reached at the mediated settlement conference, then the mediator's report shall state whether the dispute will be resolved by a consent judgment or voluntary dismissal, and the name, address, and telephone number of the person designated by the parties to file the consent judgment or dismissal with the court, as required under Rule ~~4(b)(2)~~4(c)(2). The mediator shall advise the parties that, consistent with Rule ~~4(b)(2)~~4(c)(2), their consent judgment or voluntary dismissal is to be filed with the court within thirty days of the conference or before the expiration of the mediation deadline, whichever is later. The mediator's report shall indicate that the parties have been so advised.
  - c. The Commission or the North Carolina Administrative Office of the Courts (NCAOC) may require the mediator to provide statistical data for evaluation of the mediated settlement conference program.
  - d. A mediator who fails to report as required by this rule shall be subject to sanctions by the court. The sanctions shall include, but are not limited to, fines or other monetary penalties, decertification as a mediator, and any other sanctions available through the court's contempt power. The court shall notify the Commission of any sanction imposed against a mediator under this section.
- (5) **Scheduling and Holding the Mediated Settlement Conference.** The mediator shall schedule and conduct the mediated settlement conference prior to the conference

completion deadline set out in the court's order. The mediator shall make an effort to schedule the conference at a time that is convenient to all participants. In the absence of agreement, the mediator shall select a date and time for the conference. The deadline for completion of the conference shall be strictly observed by the mediator, unless the deadline is changed by written order of the court.

A mediator selected by agreement of the parties shall not delay scheduling or conducting the conference because one or more of the parties has not paid an advance fee deposit as required by the agreement.

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#### **Rule 7. Compensation of the Mediator and Sanctions**

(a) **By Agreement.** When a mediator is selected by agreement of the parties, compensation shall be as agreed upon between the parties and the mediator. Notwithstanding the terms of the parties' agreement with the mediator, subsection (e) of this rule shall apply to an issue involving compensation of the mediator. Subsections (d) and (f) of this rule shall apply unless the parties' agreement provides otherwise.

(b) **By Court Order.** When the mediator is appointed by the court, the parties shall compensate the mediator for mediation services at the rate of \$150 per hour. The parties shall also pay the mediator a one-time, per-case administrative fee of ~~\$150~~\$175, which accrues upon appointment.

(c) **Change of Appointed Mediator.** Parties who fail to select a mediator and then desire a substitution after the court has appointed a mediator shall obtain court approval for the substitution. The court may approve the substitution only upon proof of payment to the court's original appointee of the ~~\$150~~\$175 one-time, per-case administrative fee, any other amount due for mediation services under subsection (b) of this rule, and any postponement fee owed under subsection (f) of this rule.

(d) **Payment of Compensation by the Parties.** Unless otherwise agreed to by the parties or ordered by the court, the mediator's fee shall be paid in equal shares by the parties. Payment shall be due upon the completion of the mediated settlement conference.

(e) **Inability to Pay.** ~~No~~Any party found by the court to be unable to pay its full share of the mediator's fee shall not be required to do so. Any party required to pay a share of a mediator's fee under subsections (b) and (c) of this rule may move the court for relief using a Petition and Order for Relief from Obligation to Pay All or Part of Mediator's Fee in Family Financial Case, Form AOC-CV-828.

In ruling upon the motion, the court may consider the income and assets of the movant and the outcome of the dispute. The court shall enter an order granting or denying the party's motion. The court may require that one or more shares be paid out of the marital estate.

Any mediator conducting a mediated settlement conference under these rules shall accept as payment in full of a party's share of the mediator's fee that portion paid by, or on behalf of, the party pursuant to a court order issued under this rule.

**(f) Postponements and Fees.**

- (1) As used in subsection (f) of this rule, "postponement" means to reschedule or not proceed with a mediated settlement conference once a date for the conference has been scheduled by the mediator. After a conference has been scheduled for a specific date, a party may not unilaterally postpone the conference.
- (2) A mediated settlement conference may be postponed by a mediator for good cause only after notice by the movant to all parties of the reason for the postponement and a finding of good cause by the mediator. Good cause exists when the reason for the postponement involves a situation over which the party seeking the postponement has no control, including, but not limited to: (i) the illness of a party or attorney, (ii) a death in the family of a party or attorney, (iii) a sudden and unexpected demand by the court that a party or attorney for a party appear in court for a purpose not inconsistent with the guidelines established by Rule 3.1(d) of the General Rules of Practice for the Superior and District Courts, or (iv) inclement weather exists, such that travel is prohibitive. Where good cause is found, the mediator shall not assess a postponement fee.
- (3) The settlement of a case prior to the scheduled date for mediation shall be good cause for postponement; provided, however, that the mediator was notified of the settlement immediately after it was reached and at least fourteen calendar days prior to the date scheduled for the mediation.
- (4) Without a finding of good cause, a mediator may also postpone a scheduled mediated settlement conference session with the consent of all parties. A fee of \$150 shall be paid to the mediator if the postponement is allowed. However, if the request for a postponement is made within seven

calendar days of the scheduled date for mediation, then the postponement fee shall be \$300. The postponement fee shall be paid by the party requesting the postponement, unless otherwise agreed to by the parties. Postponement fees are in addition to the one-time, per-case administrative fee provided for in subsection (b) of this rule.

- (5) If the parties select a certified mediator and contract with the mediator as to compensation, then the parties and the mediator may specify in their contract alternatives to the postponement fees otherwise required under subsection (f) of this rule.

#### **Comment**

**Comment to Rule 7(b).** Court-appointed mediators may not be compensated for travel time, mileage, or any other out-of-pocket expenses associated with a court-ordered mediation.

**Comment to Rule 7(d).** If a party is found by the court to have failed to attend a mediated settlement conference without good cause, then the court may require that party to pay the mediator's fee and related expenses.

**Comment to Rule 7(f).** Nonessential requests for postponements work a hardship on parties and mediators and serve only to inject delay into a process and program designed to expedite litigation. It is expected that mediators will assess a postponement fee in all instances where a request does not appear to be absolutely warranted. Moreover, mediators are encouraged not to agree to a postponement in instances where, in the mediator's judgment, the mediation could be held as scheduled.

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### **Rule 8. Mediator Certification and Decertification**

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

- (1) The applicant for certification must have a basic understanding of North Carolina family law. Applicants should be able to demonstrate that they have completed at least twelve hours of basic family law education by:
  - a. attending workshops or programs on topics such as separation and divorce, alimony and postseparation support, equitable distribution, child custody and support, and domestic violence;

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- b. completing an independent study on these topics, such as viewing or listening to video or audio programs on family law topics; or
  - c. having equivalent North Carolina family law experience, including work experience that satisfies one of the categories set forth in the Commission's policy on interpreting Rule 8(a)(1) (e.g., the applicant is an experienced family law judge or board certified family law attorney).
- (2) The applicant for certification must:
- a. have an Advanced Practitioner Designation from the Association for Conflict Resolution (ACR) and have earned an undergraduate degree from an accredited four-year college or university; or
  - b. have completed either (i) forty hours of Commission certified family and divorce mediation training; or (ii) forty hours of Commission-certified trial court mediation training and sixteen hours of Commission certified supplemental family and divorce mediation training; and be
    - 1. a member in good standing of the North Carolina State Bar or a member similarly in good standing of the bar of another state and eligible to apply for admission to the North Carolina State Bar under Chapter 1, Subchapter C, of the North Carolina State Bar Rules and the Rules Governing the Board of Law Examiners and the Training of Law Students, 27 N.C. Admin. Code 1C.0105, with at least five years of experience after the date of licensure as a judge, practicing attorney, law professor, or mediator, or must possess equivalent experience;
    - 2. a licensed psychiatrist under N.C.G.S. § 90-9.1, with at least five years of experience in the field after the date of licensure;
    - 3. a licensed psychologist under N.C.G.S. §§ 90-270.1 to -270.22, with at least five years of experience in the field after the date of licensure;
    - 4. a licensed marriage and family therapist under N.C.G.S. §§ 90-270.45 to -270.63, with at least

- five years of experience in the field after the date of licensure;
5. a licensed clinical social worker under N.C.G.S. § 90B-7, with at least five years of experience in the field after the date of licensure;
  6. a licensed professional counselor under N.C.G.S. §§ 90-329 to -345, with at least five years of experience in the field after the date of licensure; or
  7. an accountant certified in North Carolina, with at least five years of experience in the field after the date of certification.
- c. Any person who has not been certified as a mediator pursuant to these rules may be certified without compliance with subsection (a)(2)(b) and subsection (a)(5) of this rule if
1. the applicant for certification is a member in good standing of the North Carolina State Bar or a member similarly in good standing of the bar of another state and eligible to apply for admission to the North Carolina State Bar under Chapter 1, Subchapter C, of the North Carolina State Bar Rules and the Rules Governing the Board of Law Examiners and the Training of Law Students, 27 N.C. Admin. Code 1C.0105, with at least five years of experience after the date of licensure as a judge, practicing attorney, law professor, or mediator, or must possess equivalent experience; and meets the following additional requirements:
    - i. the applicant applies for certification within one year from 10 June 2020;
    - ii. the applicant has, by selection of the parties, mediated at least ten family financial settlement cases in the North Carolina District Court within the last five years, as shown by proof satisfactory to the Commission staff; and
    - iii. the applicant has taken a sixteen-hour supplemental family and divorce

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mediation training program approved by the Commission wherein the statutes, program rules, advisory opinions, and ethics, including the Standards of Professional Conduct for Mediators, are discussed;

or

2. the applicant for certification is a nonattorney who meets one of the required licensures set forth in subsection (a)(2)(b)(2) through subsection (a)(2)(b)(7) of this rule, and meets the following additional requirements:
  - i. the applicant applies for certification within one year from 10 June 2020;
  - ii. the applicant has, by selection of the parties, mediated at least fifteen family financial settlement cases in the North Carolina District Court within the last five years, as shown by proof satisfactory to the Commission staff; and
  - iii. the applicant has taken a forty-hour family and divorce mediation training course and the six-hour training on North Carolina legal terminology, court structure, and civil procedure course approved by the Commission.
- (3) If the applicant is not licensed to practice law in one of the United States, then the applicant must have completed six hours of training on North Carolina legal terminology, court structure, and civil procedure, provided by a Commission-certified trainer. An attorney licensed to practice law in a state other than North Carolina shall satisfy this requirement by completing a self-study course, as directed by Commission staff.
- (4) If the applicant is not licensed to practice law in North Carolina, then the applicant must provide three letters of reference to the Commission about the applicant's good character, including at least one letter from a person with knowledge of the applicant's professional practice and experience qualifying the applicant under subsection (a) of this rule.

- (5) The applicant must have observed, as a neutral observer and with the permission of the parties, two mediations involving a custody or family financial issue conducted by a mediator who (i) is certified under these rules, (ii) has an Advanced Practitioner Designation from the ACR, or (iii) is a mediator certified by the NCAOC for custody matters. Mediations eligible for observation shall also include mediations conducted in matters prior to litigation of family financial disputes that are mediated by agreement of the parties and incorporate these rules.

If the applicant is not an attorney licensed to practice law in one of the United States, then the applicant must observe three additional mediations involving civil or family-related disputes, or disputes prior to litigation that are conducted by a Commission-certified mediator and are conducted pursuant to a court order or an agreement of the parties incorporating the mediation rules of a North Carolina state or federal court.

All mediations shall be observed from their beginning until settlement, or until the point that an impasse has been declared, and shall be reported by the applicant on a Certificate of Observation - Family Financial Settlement Conference Program, Form AOC-DRC-08. All observers shall conform their conduct to the Commission's policy on *Guidelines for Observer Conduct*.

- (6) The applicant must demonstrate familiarity with the statutes, rules, standards of practice, and standards of conduct governing mediated settlement conferences conducted in North Carolina.
- (7) 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;



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- 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, or bankruptcy filings that occurred within the ten years preceding the date that the initial or renewal application was filed with the Commission.

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.

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 adjudication was withheld (prayer for judgment continued) or the imposition of a sentence was suspended.

- (8) The applicant must submit proof of the qualifications set out in this rule on a form provided by the Commission.
- (9) The applicant must pay all administrative fees established by the NCAOC upon the recommendation of the Commission.
- (10) The applicant must agree to accept the fee ordered by the court under Rule 7 as payment in full of a party's share of the mediator's fee.

- (11) The applicant must comply with the requirements of the Commission for completing and reporting continuing mediator education or training.
- (12) The applicant must agree, once certified, to make reasonable efforts to assist applicants for mediator certification in completing their observation requirements.

(b) No mediator who held a professional license and relied upon that license to qualify for certification under subsection (a)(2)(b) of this rule shall be decertified or denied recertification because the mediator's license lapses, is relinquished, or becomes inactive; provided, however, that this subsection shall not apply to a mediator whose professional license is revoked, suspended, lapsed, or relinquished, or whose professional license becomes inactive due to disciplinary action, or the threat of disciplinary action, from the mediator's licensing authority. Any mediator whose professional license is revoked, suspended, lapsed, relinquished, or whose professional license becomes inactive shall report the matter to the Commission.

(c) A mediator's certification may be revoked or not renewed at any time if it is shown to the satisfaction of the Commission that a mediator no longer meets the qualifications set out in this rule or has not faithfully observed these rules or those of any judicial 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. No application for certification renewal shall be denied on the ground that the mediator's training and experience does not satisfy a training and experience requirement promulgated after the date of the mediator's original certification.

Comment

**Comment to Rule 8(a)(3).** Commission staff has discretion to waive the requirements set out in Rule 8(a)(3) if an applicant can demonstrate sufficient familiarity with North Carolina legal terminology, court structure, and civil procedure.

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These amendments to the Rules for Settlement Procedures in District Court Family Financial Cases become effective on 10 June 2020.

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 3rd day of June, 2020.

s/Mark A. Davis

For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 4th day of June, 2020.

s/Amy L. Funderburk

AMY L. FUNDERBURK

Clerk of the Supreme Court