

Seven Sets of Mediation Rules - and Loads of Forms - Have Been Revised

Unless you are frequently immersed in mediation practice, you may have missed a recent renaming and overhaul of seven sets of rules governing court mediation in North Carolina. The updates went into effect on March 1, 2020 after the North Carolina Supreme Court approved them in late January. The bulk of the changes involve extensive reformatting, updates to titles and terminology, uniform phrasing and references, and incorporation of the specific names of relevant forms. But in some of the sets there are also notable substantive changes or clarifications. In addition, to reflect the various amendments, the Administrative Office of the Courts (AOC) has updated many of its mediation-related forms.

These are the sets of rules that were amended effective March 1, with links to each (along with as many of the relevant forms that I could identify):

- [Rules for Mediated Settlement Conferences and other Settlement Procedures in Superior Court Civil Actions](#) (superseding the "Revised Rules Implementing Statewide Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions").

Among the notable substantive changes are clarifications in Rule 4 regarding who must attend a mediation on behalf of a governmental entity and a discussion of the potential applicability of pre-audit requirements in [G.S. 159-28](#); additional commentary regarding a superior court judge's authority to require attendance at a related mediation in another forum; and amendments in Rule 8 to the qualifications for mediators, including the disclosures the applicant must make in an application.

The relevant amended AOC forms include the Order for Mediated Settlement Conference/Calendar Notice, [AOC-CV-811](#); Motion and Order Extending Completion Date, [AOC-CV-835](#) and Order Extending Completion Date without Motion, [AOC-DRC-19](#); Designation of Mediator in Superior Court Civil Action, [AOC-CV-812](#); Report of Mediator, [AOC-CV-813](#); Petition and Order for Relief from Mediator's Fee, [AOC-CV-814](#); Motion and Order for Show Cause Hearing, [AOC-CV-815](#); Order of Contempt for Non-payment of Mediator Fees, [AOC-CV-816](#); Mediated Settlement Agreement, [AOC-DRC-15](#); Application for Certification to Conduct Superior Court Mediations, [AOC-DRC-01](#); Certificate of Observation, [AOC-DRC-07](#); Notice of Withdrawal/Disqualification or Substitution of Mediator, [AOC-DRC-20](#); Consent Order for Substitution, [AOC-CV-836](#). Also amended were the related Motion for an Order to Use [Other] Settlement Procedure, [AOC-CV-829](#) and [AOC-CV-818](#); the corresponding Report of Neutral, [AOC-CV-817](#); and the form Arbitration Award, [AOC-CV-806](#).

Note also that [North Carolina Business Court Rules 11 and Appendix 1](#) have also been revised to

reflect the renaming of the superior court mediation rules.

- **[Rules for Settlement Procedures in District Court Family Financial Cases](#)** (superseding the “Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases”).

The most notable substantive changes appear in Rule 8 governing mediator certification, including some enhancements to the disclosures required in an application.

The various amended forms include the Order for Mediated Settlement Conference in Family Financial Case, [AOC-CV-824](#); Motion and Order Extending Completion Date, [AOC-CV-835](#); Order Extending Completion Date without Motion, [AOC-DRC-19](#); Report of Mediator, [AOC-CV-827](#); Petition and Order for Relief from Fee, [AOC-CV-828](#); Application for Certification to Conduct Family Financial Mediations (including Certificate of Observation), [AOC-DRC-08](#); Motion and Order to Use Other Settlement Procedure, [AOC-CV-826](#) and the corresponding Report of Neutral, [AOC-CV-834](#); Notice of Withdrawal/Disqualification/Substitution of Mediator, [AOC-DRC-20](#); and Consent Order for Substitution, [AOC-CV-836](#).

- **[Rules of Mediation for Matters in District Criminal Court](#)** (superseding the “Rules Implementing Mediation in Matters Pending in District Criminal Court”).

As with the two rules sets discussed above, the most notable substantive amendments to this rule set appear in the rule regarding the standards for certification and decertification of district criminal court mediators (here, Rule 7). A number of these changes are reflected in the revised form Application for Certification to Conduct District Criminal Court Mediations, [AOC-DRC-11](#); the Certificate of Observation, [AOC-DRC-12](#); and the Recertification form, [AOC-DRC-21](#).

The updated forms also include Report of Mediator, [AOC-CR-700](#); Order on Request for Waiver of Payment of Mediation Fee, [AOC-CR-701](#); the Certification of Co-Mediation/Mediation, [AOC-DRC-13](#).

- **[Rules of Mediation for Matters Before the Clerk of Superior Court](#)** (superseding the “Rules Implementing Mediation in Matters Before the Clerk of Superior Court”).

The corresponding updated AOC forms include the Motion and Order to Mediate Matter Before the Clerk of Superior Court, [AOC-G-300](#); Order Regarding Mediation in Matters Before the Clerk of Superior Court, [AOC-G-301](#); Designation of Mediator, [AOC-G-302](#); the Report of Mediation in Clerk Program Mediation, [AOC-G-303](#); Order for Apportionment of Fee, [AOC-G-304](#); Motion and Order for Show Cause Hearing, [AOC-G-305](#); Order of Contempt for Non-payment of Fee, [AOC-G-307](#); and the Application for Certification to Conduct Guardianship and Estate Mediations, [AOC-DRC-10](#).

- [Rules of Mediation for Farm Nuisance Disputes](#) (superseding the "Revised Rules of the North Carolina Supreme Court Implementing the Prelitigation Farm Nuisance Mediation Program").

The form Request for Prelitigation Mediation of Farm Nuisance Dispute, [AOC-CV-820](#) was revised in coordination with the amended rules. (The appointment, waiver, and mediator's certification forms have not been revised.)

- [Standards of Professional Conduct for Mediators](#) (superseding the "Revised Standards of Professional Conduct for Mediators").

Notable substantive amendments in this set of rules appear in Standard 3, which addresses additional circumstances in which a mediator may disclose otherwise confidential information obtained during the mediation process. There is also a clarification in Standard 7 that a mediator may give "de minimus offerings such as sodas, cookies, snacks, or lunches" to mediation participants without violating the restriction on giving gifts or other items of value that might raise a question about the mediator's impartiality.

- [Rules of the Dispute Resolution Commission](#) (superseding the "Revised Rules of the North Carolina Supreme Court for the Dispute Resolution Commission").

The revised rules of the DRC contain several substantive amendments and clarifications that I will not summarize here because their specific applicability is to Commission members. But this is a good place to remind everyone that the DRC maintains a Web page with lots of helpful information that you can visit [here](#). There you will find the list of 17 appointed Commission members as well as the Commission staff, headed by Executive Director Tara Kozlowski.

The revised sets of rules and corresponding revised forms surely represent a tremendous amount of hard work and cooperation among the DRC, the Supreme Court and its staff, and the AOC. On the AOC Web site, Ms. Kozlowski notes that, ""The Commission is very excited the amended rules and standards are now in effect,"... "We are confident that the amended rules and standards, adopted by the Supreme Court, will continue to facilitate successful mediation practices across the state of North Carolina."