



ADVISORY OPINION OF THE THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION

Advisory Opinion Number 04 (2003)

(Adopted and Issued by the Commission on May 16, 2003; Amended September 20, 2024.)

A mediator is not required to retain their mediation files.

Concern Raised

Certified mediators have asked the Commission for guidance regarding the retention of their mediation files.

Advisory Opinion

There is no requirement in the statutes, in the Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Actions, the Rules for Settlement Procedures in District Court Family Financial Cases, the Rules of Mediation for Matters Before the Clerk of Superior Court, the Rules of Mediation for Matters in District Criminal Court, the Rules for Mediation for Farm Nuisance Disputes, or the Standards of Professional Conduct for Mediators that require a mediator to retain their files. File retention is a matter that should be in the discretion of the individual mediator. Mediators should remember that they have a duty to ensure the confidentiality of the mediation process. A mediator may rely upon the parties to retain a copy of the settlement agreement in their files, instead of the mediator retaining a copy.

N.C. Gen. Stat. §7A-38.2(b) provides, “[t]he administration of mediator certification, regulation of mediator conduct, and certification shall be conducted through the Dispute Resolution Commission, established under the Judicial Department.” On August 28, 1998, the Commission adopted an Advisory Opinions Policy encouraging mediators to seek guidance on dilemmas that arise in the context of their mediation practice. In adopting the Policy and issuing opinions, the Commission seeks to educate mediators and to protect the public.