

**OPEN FOR COMMENT UNTIL APRIL 15, 2025**



## ADVISORY OPINION OF THE THE NORTH CAROLINA DISPUTE RESOLUTION COMMISSION

### **DRAFT Advisory Opinion No. 47 (2025)**

*(Adopted and Issued by the Commission on xxxxxxxx, 2025)*

### **Mediator is in Control of the Conference, Rule 6(a)(1)**

**The mediator is always in control of the conference. The mediator may elect to prohibit mediation participants from possessing or carrying a weapon in a mediated settlement conference.**

### **Concern Raised**

Mediator contacted the Dispute Resolution Commission (Commission) to ask if they can prohibit parties from bringing weapons into a mediated settlement conference.

### **Advisory Opinion**

**May a mediator prohibit all parties from bringing a weapon into a mediated settlement conference?**

**Yes.**

The mediator is always in control of the conference. Rule 6(a)(1) of the Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Actions; Rule 6(a)(1) of the Rules for Settlement Procedures in District Court Family Financial Cases; Rule 6(a)(1) of the Rules of Mediation for Matters Before the Clerk of Superior Court; Rule 6(a)(1) of the Rules of Mediation for Matters in District Criminal Court; and Rule 5(a)(1) of the Rules for Mediation for Farm Nuisance Disputes all provide the following language:

(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.

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The mediated settlement conference is a North Carolina court-proceeding, and the Commission is against a party bringing a weapon into the conference. Although the settlement conference is a court-proceeding, the mediated settlement conference is rarely held at a courthouse. While a courthouse can provide security measures that will automatically prohibit weapons, the mediator who hosts a settlement conference may not have access to those same security measures.

If a mediator elects to prohibit weapons at the mediated settlement conference, the Commission recommends the following best practice procedures.

The mediator may define the procedural terms of the mediation by placing all parties on notice of the terms. The best practice is to provide a letter of engagement or contract for services, in writing, that outlines the desired procedure to be followed during the settlement conference. If the mediator elects to prohibit weapons in the conference room, the mediator should provide written notice to all parties, and their counsel, advising that weapons will not be allowed in the settlement conference.

Sample language that may be included in the mediator's engagement letter or contract for services, that is not inclusive of all weapons may be: No person shall possess or carry any weapon into a mediation that has been identified in GS § 14-269(a), including a firearm or handgun as defined in GS § 14-409.39.

The mediator, or firm, in control of their own office space may prohibit individuals from carrying a concealed handgun on the private premises by posting proper notice in an open area, under NCGS § 14-415.11(c)(8).

If the party to a mediation is a State employed law enforcement officer or member of the Armed Forces of the United States, or other professional, who is obligated to carry their weapon at all times while on duty, the mediator may remind the party they are not "on duty" while attending the mediated settlement conference. The mediator may prohibit the party from bringing their weapon into the conference and may request the party to step away from the conference so they can change into civilian clothing for the conference. The mediator may also recess and reconvene the conference to be held at a later date and time.

Should the mediator believe one of the parties could be a danger to themselves, or others attending the conference, the mediator should immediately recess the mediation and attempt to reconvene the parties after a sufficient cooling off period has passed. If the mediator believes no progress will be made at a second session, the mediator should terminate the mediation and declare the conference an impasse.