

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 and have completed the requirements of this subsection prior to taking the forty hours of Commission-certified family and divorce mediation training or the sixteen hours of Commission-certified supplemental family and divorce mediation training under subsection (a)(2)(b) of this rule. 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;
 - 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 a North Carolina State Bar board certified family law specialist).
- (2) The applicant for certification must:
 - a. have been designated a Family Mediator Advanced Practitioner by 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.
- (3) If the applicant is not licensed to practice law in one of the United States, then the applicant must have, as a prerequisite for the forty hours of Commission-certified family and divorce mediation training under subsection (a)(2)(b) of this rule, 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;
 - e. 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;
- 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; or
- i. pending grievances or complaints filed with a professional licensing, certifying, or regulatory body, whether in North Carolina, another state, or another country.

If a matter listed in subsections (a)(7)(a) through (a)(7)(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)(7)(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 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 demonstrate sufficient familiarity with North Carolina legal terminology, court structure, and civil procedure. staff has discretion to waive the requirements set out in Rule 8(a)(3) if an applicant can