

# **Advisory Opinion of the NC Dispute Resolution Commission**

Opinion Number 04-03

(Adopted and Issued by the Commission on May 16, 2003)

N.C. Gen. Stat. §7A-38.2(b) provides, “[t]he administration of mediator certification, regulation of mediator conduct, and decertification 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.

## **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, program rules or Standards of Conduct that mediators 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.