

NC Dispute Resolution Commission

Guidelines Amplifying Rules for Certification of 24-Hour District Criminal Court Mediation Training Programs

(Approved by the NC Dispute Resolution Commission on November 2, 2007)

These Guidelines are intended to amplify Rules 7 and 8 of the Rules Implementing Mediation in Matters Pending in District Criminal Court. All trainers seeking the Commission's certification of a 24-hour district criminal court mediation training program, should read Rules 7 and 8 carefully and review these Guidelines prior to submitting their training package to the Dispute Resolution Commission. Trainers must submit a detailed agenda identifying both topics to be covered and trainers who will cover each topic included. The agenda should also set forth time frames so that the Commission may determine the amount of time allocated to each topic as well as the number of hours for the total program. Training programs must total at least 24 hours. Trainers must also submit to the Commission all materials they intend to distribute to participants as handouts, including copies of any texts; copies of role-play scenarios to be used; and a copy of the exam to be administered pursuant to Rule 8.A.(11). Any questions should be directed to the Commission's office at (919) 890-1415.

1. **TIME FRAMES.** All training programs must total at least 24 hours. Because the materials presented will be new to most participants and because the pace of training is intensive, a training day should not exceed nine hours, not including lunch. There may be a short (10 to 15 minute) break each morning and each afternoon. Additional breaks or breaks of a longer duration may not be included as a part of a 24-hour calculation. Lunch breaks may not be included as a part of the 24-hour program unless training continues through lunch. While breaks are optional, they must be used each half day or are lost. If a trainer elects to skip breaks, that does not mean that the time which could have been allotted to breaks may be deducted from the requirement for a 24-hour program. That is, if a trainer elects to skip breaks, a program may not conclude 30 minutes short of eight hours each day or 1 hour and 15 minutes short of 24 hours the last day assuming the training is presented over a 2 ½ day period. The training may be offered over a 2 ½ day period or offered over two or three weekends. The weekends need not be consecutive, but should be spaced relatively closely.
2. **NUMBER OF PARTICIPANTS.** At no time should the number of participants exceed 25. Trainers must provide sufficient numbers of faculty and other training staff to ensure that participants have a meaningful training experience, including individual attention and an opportunity to actively participate in discussions and role-plays. Trainers must ensure that the training site is spacious enough to accommodate participants and offers an environment substantially free of distractions or other

impediments to learning. Sufficient space for role-play and other break out sessions should be readily accessible.

3. **NATURE OF THE PROGRAM OFFERING.** In Rule 8 the Supreme Court lists the topics that a training program must cover during the course of a 24-hour program. The DRC will require full compliance with that Rule. The array of topics is intended to ensure participants full exposure to the mediation process. All or almost all of the 24 hours should be used to cover the curriculum listed in Rule 8.

The Commission intends that trainers have some discretion in determining the content of their training program. However, to ensure that the Rule 8 curriculum is fully covered, trainers are required to devote at least the following minimum amounts of time to each of the curriculum topics set forth in Rule 8 and to discuss at least the concepts set forth below in association with each topic listed:

- a) **Conflict resolution, negotiation, and mediation theory.** (1½ hour minimum) Define and note the differences among the various dispute resolution alternatives and explain when it may be effective to mediate and when not.
- b) **Mediation process and techniques, including the process and techniques of court-ordered mediation.** (3 hour minimum) Cover the stages of mediation and negotiation theory; provide participants with a "tool box" of strategies and techniques for moving the mediation forward; cover logistics issues, including scheduling, intake, reporting, fee collection, if applicable, and evaluation; and discuss ways to identify and handle potentially volatile situations.
- c) **Communication and Information Gathering.** (2 hour minimum) Discuss communication theory and topics such as re-framing, learning styles, body language, and diversity issues, including use of interpreters and translators in mediation.
- d) **Agreement Writing.** (1 hour minimum)
- e) **Statutes, rules, forms and practice governing district criminal court mediation in North Carolina.** (3 hour minimum) Trainers must insure that their program has a North Carolina focus and cover the relationship of the North Carolina courts to court-based mediation programs in general, and to district criminal court mediation in particular and discuss relevant court procedures and processes. The particular characteristics and dynamics of court-based mediation shall be discussed and explored with participants. The three-hour minimum shall include time spent covering the statute, rules, forms, and practice governing mediation in district criminal court as well as time spent taking and discussing the exam mandated in Rule 8.a.(11).

- e) **Standards of conduct for mediators including, but not limited to Standards of Professional Conduct adopted by the NC Supreme Court.** (2 hours minimum) Cover the North Carolina Standards of Professional Conduct for Mediators, discuss the interplay between the NC Standards and other professional standards to which the mediator may be accountable, discuss mediator dilemmas, and discuss the Commission's Advisory Opinion Policy.
 - f) **Demonstrations of mediations.** (1 hour minimum) Provide a live or videotaped demonstration portraying a mediator conducting a district criminal court mediation, including de-briefing. (The demonstration need not show a mediation from start to finish, but may rather depict the various segments or stages.)
 - g) **Simulations of mediations involving student participation as mediator, complainant and defendant, which simulations shall be supervised, observed and evaluated by program faculty.** (3½ hours minimum, including set-up, role play and debriefing time) Certified programs are expected to incorporate at least three simulations into the 24-hour training period. Every simulation shall provide for the roles of mediator, complainant and defendant and it is expected that participants will play each role at least once.
 - h) **Courtroom protocol.** (1 hour minimum) Cover appropriate attire for mediators, pre-mediation preparation, courtroom decorum, case processing and administration.
 - i) **Domestic violence awareness.** (1/2 hour minimum) Discuss identification of domestic violence perpetrators and victims and identify community resources providing treatment and assistance.
 - j) **Satisfactory completion of an exam by all students testing their familiarity with the statutes, rules and practice governing district criminal court mediation in North Carolina.** Trainers shall supply the Commission with a copy of their exam and an answer key, administer the exam to the participants and discuss the answers with them.
4. **ENSURING THE QUALITY OF THE FACULTY.** An experienced, qualified faculty is essential to the success of any training program. While it may theoretically be possible that one individual could possess all the various training, skills and knowledge required for the 24-hour presentation, applicants are strongly encouraged to develop a multi-faculty presentation. Specifically, there are three areas of expertise that should be represented: At least one member of the faculty must have significant experience conducting district criminal court mediations. A member of the faculty must possess demonstrated expertise in dispute resolution theory. Programs are also

encouraged to have faculty members with a background in communication theory, psychology, or other related disciplines.

The application should also demonstrate that sufficient faculty or other trained observers will be present to ensure that participants receive individual feedback during and after simulations. Ideally, one faculty member or observer should be available for each group participating in a simulation. At a minimum, at least one faculty member or observer must be present for every two groups participating in a simulated mediation. Resumes need not be supplied for those who provide such observation and feedback if they are not also primary trainers.

5. **ENSURING THE QUALITY OF THE COURSE MATERIALS.** To be certified, a training program must include quality written materials that adequately cover all aspects of the required curriculum, including materials relating to the North Carolina statutes, rules, and Standards of Conduct. Training programs will not be certified on the basis of an outline or agenda summarizing the presentation. Rather, the applicant must submit at least a final working draft of the program materials that will be used in conjunction with the training program. This requirement is not intended to foreclose continued updating or supplementation of materials, which is encouraged. The materials submitted should also include (1) the role play scenarios that will be used in the simulated mediations; and (2) the exam required under Rule 8.A.(11).
6. **ENSURING A NORTH CAROLINA FOCUS.** Applicants must demonstrate that training will be focused on the particulars of North Carolina's program, statute, rules, forms and Standards of Conduct. Trainers who are based in other states or who have conducted training in other states, must be mindful of the specific provisions of the North Carolina rules, statutes and Standards and tailor their North Carolina efforts accordingly.
7. **EVALUATION OF TRAINING PROGRAM.** Each training program must include an opportunity for participants to evaluate the program. The DRC may provide a standard evaluation form to be completed by each participant with the results forwarded to the DRC. In addition, each certified trainer must provide a participant list to permit the DRC to conduct follow-up interviews with participants regarding the program's quality. Upon request, each trainer must also agree to supply copies of completed participant evaluation forms to the Commission and to permit a DRC representative to attend the program for purposes of quality assurances.
8. **RESPONSIBILITY TO KEEP COMMISSION UPDATED.** Following certification, all trainers shall advise the Commission immediately of any revisions to the agenda, and any significant revisions to the contents of course notebooks or other handouts. Trainers shall not conduct any additional training sessions until the Commission has approved any such changes. Trainers shall submit a current agenda each time they

renew their training program's certification. The Commission reserves the right to at any time seek additional information from trainers.

9. **ADVERTISING AND REGISTRATION MATERIALS.** A trainer may **not** commence a training program until such time as the program has, in fact, been certified by the Commission. (The Commission's office cannot always process an application immediately, so a trainer should be careful about scheduling and advertising training dates prior to a program's certification.) All materials advertising certified mediator training programs to the public must identify the Dispute Resolution Commission as the body responsible for mediator certification in North Carolina and provide a telephone number for the Commission. Any promotional or registration materials published prior to a training program's certification by the Commission shall contain the following admonition: "WARNING: Although certification of this program is expected, [Provider] cannot guarantee that the training program will be certified or that it will lead to criminal court mediator certification for those attending." The Commission reserves the right to require a trainer to submit copies of a program's promotional or registration materials for review at any time either prior to or following certification.