



NORTH CAROLINA INDUSTRIAL COMMISSION

November 2022 Quarterly Update

2022 Annual Report

- The Industrial Commission released its 2022 Annual Report at the end of September. The annual report outlines the initiatives taken by the Commission during Fiscal Year 2021-22, discusses notable legislation affecting the Commission and its stakeholders, summarizes important Industrial Commission data, and gives a section-by-section update. The 2022 Annual Report is available [here](#).

Rule 104 of the Mediation Rules

- The Commission has initiated rulemaking for a proposed amendment to Rule 104 of the mediation rules. The notice of proposed rulemaking is available [here](#). This proposed rule amendment is in response to an anticipated change to the Superior Court mediation rules regarding how the mediation attendance method is determined.

The anticipated change will create a framework for determining mediation attendance that allows the parties and mediator to agree on one of three methods of attendance (in-person, remote, or hybrid) in each case. “Hybrid” means that there is a combination of in-person and remote attendance at the mediation.

If the parties and mediator cannot agree on the method of attendance, then the default method of attendance in that case is either in-person or remote, depending on the method of attendance declared by the mediator in the Dispute Resolution Commission Mediator Information Directory. (The default is in-person for mediators who have declared they will only do in-person mediations, as well as for mediators who have declared they will do mediations with any type of attendance and for mediators who have not declared anything in the directory. The default is remote for mediators who have declared they will only do remote mediations).

If a party is not satisfied with the default method of attendance, the party can file a motion asking for an order for a different method of attendance (in-person, remote,

or hybrid). If a method of attendance is ordered that differs from the mediator's declared method, then the mediator can file a motion asking for permission to withdraw from the case.

G.S. §97-80(c) mandates that the Industrial Commission's mediation rules be "substantially similar" to the Superior Court mediation rules. Rule 104(b) of the Industrial Commission mediation rules, in its current form, is premised on the assumption that the default method of attendance in Superior Court cases will be either in-person in all cases or remote in all cases.

In order to avoid potential confusion regarding how to interpret paragraph (b) of Rule 104 following the anticipated change to the Superior Court mediation rule, and in order to better align the Industrial Commission's mediation rule with the Superior Court mediation rule, the Commission's proposed amended rule simply states: "The attendance method for Industrial Commission mediations shall be the same as the attendance method set forth in the mediation rules approved by the North Carolina Supreme Court that are in effect at the time of the mediation for use in the Superior Court division."

The proposed effective date of the Industrial Commission's rule amendment is January 1, 2023.

27th Annual Workers' Compensation Educational Conference

The Commission held its 2022 Workers' Compensation Educational Conference at the Raleigh Convention Center on October 12th through 14th. The Commission was excited to host its first in-person conference since 2019. Additionally, to accommodate those who could not attend in-person, the Commission offered a virtual, on-demand attendance option that was available for viewing from October 24th through November 4th.

The Commission's Workers' Compensation Educational Conference presents a unique opportunity for attorneys who are Board Certified workers' compensation specialists to obtain all the credits they need to meet their annual specialization CLE requirements.