

## SECTION .0200 – SELECTION OF MEDIATOR

### 01 NCAC 30H .0201 SELECTION OF MEDIATOR

(a) The parties may select a mediator certified pursuant to Paragraph (b) of this Rule. The requesting party shall file with the State Construction Office (hereinafter collectively referred to as the "SCO") if a State project or public owner, if a non-State project, a Notice of Selection of Mediator by Agreement within 10 days of the request; however, any party may file the notice. Such notice shall state the name, address and telephone number of the mediator selected; state the rate of compensation of the mediator; state that the mediator and opposing counsel have agreed upon the selection and rate of compensation; and state that the mediator is certified pursuant to these Rules.

(b) All mediators in the Formal Dispute Resolution Program shall be certified in accordance with the rules certifying mediators in Superior Court in North Carolina except when otherwise allowed by the SCO or public owner upon the request of the parties to the mediation. When selecting mediators, the parties may designate a preference for mediators with a background in construction law or public construction contracting. Such preferences are not mandatory under these Rules.

(c) The parties may select a mediator who does not meet the certification requirements of these Rules. However, all mediators gain the consent of the SCO or public owner in accordance with these Rules to mediate any dispute.

(d) If the parties cannot agree upon the selection of a mediator, the party or party's attorney shall so notify the SCO or public owner and request, on behalf of the parties, that the SCO or public owner appoint a mediator. The request for appointment shall state that the parties have had a full and frank discussion concerning the selection of a mediator and have been unable to agree. The request shall state whether any party prefers a certified attorney mediator, and if so, the SCO or public owner shall appoint a certified attorney mediator. If no preference is expressed, the SCO or public owner may appoint a certified attorney mediator or a certified non-attorney mediator.

*History Note: Authority G.S. 143-135.26(10) and (11); S.L. 2001-496, Sec. 14(b);  
Temporary Adoption Eff. July 1, 2002;  
Eff. August 1, 2004;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,  
2018.*