

**SECTION .0400 – DUTIES OF PARTIES AND OTHER PARTICIPANTS IN FORMAL DISPUTE
RESOLUTION PROCESS**

01 NCAC 30H .0401 ATTENDANCE

- (a) All parties to the dispute originally presented to the Designer or Prime Contractor for initial resolution shall attend the mediation. Failure of a party to a construction contract dispute to attend the mediation shall result in the public owner's withholding of monthly payment to that party until such party attends the mediation.
- (b) Only physical attendance, and not attendance by telephone or other electronic means, shall constitute attendance. Any attendee on behalf of a party must have authority from that party to bind it to any agreement reached as a result of the mediation.
- (c) Attorneys on behalf of parties may attend the mediation but are not required to do so.
- (d) Sureties or insurance company representatives are not required to attend the mediation unless any monies paid or to be paid as a result of any agreement reached as a result of mediation require their presence or acquiescence. If such agreement or presence is required, then authorized representatives of the surety or insurance company must attend the mediation.

*History Note: Authority G.S. 143-135.26(10), (11); S.L. 2001-496, s. 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.*