

26 NCAC 03 .0204 DUTIES OF PARTIES, REPRESENTATIVES, AND ATTORNEYS

(a) Attendance. The following persons shall physically attend a mediated settlement conference:

- (1) All individual parties, or an officer or employee or agent of a party who is not a natural person who is not the party's outside counsel and who has been authorized to decide on behalf of the party whether and on what terms to settle the contested case; or in the case of a governmental entity, an employee or agent who is not the party's outside counsel and who has authority to decide on behalf of the party whether and what terms to settle the contested case; provided if under law proposed settlement terms can be approved only by a Board, the representative shall have authority to negotiate on behalf of the party and to make a recommendation to that Board;
- (2) At least one counsel of record for each party or other participant whose counsel has appeared in the contested case; and
- (3) For any insured party against whom a claim is made, a representative of the insurance carrier who is not the carrier's outside counsel and who has authority to make a decision on behalf of the carrier or who has been authorized to negotiate on behalf of the carrier and can promptly communicate during the conference with persons who have the decision-making authority.

(b) Any party or person required to attend a mediated settlement conference shall physically attend until an agreement is reduced to writing and signed as provided in Paragraph (c) of this Rule or an impasse has been declared. The party or person may have the attendance requirement excused or modified including the allowance of that party's or person's participation without physical attendance by order of the presiding Administrative Law Judge, upon motion of a party and notice to all parties and persons required to attend and the mediator, or by agreement of all parties and persons required to attend and the mediator.

(c) Finalizing Agreement. If an agreement is reached in the conference parties shall reduce its terms to writing and sign it along with their counsel. By stipulation of one or more of the parties and at their expense, the agreement may be electronically recorded. A consent judgment, voluntary dismissals, or withdrawal of petition shall be filed with the Office of Administrative Hearings by the persons the parties designate.

(d) Payment of Mediator's Fee. The parties shall pay the mediator's fee as provided by Rule .0207 of this Section.

*History Note: Authority G.S. 7A-751(a); 150B-23.1;
Eff. February 1, 1994;
Amended Eff. October 1, 2009; April 1, 2001;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016.*