

## **11 NCAC 23G .0102      SELECTION OF MEDIATOR**

(a) By Agreement of Parties. The parties in a workers' compensation case or a state tort claims case may, by agreement, select a mediator certified by the North Carolina Dispute Resolution Commission within 55 days of the filing of a Form 33 Request that Claim be Assigned for Hearing, or otherwise within the deadline set forth in the Commission's order entered pursuant to Paragraph (c) or Paragraph (d) of Rule .0101 of this Subchapter, subject to the Commission's authority to remove the mediator selected by the parties due to a conflict of interest. The stipulation may be transmitted by either party, shall be dated as of the date it is transmitted to the Commission, and must be received by the Dispute Resolution Coordinator within 55 days of the filing of a Form 33 Request that Claim be Assigned for Hearing, or otherwise within the deadline set forth in the Commission's order entered pursuant to Paragraph (c) or Paragraph (d) of Rule .0101 of this Subchapter. The scheduled date of the mediated settlement conference shall be within 120 days of the mediation order. The stipulation shall include the date of the scheduled mediation, the name, address and telephone number of the mediator selected by agreement, and shall confirm that the mediator is certified by the Dispute Resolution Commission. The applicable deadline shall be extended by the Dispute Resolution Coordinator upon request of the parties. Any party may waive the applicable deadline for the selection and suggestion of mediators and request that the Commission appoint a mediator.

(b) Appointment by Commission. If the parties fail to notify the Commission of the parties' selection of a mediator within 55 days of the filing of a Form 33 Request that Claim be Assigned for Hearing, or otherwise within the deadline set forth in the Commission's order entered pursuant to Paragraph (c) or Paragraph (d) of Rule .0101 of this Subchapter, the Commission shall appoint a mediator to hold a mediated settlement conference in the case. The Commission shall appoint a mediator who meets the requirements in Paragraph (b) of Rule .0108 of this Subchapter. In the absence of any suggestions by the parties with regard to the appointment of mediators, the Commission shall select the mediator for the case by random order, unless the Commission determines that, because of unusual circumstances, a particular mediator should be appointed in a particular case.

(c) Disqualification of Mediator. Any party may move the Commission for an order disqualifying a mediator. For good cause, such order shall be entered. If the mediator is disqualified, an order shall be entered for the selection of a replacement mediator pursuant to this Rule. Nothing in this Paragraph shall preclude mediators from disqualifying themselves.

*History Note: Authority G.S. 97-80(a),(c); 143-296; 143-300; Rule 2 of Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions; Eff. January 16, 1996; Amended Eff. October 1, 1998; Recodified from 04 NCAC 10A .0616; Amended Eff. July 1, 2014; January 1, 2011; June 1, 2000; Eff. January 16, 1996; Amended Eff. October 1, 1998; Recodified from 04 NCAC 10A .0616; Amended Eff. July 1, 2014; January 1, 2011; June 1, 2000; Recodified from 04 NCAC 10G .0102 Eff. June 1, 2018.*