

SECTION .0200 - MEDIATION SETTLEMENT CONFERENCE

26 NCAC 03 .0201 ORDER FOR MEDIATED SETTLEMENT CONFERENCE

(a) Order by Chief Administrative Law Judge. The Chief Administrative Law Judge may, by written order, require parties and their representatives to attend a pre-hearing mediated settlement conference in any contested case.

(b) Timing of the Order. The Chief Administrative Law Judge may issue the order within 10 days of the filing of the contested case petition. Paragraph (c) of this Rule and Paragraph (b) of Rule .0203 of this Section shall govern the content of the order and the date of completion of the conference.

(c) Content of Order. The Chief Administrative Law Judge's order shall:

- (1) require the mediated settlement conference be held in the contested case;
- (2) establish a deadline for the completion of the conference;
- (3) state that the parties have the right to select their own mediator as provided in Paragraph (a) of Rule .0202 of this Section;
- (4) state the rate of compensation of the mediator appointed by the presiding Administrative Law Judge pursuant to Paragraph (c) of Rule .0202 of this Section in the event that the parties do not exercise their right to select a mediator; and
- (5) state that the parties shall be required to pay the mediator's fee at the conclusion of the settlement conference unless otherwise apportioned by the presiding Administrative Law Judge.

(d) Motion to Dispense with Mediated Settlement Conference. A party may move the presiding Administrative Law Judge, within 10 days after the date of the Chief Administrative Law Judge's order, to dispense with the conference. Such motion shall state the reasons the relief is sought. For good cause shown, the presiding Administrative Law Judge may grant the motion.

(e) Motion for Mediated Settlement Conference. In contested cases not ordered to mediated settlement conference, any party may move the presiding Administrative Law Judge to order such a conference. Such motion shall state the reasons why the order should be allowed and shall be served on non-moving parties. Objections may be filed in writing with the presiding Administrative Law Judge within 10 days after the date of the service of the motion. Thereafter, the presiding Administrative Law Judge shall rule upon the motion without a hearing and notify the parties or their attorneys of the ruling. In the event that mediation is ordered, the parties may select a mediator by agreement as provided in Paragraph (a) of Rule .0202 of this Section within 21 days of the date of the presiding Administrative Law Judge's order. If the parties cannot agree or have failed to select a mediator within the 21 days, the presiding Administrative Law Judge shall appoint a certified mediator pursuant to Paragraph (c) of Rule .0202 of this Section.

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