

26 NCAC 03 .0202 SELECTION OF MEDIATOR

- (a) Selection of Certified Mediator by Agreement of Parties. The parties may select a certified mediator by agreement within 21 days of the Chief Administrative Law Judge's order. The petitioner or petitioner's attorney shall file with the Office of Administrative Hearings a Notice of Selection of Mediator by Agreement within 21 days of the Chief Administrative Law Judge's order, however, any party may file the notice. Such notice shall include: the name, address and telephone number of the mediator selected; the rate of compensation of the mediator; the agreement of the parties as to the selection of the mediator and rate of compensation; and that the mediator is certified pursuant to these Rules.
- (b) The presiding Administrative Law Judge shall appoint mediators certified by the Dispute Resolution Commission pursuant to Paragraph (c) of this Rule.
- (c) Appointment of Mediator by the presiding Administrative Law Judge. If the parties cannot agree upon the selection of a mediator, the petitioner or petitioner's attorney shall so notify the presiding Administrative Law Judge and request by motion, on behalf of all parties, that the presiding Administrative Law Judge appoint a mediator. The motion must be filed within 21 days of the date of the Chief Administrative Law Judge's order and shall state that the parties have had a full and frank discussion concerning the selection of a mediator and have been unable to agree. Upon receipt of a motion to appoint a mediator, or failure of the parties to file a Notice of Selection with the presiding Administrative Law Judge within 21 days of the Chief Administrative Law Judge's order, the presiding Administrative Law Judge shall appoint a mediator, certified pursuant to these Rules, who has expressed a willingness to mediate contested cases.
- (d) Mediator Information Directory. To assist the parties in the selection of a mediator by agreement, the Office of Administrative Hearings shall prepare and keep current a list of certified mediators who wish to mediate contested cases. The list shall be kept in the Office of Administrative Hearings and made available to the parties upon request.
- (e) Disqualification of Mediator. Any party may move for an order disqualifying the mediator. For good cause, such order shall be entered. If the mediator is disqualified, a replacement mediator shall be selected by the parties or appointed by the presiding Administrative Law Judge pursuant to this Rule. Nothing in this Paragraph shall preclude mediators from disqualifying themselves.

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.