

SUBCHAPTER 04B - VOLUNTARY ARBITRATION

SECTION .0100 - REQUESTS: AVAILABILITY OF ARBITRATORS: APPOINTMENT

13 NCAC 04B .0101 REQUEST FOR ARBITRATION

Requests for the appointment of an arbitrator shall be made in writing to the commissioner. Each request shall be accompanied by:

- (1) a copy of the collective bargaining agreement, if any, and a copy of any special agreement to arbitrate; and
- (2) either; if the request is made by one party, a signed statement of what that party considers to be the issue(s) or question(s) in dispute, or, if the request is made jointly by the parties;
- (3) a statement signed by both, of what they consider to be the issue(s) or question(s) in dispute; or
- (4) if they fail to agree thereon, separate statements signed by each party of what each considers to be the issue(s) or question(s) in dispute.

*History Note: Authority G.S. 95-36.3; 95-36.6;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

13 NCAC 04B .0102 AVAILABILITY OF ARBITRATORS

The Commissioner of Labor will acknowledge the receipt of each request for the appointment of an arbitrator and will submit to each of the parties the list of available arbitrators serving on the North Carolina Arbitration Panel.

*History Note: Authority G.S. 95-36.3; 95-36.6;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.*

13 NCAC 04B .0103 APPOINTMENT OF ARBITRATORS

- (a) The parties may agree upon an arbitrator from the list submitted, or each may strike no more than two names from said list of five unless the commissioner otherwise specifies.
- (b) Upon receipt of notification of the agreement of the parties upon an arbitrator from the list submitted, the commissioner will appoint said arbitrator. In the event that he is unable to accept the appointment, the list of available arbitrators will be re-submitted to the parties.
- (c) Upon return of the lists from the respective parties, the commissioner will appoint an arbitrator from the undeleted names.
- (d) If one of the parties fails to return his copy of the list to the commissioner within two weeks after the lists were forwarded, the commissioner will so inform the other party. On demand by the latter, the commissioner will then appoint an arbitrator from the undeleted names on the returned list.

*History Note: Authority G.S. 95-36.3; 95-36.6;
Eff. February 1, 1976;
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SECTION .0200 - ARBITRATION HEARING: GENERAL PRINCIPLES: EX-PARTE HEARINGS: TRANSCRIPTS OR RECORDINGS: OATH OF OFFICE

13 NCAC 04B .0201 GENERAL PRINCIPLES

- (a) The arbitrator appointed by the commissioner shall preside at the hearings. The arbitrator shall provide a fair and adequate hearing which assures that both parties have sufficient opportunity to present their respective arguments and evidence and to cross-examine witnesses.

- (b) The arbitrator should conform to the various types of hearing procedures desired by the parties. He may:
- (1) encourage stipulation of fact;
 - (2) question the parties' representatives or witnesses, when necessary or advisable, to obtain additional pertinent information; and
 - (3) request that the parties submit additional information, either at the hearing or by subsequent filing.
- (c) The arbitrator should not intrude into a party's presentation so as to prevent that party from putting on its case fairly and adequately.

History Note: Authority G.S. 95-36.3;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

13 NCAC 04B .0202 EX-PARTE HEARINGS

- (a) In determining whether to conduct an ex-parte hearing, an arbitrator must consider relevant legal, contractual, and other pertinent circumstances.
- (b) An arbitrator must be certain, before proceeding ex-parte, that the party refusing or failing to attend the hearing has been given ample notice of the time, place, and purpose of the hearing and adequate opportunity to register objections.

History Note: Authority G.S. 95-36.3;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

13 NCAC 04B .0203 TRANSCRIPTS OR RECORDINGS

- (a) Mutual agreement of the parties as to use or non-use of a transcript must be respected by the arbitrator.
- (b) If the parties do not agree on a transcript, an arbitrator may permit one party to have a transcript for its own purposes at its own cost. The arbitrator may also make appropriate arrangements under which the other party may have access to a copy if a copy is provided to the arbitrator.

History Note: Authority G.S. 95-36.3;
Eff. February 1, 1976;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

13 NCAC 04B .0204 OATH OF OFFICE

When an oath of office is taken, it should serve as a guide for the arbitrator. When an oath is not required or is waived by the parties, the arbitrator shall nevertheless observe the standards which the oath imposes.

History Note: Authority G.S. 95-36.3;
Eff. February 1, 1976;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

SECTION .0300 - AWARD: PAYMENT: CODE OF RESPONSIBILITY

13 NCAC 04B .0301 AWARD

- (a) The arbitrator will render the arbitration award promptly in writing. The arbitrator will forward copies of the award to each of the parties and to the commissioner, together with the arbitrator's bill for fees and expenses.

(b) When an arbitrator understands, prior to acceptance of appointment, that a bench decision is expected at the conclusion of the hearing or that a concise written award is expected shortly after the hearing, the arbitrator must comply with the understanding unless both parties agree otherwise, or unless:

- (1) Notice of the parties' desire for a bench decision is not given prior to the arbitrator's acceptance of the case, thus making the issuance of such a bench decision discretionary;
- (2) Only one party makes the request and the other objects, in which case the arbitrator should not render a bench decision.

History Note: Authority G.S. 95-36.3;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
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13 NCAC 04B .0302 PAYMENT

The parties shall make prompt payment of the arbitrator's bill directly to the arbitrator.

History Note: Authority G.S. 95-36.5;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2018.

13 NCAC 04B .0303 CODE OF RESPONSIBILITY

The commissioner has adopted the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" (1975) of the American Arbitration Association. Copies of the code may be obtained from the American Arbitration Association, 140 West 51st Street, New York 10020, CustomerService@adr.org, and are available for inspection at the division office.

History Note: Authority G.S. 95-36.3;
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