

**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.*