

**CHAPTER 27. RULES FOR ADMINISTRATIVE SERVICES.**

**Subchapter C. NEGOTIATION AND MEDIATION OF CERTAIN CONTRACT DISPUTES.**

**DIVISION 3. MEDIATION OF CONTRACT DISPUTES.**

**§27.115. Agreement to Mediate.**

- (a) Parties may agree to use mediation as an option to resolve a breach of contract claim at the time they enter into the contract and include a contractual provision to do so. The parties may mediate a breach of contract claim even absent a contractual provision to do so if both parties agree.
- (b) Any agreement to mediate must include consideration of the following factors:
  - (1) The source of the mediator. Potential sources of mediators include governmental officers or employees who are qualified as mediators under Civil Practice and Remedies Code, §154.052, private mediators, the State Office of Administrative Hearings (SOAH), the Center for Public Policy Dispute Resolution at The University of Texas School of Law, an alternative dispute resolution system created under Civil Practice and Remedies Code, Chapter 152, or another state or federal agency or through a pooling agreement with several state agencies. Before naming a mediator source in a contract, the parties must contact the mediator source to be sure that it is willing to serve in that capacity. In selecting a mediator, the parties must use the qualifications set forth in subsection §27.117 of this title (relating to Qualifications and Immunity of the Mediator).
  - (2) The time period for the mediation. The parties must allow enough time in which to make arrangements with the mediator and attending parties to schedule the mediation, to attend and participate in the mediation, and to complete any settlement approval procedures necessary to achieve final settlement. While this time frame can vary according to the needs and schedules of the mediator and parties, it is important that the parties allow adequate time for the process.
  - (3) The location of the mediation, including whether the mediation will be held in-person or through a digital medium.
  - (4) Allocation of costs of the mediator.
  - (5) The identification of each representative who will attend the mediation on behalf of the parties, if possible, by name or position within the commission or contracting entity.
  - (6) The settlement approval process in the event the parties reach agreement at the mediation.