

## SUBCHAPTER 14D - CONDUCT OF THE CONTESTED CASE

### SECTION .0100 - FAILURE TO APPEAR

#### 21 NCAC 14D .0101 PROCEEDING WITHOUT PARTY

Should a party who has been served with notice fail to appear at a scheduled hearing without having previously been granted a continuance, the Board may either proceed with the hearing in the party's absence, or continue the hearing.

*History Note:* Authority G.S. 150B-38(c); 150B-38(h); 150B-40;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; April 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

#### 21 NCAC 14D .0102 ALTERNATIVES OF HEARING OFFICER

*History Note:* Authority G.S. 88-23; 150B-25;  
Eff. February 1, 1976;  
Repealed Eff. April 1, 1988.

#### 21 NCAC 14D .0103 CONTINUANCES

A continuance shall be granted to all parties only upon showing of good cause. In determining whether to grant such motions, the Board shall consider the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina accessible at [https://www.ca4.uscourts.gov/docs/pdfs/north-carolina-scheduling-conflict-guidelines.pdf?sfvrsn=d9baf07\\_0](https://www.ca4.uscourts.gov/docs/pdfs/north-carolina-scheduling-conflict-guidelines.pdf?sfvrsn=d9baf07_0). Motions for a continuance must be in writing and received in the office of the Board no less than 14 calendar days before the hearing date. A motion for a continuance filed less than 14 calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance shall be ruled on by the Board chair or designated presiding officer.

*History Note:* Authority G.S. 150B-38(h); 150B-40;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; April 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

#### 21 NCAC 14D .0104 PETITION TO REOPEN

(a) If a hearing is conducted and a decision is reached in the absence of a party, the party may petition the Board to reopen the case. Petitions will not be granted except when the petitioners show that the reason for failure to appear was unavoidable and that fairness and justice require reopening the case.

(b) All petitions to reopen the case shall be in writing and addressed to the chairman of the Board at their address, and shall contain the following information:

- (1) the name and address of the petitioner,
- (2) a full identification of the hearing which the petitioner is seeking to reopen, and
- (3) a detailed explanation of the reasons for the petitioner's desire to reopen the hearing.

*History Note:* Authority G.S. 150B-38;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; April 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

#### 21 NCAC 14D .0105 CRITERIA FOR REOPENING A CASE

The Board shall make a decision on whether to reopen the petitioner's case based upon the merits of the petition or other pertinent information in the Board's possession. In determining whether to grant such motions, the Board shall consider the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina accessible at [https://www.ca4.uscourts.gov/docs/pdfs/north-carolina-scheduling-conflict-guidelines.pdf?sfvrsn=d9bafef07\\_0](https://www.ca4.uscourts.gov/docs/pdfs/north-carolina-scheduling-conflict-guidelines.pdf?sfvrsn=d9bafef07_0). Motions to reopen must be in writing and received in the office of the Board no less than 14 calendar days before the hearing date. A motion to reopen filed less than 14 calendar days from the date of the hearing shall be denied unless the reason for the motion could not have been ascertained earlier. Motions for continuance shall be ruled on by the Board chair or designated presiding officer. A copy of the decision will be sent to the petitioner and made a part of the permanent record of the contested case.

*History Note:* Authority G.S. 150B-38;  
Eff. February 1, 1976;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

## SECTION .0200 - PRE-HEARING CONFERENCE

<b>21 NCAC 14D .0201</b>	<b>DISCRETION TO HOLD CONFERENCE</b>
<b>21 NCAC 14D .0202</b>	<b>PURPOSES</b>
<b>21 NCAC 14D .0203</b>	<b>NATURE OF CONFERENCE</b>
<b>21 NCAC 14D .0204</b>	<b>NOTICE OF PRE-HEARING CONFERENCE</b>
<b>21 NCAC 14D .0205</b>	<b>SIMPLIFICATION OF ISSUES</b>

*History Note:* Authority G.S. 88-23; 150B-11(1); 150B-23; 150B-31; 150B-33(5);  
Eff. February 1, 1976;  
Repealed Eff. April 1, 1988.

## SECTION .0300 - SUBPOENAS

### 21 NCAC 14D .0301 AUTHORITY TO ISSUE

*History Note:* Authority G.S. 88-23; 150B-27;  
Eff. February 1, 1976;  
Repealed Eff. April 1, 1988.

### 21 NCAC 14D .0302 ISSUANCE

Subpoenas requiring the attendance of witnesses or to produce documents, evidence or things must be issued by the chairman of the Board or their agent within three business days of the receipt of a request from a party to a contested case.

*History Note:* Authority G.S. 150B-38(h); 150B-39;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; August 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

### 21 NCAC 14D .0303 SERVICE OF SUBPOENAS

- (a) Subpoenas shall be served in any manner provided by G.S.1A-1, Rule 45.
- (b) Subpoenas shall be issued in duplicate with a "Return of Service" form attached to each copy. The person serving the subpoena shall fill out the "Return of Service" form for each copy and upon service return one copy of the subpoena with the attached "Return of Service" form completed to the Board.

*History Note:* Authority G.S. 150B-27;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; April 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

#### **21 NCAC 14D .0304 UNREASONABLE SUBPOENAS**

*History Note:* Authority G.S. 88-23; 150B-27;  
Eff. February 1, 1976;  
Repealed Eff. April 1, 1988.

#### **21 NCAC 14D .0305 OBJECTIONS**

Any person receiving a subpoena may object by filing a written objection with the Board.

*History Note:* Authority G.S. 150B-38(h); 150B-39(c);  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989; April 1, 1988;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

#### **21 NCAC 14D .0306 STATEMENT OF REASONS**

An objection to a subpoena shall include a complete statement of reasons why the subpoena should be quashed. These reasons may include lack of relevancy of the evidence requested, lack of particularity in the description of the evidence sought, or any other legal reason for declaring the subpoena invalid, such as that the evidence is privileged or that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought or would produce some other undue hardship to the party.

*History Note:* Authority G.S. 150B-38(h); 150B-39(c);  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

#### **21 NCAC 14D .0307 SERVICE OF OBJECTIONS**

Any objections to a subpoena filed with the Board shall be simultaneously served on the party requesting the subpoena.

*History Note:* Authority G.S. 150B-38(h); 150B-39(c);  
Eff. February 1, 1976;  
Amended Eff. January 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;  
Readopted Eff. April 1, 2026.

#### **21 NCAC 14D .0308 RESPONSES TO OBJECTIONS**

The party requesting the subpoena, within 10 days of service of the subpoena may file a written response to the objection. The response shall be served in like manner as the objection.

*History Note:* Authority G.S. 150B-38(h); 150B-39(c);  
Eff. February 1, 1976;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Readopted Eff. April 1, 2026.*

**21 NCAC 14D .0309 HEARINGS ON SUBPOENA CHALLENGES**

After receipt of the objection and a response thereto, if any, the hearing board panel or the presiding officer shall issue a notice of hearing to the party who requested the subpoena and the party challenging it, and may notify all other parties of a hearing before the Board to be scheduled within one year at which hearing evidence and testimony may be presented by all parties limited to the questions raised by the subpoena, the objection, and subsequent responses thereto.

*History Note: Authority G.S. 150B-25; 150B-39;*  
*Eff. February 1, 1976;*  
*Amended Eff. April 1, 1988;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Readopted April 1, 2026.*

**21 NCAC 14D .0310 RULINGS**

Within 30 days after the close of any hearing on an objection to a subpoena, the Board will issue a written decision. Based on the evidence presented and the record, the Board may revoke or modify the subpoena for good cause, based on such issues as oppressiveness, relevancy, and other appropriate factors, or may overrule the objection to the subpoena. A written copy of the decision will be served on the person objecting to the subpoena and all parties to the hearing.

*History Note: Authority G.S. 150B-38(h); 150B-39;*  
*Eff. February 1, 1976;*  
*Amended Eff. January 1, 1989; April 1, 1988;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;*  
*Readopted Eff. April 1, 2026.*

**SECTION .0400 - DISCOVERY**

**21 NCAC 14D .0401 DISCOVERY OF INFORMATION**  
**21 NCAC 14D .0402 FAILURE TO SUBMIT TO DISCOVERY**

*History Note: Authority G.S. 88-23; 150B-28;*  
*Eff. February 1, 1976;*  
*Repealed Eff. April 1, 1988.*

**SECTION .0500 - DEPOSITIONS**

**21 NCAC 14D .0501 USE OF DEPOSITIONS**  
**21 NCAC 14D .0502 PROCEDURE FOR TAKING A DEPOSITION**  
**21 NCAC 14D .0503 RULINGS ON DEPOSITIONS**

*History Note: Authority G.S. 88-23; 150B-28;*  
*Eff. February 1, 1976;*  
*Repealed Eff. April 1, 1988.*