

04 NCAC 20C .0103 PROCEDURES FOR DIVISION REVIEW

- (a) If, regarding a complaint against a subrecipient, agent of a subrecipient or private industry council, a complainant does not receive the respondent's decision within 60 days of the complainant's filing or receives a decision unsatisfactory to the complainant, the complainant may request division review. Such requests for division review may be made to the Division only upon a showing of exhaustion of administrative remedies provided by the respondent.
- (b) Requests must be filed within ten days of receipt of the unsatisfactory decision or ten days from the date on which the complainant should have received a decision.
- (c) A request for division review must be specific and shall raise all issues of fact and law upon which the appeal is based. Review will not be available as to matters not raised in the proceeding review of which is requested, nor as to matters not raised in the request for review. The request must be in writing signed by the petitioner. If the petitioner is an entity, the request must be signed by the authorized signatory for the petitioner. The Director may require a resolution of the governing board of the petitioner authorizing the request. A copy of the request must be mailed certified, return receipt requested to the respondent.
- (d) Review shall be by the Director, who may provide for oral hearing in his discretion. The Director shall determine if the respondent's procedures provided due process, if the respondent correctly followed its procedures and if the determination is clearly erroneous or is not based on fact. A written decision shall be rendered by the Director within 30 days of receipt of the request for division review. The Director's decision is final and shall so state.
- (e) If the Director fails to render a decision as required in Paragraph (d), the complainant may they request from the Secretary of USDOL a determination whether reasonable cause exists to believe that the Act or its regulations have been violated.

*History Note: Authority G.S. 143B-430(b); 150B; 20 C.F.R. 629.52; 20 C.F.R. 629.58;
Eff. July 1, 1980;
Amended Eff. August 1, 1988; February 1, 1986; October 1, 1984; August 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27,
2019.*