

10A NCAC 05E .0102 DEFINITIONS

Unless otherwise redefined by this Section, the definitions contained in G.S. 150B-2 are incorporated herein by reference pursuant to G.S. 150B-14(c). The following definitions shall apply:

- (1) "Agency" means an Area Agency on Aging as defined in the Older Americans Act, 42 U.S.C. Sec. 3001 et. seq.
- (2) "Division" means the North Carolina Division of Aging of the North Carolina Department of Human Resources.
- (3) "File or Filing" means personal delivery, delivery by certified mail, or delivery by licensed overnight express mail of a document or paper to the current acting Assistant Secretary of the North Carolina Division of Aging at 693 Palmer Drive, 2101 Mail Service Center, Raleigh, NC 27699-2101. A document or paper is deemed filed as of the date it is delivered to the Assistant Secretary, or when properly addressed, officially postmarked and accepted for delivery by the United States Postal Service or other licensed express mail service, whichever is earlier. Filings addressed to a person other than the Assistant Secretary, or which fail to be filed within the time periods established by the respective Area Agency, by these Rules, or by the hearing officer, or which otherwise fail to be filed in conformity with these Rules (i.e., no certificate of service) may be considered as improper filings and denied, taken as an admission, or dismissed accordingly. Except for excusable clerical error, good cause and a showing of irreparable harm, an improper filing shall not extend the deadline for filing of documents. All filings shall be submitted on 8 1/2" by 11" paper.
- (4) "Hearing" means an administrative proceeding, requested by written petition, whereby a person aggrieved is given an opportunity to be heard regarding his or her rights, duties or privileges. All hearings shall be electronically recorded by the hearing officer. Costs of certified transcripts or electronic reproductions shall be borne by the parties requesting same, and shall be paid prior to delivery of same to the parties. Costs shall be determined by the Chief DoA Fiscal Officer at the time of the request.
- (5) "Hearing Officer" means a person designated to preside over a decision review hearing. In the absence of contrary designation, the Division attorney shall be the Hearing Officer for all such hearings.
- (6) "Respondent" means an agency, or in case of discrimination, an agency or service provider, whom a petition has been filed against and who has been served with a copy of same.
- (7) "Serve or Service" means personal delivery, delivery by first class or certified United States Postal Service mail or delivery by licensed overnight express mail, postage prepaid and addressed to the party at his or her last known address. Service by mail or licensed overnight express mail is complete upon placing the item to be served, enclosed in a wrapper addressed to the person to be served, in an official depository of the United States Postal Service or upon delivery, postage prepaid and wrapped in a wrapper addressed to the person to be served, to an agent of the overnight express mail service. For purposes of service on the Division, the Assistant Secretary of the Division shall be the designated agent.
- (8) "Service Provider" means a contractor or subgrantee receiving federal funds to provide service under the Older Americans Act, 42 U.S.C. Sec. 3001 et. seq.

History Note: Authority G.S. 132-6; 143B-10; 143B-138; 143B-181.1; 42 U.S.C., Sec. 3027(a)(5); 45 C.F.R., Part 1321; 45 C.F.R., Part 74, Appendix G; Eff. October 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 23, 2015.