

10A NCAC 22H .0304 HEARING PROCEDURES

- (a) Upon receipt of a Hearing Request Form to appeal a PASRR determination, the Hearing Unit shall notify the Division of MH/DD/SAS of the request.
- (b) The parties shall be notified by certified mail of the date, time, and place of the hearing. Hearings shall be conducted by telephone, unless an in-person hearing is requested. If the hearing is to be conducted in person, it shall be held in Raleigh, North Carolina.
- (c) The Division of MH/DD/SAS shall mail all documents and records to be used at the hearing to the person requesting the hearing by certified mail and forward identical information to the Hearing Unit, to be received by both the requestor and the Hearing Unit at least five business days prior to the hearing.
- (d) The hearing officer may grant continuances for good cause. For purposes of this Rule, circumstances beyond the control of the party constitute good cause.
- (e) The hearing officer shall dismiss a request for a hearing if the evaluated individual or legal representative fails to appear at a scheduled hearing, unless good cause is shown.
- (f) The hearing officer shall proceed to conduct a scheduled hearing if the Division of MH/DD/SAS fails to appear at a scheduled hearing.
- (g) The Rules of Civil Procedure as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes shall not apply in any hearings held by the Division Hearing Officer. Division hearings are not contested case hearings within the meaning of G.S. 150B and shall not be governed by the provisions of that chapter unless otherwise stated in these Rules. Parties may be represented by counsel or other representative at the hearing.

History Note: Authority G.S. 108A-25(b); 42 U.S.C.S. 1395i-3(e)(3), (f)(3); 42 C.F.R. 431, Subpart E; 42 C.F.R. Part 483, Subpart E;
Eff. October 1, 1994;
Readopted Eff. July 1, 2018.