

10A NCAC 63F .0608 ADMINISTRATIVE REVIEW AND MEDIATION

(a) Administrative Review

- (1) Within 15 days of the original request for an administrative review by the applicant or consumer, the area rehabilitation supervisor or his designee shall hold the administrative review with the applicant or consumer, the individual's parent or guardian if the individual is a minor, or representative if one has been designated, the CAP Director, if participating, and other individuals deemed necessary by the area rehabilitation supervisor or his designee.
- (2) Within five working days of the administrative review, the area rehabilitation supervisor or his designee shall make a decision and notify the applicant or consumer and others using the following procedures:
 - (A) compile a written report of the administrative review outlining the purposes of the administrative review, the participants, the decision that was reached, and the rationale for the decision;
 - (B) send the written report containing the decision to the applicant or consumer by certified mail with return receipt requested, with a copy being placed in the individual's official case record, and copies being forwarded to the Division Director and the CAP Director; and
 - (C) provide instructions to the applicant or consumer of steps that may be taken in response to the decision and the deadline for the responses. A form indicating agreement with the decision and requesting that the hearing be cancelled shall be included for the applicant's or consumer's signature if the individual agrees with the decision.

(b) Mediation

- (1) The qualified and impartial mediator shall conduct the mediation session with the parties and their representatives. All mediation discussions are confidential and the content may not be used as evidence in subsequent impartial due process hearings or civil proceedings.
- (2) The Division shall bear the costs of mediation.
- (3) At any point in the mediation process, either party or the mediator may elect to terminate the mediation process. Should this occur, resolution through an impartial due process hearing shall continue unless cancelled by the applicant or consumer.
- (4) If an agreement is reached during the mediation session, a written mediation agreement must be developed by the parties with the assistance of the mediator. Both parties must sign it. It must include a clear statement from the consumer that he or she is satisfied with the agreement and that they request cancellation of the impartial due process hearing.

History Note: Authority G.S. 143B-157; 150B-1(e)(5) 150B-2; 150B-23; 34 C.F.R. 361.57; Eff. December 1, 1990; Temporary Amendment Eff. August 1, 2001; Amended Eff. August 1, 2002; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 23, 2015.