

13 NCAC 12 .0604 ADMINISTRATIVE REMEDIES

- (a) For purposes of 95-25.22(g), "exhausting administrative remedies" means that the Commissioner shall:
- (1) Investigate the alleged violations of the Act and afford the employer the opportunity to present evidence in its defense during such investigation; and
 - (2) Notify the employer and complainant(s), after completion of the investigation, of:
 - (A) The violations found and amounts found due; and
 - (B) The employer's right to be heard further in the matter; and
 - (3) Hear any additional evidence presented by the employer exercising its right to be heard further as set forth in Paragraphs (b) and (c) of this Rule; and
 - (4) Notify the employer of any pending action.
- (b) Employers wishing to exercise the right to be heard further shall:
- (1) Notify the Commissioner, within 14 days from the date the Commissioner notified the employer of the findings. The 14 days begins on the date the Commissioner mailed notification to the employer pursuant to Subparagraph (a)(2) of this Rule. The employer may notify the Commissioner either orally or in writing.
 - (2) Present additional evidence to the Commissioner on disputed issues within 14 days from the date the employer notified the Commissioner of its intent to exercise the right to be heard further.
- (c) The employer shall waive its right to be heard further if it:
- (1) fails to notify the Commissioner in accordance with Subparagraph (b)(1) of this Rule; or
 - (2) fails to submit evidence in accordance with Subparagraph (b)(2) of this Rule; or
 - (3) agrees to remedy the violations found and to pay in full the amounts found due.
- (d) If the employer presents additional evidence in accordance with Paragraph (b) of this Rule, the Commissioner shall notify the employer and complainant(s) of any modifications which are made to the Commissioner's findings.
- (e) For purposes of G.S. 95-25.22(g) and this Rule, the Commissioner shall make all notifications to the last known addresses of the employer and complainants.

*History Note: Authority G.S. 95-25.16; 95-25.17; 95-25.19; 95-25.22;
Eff. November 1, 1980;
Amended Eff. April 1, 1999;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.*