

#### **18 NCAC 06C .0104 SETTLEMENT**

- (a) The Division may negotiate settlements with a respondent or counsel for a respondent.
- (b) The Division may negotiate and submit settlements for approval prior to the issuance of a Notice of Hearing or an Administrative Petition. Settlements shall be presented to the Administrator as soon as practicable before a scheduled hearing date. The Division shall prepare the final written settlement proposal in all cases.
- (c) The Administrator shall consider a final written settlement proposal only if the final written settlement proposal:
  - (1) is signed by the respondent and counsel, if represented by counsel;
  - (2) includes the respondent's waiver of all further procedural and substantive rights, including hearings, issuance of notice of hearing, service, judicial review and collateral attacks or other proceedings contesting the terms of the settlement;
  - (3) contains the respondent's agreement that rejection of the final written settlement proposal shall not disqualify the Administrator from acting as the trier of fact or final agency decision maker; and
  - (4) is within the authority of the Administrator.
- (d) The Administrator may, with the written consent of respondent or counsel for respondent, consider a final written settlement proposal *ex parte*.
- (e) Parties are not bound by matters contained in a settlement rejected by the Administrator.
- (f) Rejection of a proposed settlement alone does not constitute grounds for continuance of a previously scheduled hearing but may be considered in deciding whether the hearing should be continued.
- (g) A settlement approved by the Administrator is the Final Order as to any respondent who has signed the settlement. The Division shall serve the Final Order upon the respondents and their counsel.

*History Note:* Authority G.S. 78A-18; 78A-29; 78A-30; 78A-39; 78A-46; 78A-47; 78A-49; 78C-19; 78C-27; 78C-28; 78C-30; 78C-90; 78C-91; 78D-4; 78D-21; 78D-22; 78D-25; 78D-26; 78D-27; 78D-30; 105-163.013; 150B-38(h); 150B-40;  
*Eff. April 1, 2009;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*