

21 NCAC 04B .0104 ADMINISTRATIVE LAW PROCEDURES

(a) Contested Cases. Administrative hearings in contested cases conducted by the Board or an administrative law judge as authorized in G.S. 150B-40(e) shall be governed by:

- (1) Article 3A of G.S. 150B;
- (2) the Rules of Civil Procedure as contained in G.S. 1A-1; and
- (3) 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.

The General Rules of Practice for the Superior and District Courts are hereby incorporated by reference for contested cases for which the Board has authority to adopt rules under G.S. 150B-38(h). These incorporations shall include any later amendments and editions of the incorporated matter.

(b) Declaratory Rulings. Petitions for declaratory rulings shall be submitted to the Board and shall contain:

- (1) the petitioner's name, address, and telephone number;
- (2) the statute, rule, or order to which the request relates;
- (3) all facts and information that the petitioner considers relevant to the request;
- (4) a statement of the manner in which petitioner has been aggrieved; and
- (5) a statement as to whether the petitioner desires to present oral argument, not to exceed 30 minutes, to the Board prior to its decision.

The Board shall refuse to issue a declaratory ruling when:

- (A) the petition does not comply with this Rule;
- (B) the Board has issued a declaratory ruling on the same facts;
- (C) the Board has issued a final agency decision in a contested case on the same facts;
- (D) the facts underlying the request for a declaratory ruling were considered at the time of the adoption of a rule or order in question; or
- (E) the subject matter of the request is involved in pending litigation.

(c) Petitions For Rule-Making. In addition to the procedures set out in G.S. 150B-20, petitions for rule-making shall be submitted to the Board and shall contain:

- (1) the petitioner's name, address, and telephone number;
- (2) a draft of the proposed rule adoption or amendment; and
- (3) the effect of the proposal on existing rules.

*History Note: Authority G.S. 85B-3.1; 150B-4; 150B-20; 150B-38(h);
Eff. November 1, 1984;
Amended Eff. July 1, 1995; January 1, 1995; April 1, 1989;
Readopted Eff. July 1, 2020.*