

21 NCAC 54 .2308 DISQUALIFICATION OF BOARD MEMBER

- (a) If for any reason a Board member determines that personal bias or other factors render him unable to conduct or participate in the hearing and perform all duties in an impartial manner, he shall submit, in writing, to the Board, his disqualification and the reasons.
- (b) If for any reason any party in a contested case believes that a Board member is personally biased or otherwise unable to conduct or participate in the hearing and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board.
- (c) The affidavit must state all facts the party deems relevant to the disqualification of a Board member.
- (d) An affidavit seeking disqualification shall be considered timely if filed at least 10 days before commencement of the hearing or, if filed within 10 days of the hearing, as soon as the party becomes aware of the facts that give rise to the belief that Board member may be disqualified.
- (e) Procedure for Determining Disqualification.
 - (1) The chairperson of the Board may appoint a member of the Board to investigate the allegations of the affidavit and report his findings and recommendations to the Board.
 - (2) The Board, with the advice of such assistants as it deems appropriate, shall decide whether to disqualify the challenged individual.
 - (3) The person whose disqualification is to be determined will not participate in the decision but will have the right to furnish information to the Board.
 - (4) A record of proceedings and the reasons for decisions reached will be maintained as part of the contested case.
- (f) Disqualification or withdrawal of a Board member because of personal bias or otherwise will not require the hearing to be postponed unless a quorum is not available or the Board member disqualified is the presiding officer and assignment of a new presiding officer would cause substantial prejudice to any party.

*History Note: Authority G.S. 90-270.143; 150B-40(b);
Eff. August 1, 1984;
Amended Eff. March 1, 1989; January 1, 1986;
Readopted Eff. April 1, 2020.*