

**SECTION .0900 - ADMINISTRATIVE HEARINGS: DECISIONS:RELATED RIGHTS AND PROCEDURES**

**21 NCAC 64 .0901            FAILURE TO APPEAR**

- (a) Should a party fail to appear at a scheduled hearing, the Board or its designated administrative law judge may proceed with the hearing in the party's absence, order a continuance or adjournment, or dismiss the proceeding.
- (b) Continuances and adjournments will be granted only in compelling circumstances.
- (c) If a hearing is conducted or a decision is reached in an administrative hearing in the absence of a party, that party may file a written petition with the Board for a reopening of the case.
- (d) Petitions for reopening of a case will not be granted except when the petitioner can show to the satisfaction of the administrative law judge that the reasons for the failure to appear were justifiable and unavoidable and that fairness requires reopening the case. Such petitions, however, will have no effect on the running of the 30-day period for seeking judicial review which commences with service of the final decision of the Board.
- (e) The decision of the Board will be in writing and a copy will be sent to all parties and made a part of the record of the hearing.

*History Note:        Authority G.S. 150B-38; 150B-40(b); 90-304(a)(3);  
                          Eff. February 15, 1977;  
                          Amended Eff. May 1, 1989;  
                          Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,  
                          2016.*