

21 NCAC 64 .0903 SUBPOENAS

(a) Subpoenas requiring the attendance of witnesses, or those to produce documents, evidence, or records shall be issued by the Board or the presiding officer within four business days of the receipt of a request from a party to the case for such subpoenas unless there is a motion to quash.

(b) Subpoenas shall be issued in duplicate, with a "Return of Service" form attached to each copy. The individual serving the subpoena shall fill out the "Return of Service" form for each copy and return one copy of the subpoena, with the attached "Return of Service" form completed, to the Board.

(c) Subpoenas shall contain:

- (1) the caption of the case;
- (2) the name and address of the individual or agency subpoenaed;
- (3) the date, hour and location of the hearing in which the witness is commanded to appear;
- (4) a particularized description of the books, papers, records or other objects the witness is directed to bring with him to the hearing, if any;
- (5) the identity of the party on whose application the subpoena issued;
- (6) the date of issue;
- (7) the manuscript signature of the Board or other issuing officer;
- (8) a return of service.

The return of service form, as filled out, shows the name and capacity of the individual serving the subpoena, the date on which the service was made, the individual or agency on whom service was made, the location and manner in which service was made, and the manuscript signature of the individual making service.

(d) The Board or the presiding officer, upon motion by a party or witness in a proceeding, may quash a subpoena, as set out in G.S. 150B-39.

(e) Any motion to quash a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the motion with the Board.

(f) The party who requested the subpoena, in such time as may be granted by the Board or the presiding officer may file a written response to the motion. The written response shall be served by the requesting party on the moving party or witness simultaneously with filing the response with the Board.

(g) After receipt of the motion and response thereto, if any, the Board or its presiding officer shall issue a notice to the party who requested the subpoena and the party who is challenging it, and may notify all other parties, of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response, if any.

(h) As soon as the Board or the presiding officer determines whether the subpoena should be quashed, the Board or the presiding officer shall issue a written decision quashing or refusing to quash the subpoena. The decision shall be issued to all parties to the proceeding and any moving witness, and the decision shall be made a part of the record of the proceeding.

*History Note: Authority G.S. 90-304(a)(3); 150B-38; 150B-39; 150B-40;
Eff. February 15, 1977;
Amended Eff. March 1, 2013; May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*