

26 NCAC 03 .0120 RIGHTS AND RESPONSIBILITIES OF PARTIES

- (a) A party shall have all evidence to be presented, both oral and written, available on the date for hearing. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the administrative law judge or agreed upon at a prehearing conference.
- (b) The administrative law judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the administrative law judge shall simultaneously send a copy to all other parties.
- (c) All parties have the continuing responsibility to notify the Office of Administrative Hearings of their current address and telephone number.
- (d) A party may represent himself or herself or be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.
- (e) With prior notice to the administrative law judge, any person may offer testimony or other evidence relevant to the case. Any nonparty offering testimony or other evidence may be questioned by parties to the case and by the administrative law judge.
- (f) Prior to issuing a decision, the administrative law judge may order any party to submit proposed findings of fact and written arguments.
- (g) The Administrative Law Judge may allow remote participation via audio or video conference by participant(s) subject to available services at the hearing location. Requests for remote participation shall be made at least seven days in advance and are subject to equipment, staff, and scheduling availability.
- (h) The administrative law judge shall not proceed to consideration of dispositive motions or a hearing on the merits in a contested case if an unrepresented party has notified the administrative law judge and the opposing party that the unrepresented party is seeking pro bono or reduced fee legal assistance, unless the administrative law judge has determined that acquisition of such legal assistance by the unrepresented party is improbable based on the circumstances, such as the failure of the unrepresented party to procure legal assistance after multiple attempts.

*History Note: Authority G.S. 7A-751(a); 150B-25; 150B-33; 150B-34;
Eff. August 1, 1986;
Amended Eff. October 1, 1991; April 1, 1990; November 1, 1987;
Recodified from Rule .0119 Eff. August 1, 2000;
Amended Eff. May 1, 2009; April 1, 2001;
Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Augustus B. Elkins, II declared Rule 26 NCAC 03 .0120(d) void as applied in Abundant Life Child Care Center, Tiffany D. Monroe v. Division of Child Development, June Locklear, Brenda Faircloth (08 DHR 2954);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;
Amended Eff. April 1, 2017.*