

**SECTION .1000 - RULES GOVERNING REINSTATEMENT HEARINGS BEFORE THE
ADMINISTRATIVE COMMITTEE**

27 NCAC 01D .1001 REINSTATEMENT HEARINGS

(a) Notice: Time and Place of Hearing:

- (1) Time and Place of Hearing. The chairperson of the Administrative Committee shall fix the time and place of the hearing within 30 days after the member's request for hearing is filed with the secretary. The hearing shall be held as soon as practicable after the request for hearing is filed but in no event more than 90 days after such request is filed unless otherwise agreed by the member and the chairperson of the committee.
- (2) Notice to Member. The notice of the hearing shall include the date, time and place of the hearing and shall be served upon the member at least 10 days before the hearing date.

(b) Hearing Panel

- (1) Appointment. The chairperson of the committee shall appoint a hearing panel consisting of three members of the committee to consider the petition and make a recommendation to the council.
- (2) Presiding Panel Member. The chairperson shall appoint one of the three members of the panel to serve as the presiding member. The presiding member shall rule on any question of procedure that may arise in the hearing; preside at the deliberations of the panel; sign the written determination of the panel; and report the panel's determination to the council.
- (3) Quorum. A majority of the panel members is necessary to decide the matter.
- (4) Panel Recommendation. Following the hearing on a contested reinstatement petition, the panel will make a written recommendation to the council on behalf of the committee regarding whether the member's license should be reinstated. The recommendation shall include appropriate findings of fact and conclusions of law.

(c) Burden of Proof:

- (1) Reinstatement from Inactive Status. The burden of proof shall be upon the member to show by clear, cogent and convincing evidence that he or she has satisfied the requirements for reinstatement as set forth in 27 NCAC 01D .0902(c) of this Subchapter.
- (2) Reinstatement from Suspension for Nonpayment of Membership Fees, Late Fee, Client Security Fund Assessment, District Bar Membership Fees, or Assessed Costs. The burden of proof shall be upon the member to show by clear, cogent and convincing evidence that he or she has satisfied the requirements for reinstatement as set forth in 27 NCAC 01D .0904(c) of this Subchapter.
- (3) Reinstatement from Suspension for Failure to Comply with the Rules Governing the Administration of the Continuing Legal Education Program. The burden of proof shall be upon the member to show by clear, cogent and convincing evidence that he or she has:
 - (A) satisfied the requirements for reinstatement as set forth in 27 NCAC 01D .0904(c) of this Subchapter;
 - (B) cured any continuing legal education deficiency for which the member was suspended; and
 - (C) paid the reinstatement fee required by 27 NCAC 01D .1512 and .1609(a) of this Subchapter.

(d) Conduct of Hearing:

- (1) Member's Rights. The member shall have these rights at the hearing:
 - (A) to appear personally and be heard;
 - (B) to be represented by counsel;
 - (C) to call and examine witnesses;
 - (D) to offer exhibits; and
 - (E) to cross-examine witnesses.
- (2) State Bar Appears Through Counsel. The counsel shall appear at the hearing on behalf of the State Bar and shall have the right:
 - (A) to be heard;
 - (B) to call and examine witnesses;
 - (C) to offer exhibits; and
 - (D) to cross-examine witnesses.
- (3) Rules of Procedure and Evidence. The hearing will be conducted in accordance with the North Carolina Rules of Civil Procedure for nonjury trials insofar as practicable and the Rules of

Evidence applicable in superior court, unless otherwise provided by this subchapter or the parties agree to other rules.

- (4) Report of Hearing; Costs. The hearing shall be reported by a certified court reporter. The member shall pay the costs associated with obtaining the court reporter's services for the hearing. The member shall pay the costs of the transcript and shall arrange for the preparation of the transcript with the court reporter. The member shall be taxed with all other costs of the hearing, but such costs shall not include any compensation to the members of the hearing panel.

(e) Hearing Panel Recommendation. The written recommendation of the hearing panel shall be served upon the member within seven days of the date of the hearing.

History Note: Authority G.S. 84-23;
Adopted Eff. March 7, 1996;
Amended Eff. February 3, 2000; March 5, 1998.