

SECTION .0800 – RULES OF THE COMMISSION

11 NCAC 23A .0801 WAIVER OF RULES

In the interests of justice or to promote judicial economy, the Commission may, except as otherwise provided by the rules in this Subchapter, waive or vary the requirements or provisions of any of the rules in this Subchapter in a case pending before the Commission upon request of a party or upon its own initiative only if the employee is not represented by counsel. Notwithstanding oral requests made during a hearing before the Commission, all requests shall be submitted in writing and served upon all opposing parties contemporaneously. By order of the Commission, oral requests shall be submitted in writing within five days of the request. Responses to requests considered pursuant to this Rule may be submitted in accordance with Rule .0609 of this Subchapter within five days of service of the original request. Citation to this Rule or use of the term "waiver" is not required for requests considered pursuant to this Rule. Factors the Commission shall use in determining whether to grant the waiver are:

- (1) the necessity of a waiver;
- (2) the party's responsibility for the conditions creating the need for a waiver;
- (3) the party's prior requests for a waiver;
- (4) the precedential value of such a waiver;
- (5) notice to and opposition by the opposing parties; and
- (6) the harm to the party if the waiver is not granted.

History Note: Authority G.S. 97-80(a);
Eff. January 1, 1990;
Amended Eff. November 1, 2014;
Recodified from 04 NCAC 10A .0801 Eff. June 1, 2018;
Amended Eff. January 1, 2019.