13 NCAC 07A .0714 HEARING OFFICERS: POWERS AND DUTIES

(a) Powers. A hearing officer designated by the Commissioner to preside over a hearing shall have all powers necessary or appropriate to conduct a fair, full, and impartial hearing, including the following:

(1) to administer oaths and affirmations;
(2) to rule upon offers of proof and receive relevant evidence;
(3) to provide for discovery and to determine its scope;
(4) to regulate the course of the hearing and the conduct of the parties and their counsel therein;
(5) to consider and rule upon procedural requests;
(6) to hold conferences for the settlement or simplification of the issues by consent of the parties;
(7) to make, or to cause to be made, an inspection of the employment or place of employment involved;
(8) to make decisions in accordance with the Act, and this part; and
(9) to take any other appropriate action authorized by the Act, this part or the Commissioner.

(b) Private Consultation. Except to the extent required for the disposition of ex parte matters, a hearing officer may not consult a party on any fact at issue, unless upon notice and opportunity for all parties to participate.

(c) Disqualification

(1) When a hearing officer deems himself disqualified to preside over a particular hearing, he shall withdraw therefrom by notice on the record directed to the Commissioner of Labor.
(2) Any party who deems a hearing officer for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the Commissioner of the Department of Labor a motion to disqualify and remove the hearing officer, such motion to be supported by affidavits setting forth the alleged grounds for disqualifications. The Commissioner shall rule upon the motion.

(d) Contumacious Conduct; Failure or Refusal to Appear or Obey the Rulings of a Presiding Hearing Officer

(1) Contumacious conduct at any hearing before the hearing officer shall be grounds for exclusion from the hearing.
(2) If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing officer may make such orders with regard to the refusal as are just and appropriate including an order denying the application of an applicant or regulating the contents of the record of the hearing.

(e) Referral to North Carolina Rules of Civil Procedure. On any procedural question not regulated by this part of the Act, a hearing officer shall be guided to the extent practicable by any pertinent provisions of the North Carolina Rules of Civil Procedure.

History Note: *Authority G.S. 95-132;*
Eff. February 1, 1976;
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Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.