

SUBCHAPTER 06C – CONTESTED CASES

SECTION .0100 – CONTESTED CASES

21 NCAC 06C .0101 ADMINISTRATIVE HEARINGS

Any person whose rights, duties, or privileges are affected by official actions of the Board shall be entitled to a hearing pursuant to G.S. 150B-38.

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0102 HEARINGS

History Note: Authority G.S. 86A-25; 150A-2; 150A-23;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

SECTION .0200 – REQUEST FOR A HEARING

21 NCAC 06C .0201 REQUEST

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. July 1, 2016.

21 NCAC 06C .0202 INFORMAL RESOLUTION ENCOURAGED 21 NCAC 06C .0203 REQUEST AFTER INFORMAL EFFORTS

History Note: Authority G.S. 150B-22; 150B-38
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. June 1, 2008; May 1, 1989;
Repealed Eff. October 1, 2016.

21 NCAC 06C .0204 CONTENTS OF REQUEST

A written request for an administrative hearing shall contain the following information:

- (1) the name and address of petitioner;
- (2) a statement of the Board action being challenged;
- (3) a statement of the way in which the petitioner has been aggrieved; and
- (4) a demand for a hearing.

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0205 ACKNOWLEDGEMENT

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;

Amended Eff. June 1, 2008; May 1, 1989;
Repealed Eff. July 1, 2016.

SECTION .0300 - THE GRANTING OF HEARING REQUESTS

21 NCAC 06C .0301 GRANTING A HEARING
21 NCAC 06C .0302 CRITERIA
21 NCAC 06C .0303 ISSUANCE
21 NCAC 06C .0304 APPROVAL OF REQUEST

History Note: Authority G.S. 86A-25; 150A-2; 150A-11(1); 150A-23;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

SECTION .0400 - WAIVER

21 NCAC 06C .0401 FAILURE TO NOTIFY
21 NCAC 06C .0402 FAILURE TO APPEAR

History Note: Authority G.S. 86A-25; 150A-11(1); 150A-25;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

SECTION .0500 - NOTICE

21 NCAC 06C .0501 REASONABLE NOTICE

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. August 1, 2016.

21 NCAC 06C .0502 NOTICE AND HEARING

In determining periods between notice and hearing, the Chairman shall consider the following factors:

- (1) the complexity of the issues involved;
- (2) the probable length of the presentations at the hearing;
- (3) the number of parties;
- (4) the probable success of notifying all the parties without resorting to publication; and
- (5) the time and place of regularly scheduled meetings of the Board.

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0503 ADDITIONAL INFORMATION ON NOTICES AND HEARINGS
21 NCAC 06C .0504 WRITTEN ANSWERS TO NOTICE

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;

Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. July 1, 2016.

SECTION .0600 – WHO SHALL HEAR CONTESTED CASES

21 NCAC 06C .0601 WHO HEARS CONTESTED CASES

History Note: Authority G.S. 150B-40;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. July 1, 2016.

21 NCAC 06C .0602 APPOINTMENT

History Note: Authority G.S. 86A-25; 150A-32;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

SECTION .0700 – PLACE OF HEARING

21 NCAC 06C .0701 LOCATION

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. July 1, 2016.

21 NCAC 06C .0702 ALTERNATIVE LOCATIONS

History Note: Authority G.S. 86A-25; 150A-24;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

SECTION .0800 - INTERVENTION

21 NCAC 06C .0801 REQUIREMENTS FOR INTERVENTION

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. July 1, 2016.

- 21 NCAC 06C .0802 PERMISSIVE INTERVENTION**
- 21 NCAC 06C .0803 DISCRETIONARY INTERVENTION**
- 21 NCAC 06C .0804 ADVISABILITY**
- 21 NCAC 06C .0805 WRITTEN PETITION**
- 21 NCAC 06C .0806 PETITION FOR INTERVENTION**

History Note: Authority G.S. 86A-25; 150A-23;
Eff. February 1, 1976;

Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06C .0807 ALLOWANCE

If the Board decides to allow intervention, notification of that decision shall be issued to all parties, including the petitioner. In cases of permissive intervention, the notification shall include a statement of the limitations, if any, of time, subject matter, evidence, or any other matters deemed necessary by the Board that are imposed upon the intervenor.

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0808 DENIAL

History Note: Authority G.S. 150B-38;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. July 1, 2016.

SECTION .0900 - HEARING OFFICERS

21 NCAC 06C .0901 HEARING OFFICER

21 NCAC 06C .0902 CONDUCT

History Note: Authority G.S. 86A-25; 150A-25; 150A-32; 150A-33;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06C .0903 BIAS OF BOARD MEMBER

If for any reason a member of the Board determines that personal bias or other factors precludes him or her from being able to hear a contested case and perform all duties in an impartial manner, he or she shall submit in writing to the Chairman his or her disqualification and the reasons therefore as required by Chapter 138A of the General Statutes.

History Note: Authority G.S. 138A-36; 150B-38; 150B-40;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. June 1, 2008; May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0904 BIAS CLAIMED BY PARTY

History Note: Authority G.S. 150B-40;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed Eff. July 1, 2016.

21 NCAC 06C .0905 AFFIDAVIT OF DISQUALIFICATION

An affidavit of disqualification shall state all facts the party deems relevant to the disqualification of the member of the Board.

History Note: Authority G.S. 150B-40;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0906 FILING AFFIDAVIT

An affidavit of disqualification shall be considered timely if filed before commencement of the hearing.

History Note: Authority G.S. 150B-40;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0907 DISQUALIFICATION

The members of the Board who are not challenged in an affidavit of disqualification shall decide whether to disqualify the person being challenged by the following procedural rules:

- (1) The person whose disqualification is to be determined shall not participate in the decision but may be called upon to furnish information to the remaining members of the Board.
- (2) The Chairman shall appoint a member of the Board or the Executive Director to investigate the allegations of the affidavit, if necessary.
- (3) If appointed under Item (2) of this Rule, the investigator shall report his or her findings and recommendations to the remaining members of the Board, who shall then decide whether to disqualify the challenged individual.

History Note: Authority G.S. 150B-40;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. September 1, 2013; May 1, 1989;
Readopted Eff. July 1, 2016.

21 NCAC 06C .0908 NEW HEARING

History Note: Authority G.S. 86A-25; 150A-25; 150A-32; 150A-33;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06C .0909 DISQUALIFICATION OF MAJORITY OF BOARD

History Note: Authority G.S. 150B-40;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Amended Eff. May 1, 1989;
Repealed August 1, 2016.

21 NCAC 06C .0910 DETERMINATION TO CONTINUE

21 NCAC 06C .0911 RECORDS

History Note: Authority G.S. 86A-25; 150A-33; 150A-34; 150A-37;
Eff. February 1, 1976;
Readopted Eff. February 8, 1978;
Repealed Eff. May 1, 1989.

21 NCAC 06C .0912 COMPLAINTS

- (a) An individual who wishes to make a complaint alleging a violation of G.S. 86A or the Board's rules shall submit the complaint in writing to the address or through the website set forth in 21 NCAC 06A .0102.
- (b) Upon receipt of a complaint, the Board's Executive Director shall review the complaint. The Executive Director shall assign a staff member to investigate the complaint, except for complaints that are dismissed as set forth in Paragraph (c) of this Rule.
- (c) The Executive Director shall dismiss the complaint and notify the complainant if the complaint:
- (1) lacks information, such as barbershop location or a description of the alleged conduct, necessary to investigate the complaint. Before dismissal, the Executive Director shall attempt to collect additional information from the complainant; or
 - (2) alleges conduct that is not prohibited by G.S. 86A or the Board's rules or is not within the Board's jurisdiction. The Executive Director shall refer the complaint to any other agency that may have jurisdiction.
- (d) After conducting an investigation, the assigned staff member shall:
- (1) recommend to the Executive Director that the Board counsel issue a probable cause letter for violations of G.S. 86A or the Board's rules; or
 - (2) recommend that the Executive Director dismiss the complaint because there is insufficient evidence of a violation of G.S. 86A or the Board's rules or the alleged conduct is not within the Board's jurisdiction.
- (e) After receiving a recommendation required by Paragraph (d) of this Rule, the Executive Director shall:
- (1) request additional investigation by the assigned staff member on a case-by-case basis when the recommendation does not contain facts to support the actions set forth in Subparagraphs (2) or (3) of this Paragraph;
 - (2) recommend that the Board counsel issue a probable cause letter for violations of G.S. 86A or the Board's rules; or
 - (3) dismiss the complaint and notify the complainant, except that the Executive Director shall refer the complaint to any other agency that may have jurisdiction.
- (f) At each regularly scheduled Board meeting, the Executive Director shall submit to the Board a report of dismissed complaints that he or she has not previously reported, with a summary of the allegations and a justification for the dismissal. If the complaint was dismissed within 30 days of the Board meeting, the Executive Director may instead include the dismissal in the report for the Board meeting following the next regularly scheduled meeting.
- (g) By a majority vote, the Board may reopen any complaint that the Executive Director has dismissed, in which case the complaint shall be handled as if the Executive Director had not dismissed the complaint.

*History Note: Authority G.S. 86A-5;
Eff. April 1, 2017;
Temporary Amendment Eff. May 2, 2023;
Temporary Amendment Exp. Eff. February 9, 2024.*

21 NCAC 06C .0913 PREDETERMINATIONS FOR INDIVIDUALS WITH CRIMINAL RECORDS

- (a) An individual who wishes to request a predetermination under G.S. 93B-8.1(b6) shall submit a petition with the following:
- (1) The person's full name;
 - (2) The person's social security number;
 - (3) The person's date of birth;
 - (4) The person's current address;
 - (5) A complete and accurate criminal history record from the Federal Bureau of Investigation;
 - (6) Three character references from individuals chosen by the petitioner;
 - (7) A notarized affirmation under oath that the information in the petition is accurate and true to the best of the petitioner's knowledge; and
 - (8) For each offense in the criminal history record, the following information:
 - (A) Whether the crime was a felony or misdemeanor;
 - (B) The date that the person was convicted of the offense;
 - (C) The sentence imposed for the crime;

- (D) If the petitioner has completed the sentence, documentation from the appropriate court showing that the petitioner has met all court-imposed sentencing conditions or that records pertaining to the applicant either do not exist or have been purged;
- (E) If the petitioner has not completed the sentence, either a statement written by the petitioner describing, or documentation from the sentencing court showing, the status of the petitioner's efforts toward meeting the sentencing requirements, including the expected date of completion;
- (F) If applicable, evidence of a Certificate of Relief granted under G.S. 15A-173.2;
- (G) If applicable, evidence of completion of or active participation in rehabilitative measures, such as drug or alcohol treatment, domestic-violence or anger-management counseling, or Drug Court programs; and
- (H) A statement by petitioner that describes the circumstances surrounding the commission of the crime.

(b) The petition shall be accompanied by a non-refundable petition fee of forty-five dollars (\$45.00).

(c) The Board delegates authority to make predeterminations to the Executive Director, who shall issue a response as required by G.S. 93B-8.1(b6).

*History: Authority G.S. 93B-8.1;
Eff. July 1, 2020.*