

21 NCAC 16N .0603 SUBPOENAS

- (a) A request for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall:
- (1) be made in writing to the Board;
 - (2) identify any documents sought with specificity;
 - (3) include the name and home or business address of all persons to be subpoenaed; and
 - (4) if known, the date, time, and place for responding to the subpoena.
- (b) The Board shall issue the requested subpoenas within three days of the receipt of the request.
- (c) Subpoenas shall contain:
- (1) the caption of the case;
 - (2) the name and address of the person subpoenaed;
 - (3) the date, hour and location of the hearing in which the witness is commanded to appear;
 - (4) a description of the books, papers, records, or objects the witness is directed to bring with him to the hearing, if any;
 - (5) the identity of the party on whose application the subpoena was issued; and
 - (6) a return of service form.
- (d) The "return of service" form, as filled out, shall show the name and capacity of the person serving the subpoena, the date the subpoena was delivered to the person directed to make service, the date service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.
- (e) Subpoenas shall be served as permitted by Rule 45 of the North Carolina Rules of Civil Procedure, as set forth in G.S. 1A-1.
- (f) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office. Such objection shall include a statement of all reasons why the subpoena should be revoked or modified. These reasons may include any basis sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that the burden of appearance or production outweighs the relevance of the evidence sought, or other undue hardship.
- (g) Any objection to a subpoena shall be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.
- (h) The party who requested the subpoena may file a written response to the objection within 10 days of receipt or 7 days prior to the contested case hearing, whichever is sooner. The written response shall be served by the requesting party on the objecting witness simultaneously with the filing of the response with the Board.
- (i) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and shall notify any other party or parties of a hearing.
- (j) The Presiding Officer of the Board members hearing the contested case shall conduct the hearing and rule on the objection unless the interests of justice and judicial economy allow the Presiding Officer to involve the other Board members. On the basis of the content of the written objection and the response, the Presiding Officer shall either permit the parties to submit affidavits in advance of the hearing or permit the parties to present evidence and testimony at the hearing, limited to the narrow questions raised by the objection and response.

*History Note: Authority G.S. 90-28; 90-48; 90-223(b); 150B-39; 150B-40;
Eff. August 25, 1977;
Legislative Objection Lodged Eff. November 20, 1980;
Legislative Objection Removed Eff. March 19, 1981;
Amended Eff. April 1, 2015; May 1, 1989; March 1, 1988; October 1, 1986; March 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. October 1, 2019.*