

(a) If a Board member determines that personal bias or other reason for that Board member's disqualification exists in a contested case, that Board member shall decline to participate in the hearing or decision.

(c) Ex parte communication by or on behalf of a party with a Board member about the facts of a case at any time during either the investigation or prosecution of potential violations shall be grounds for disqualification of that Board member, other than communications by Board counsel and staff during the course of seeking a summary suspension or communications during any other proceeding before the Board. Before a hearing begins, or during the hearing, if applicable, both the Board member and the party must disclose the communications between the Board member and a party about the facts of the case to the Board and to the parties.

(e) The Board shall decide whether the evidence requires disqualification before it renders the final agency decision in the contested case. The decision about the disqualification of a Board member shall be made by the other Board members. The Board is not required to grant a new hearing if a Board member is disqualified during the course of a hearing.

(g) In the event of disqualification, the disqualified member shall not participate in further deliberation or decision of the case but may be called on to furnish information to the other members of the Board.

(h) If three or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

*Amended Eff. May 1, 1989;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017:*

*Amended Eff. August 1, 2020.*