

CHAPTER 01 - GENERAL

SECTION .0100 - GENERAL

26 NCAC 01 .0101 LOCATION

(a) The principal office of the Office of Administrative Hearings is located at 1711 New Hope Church Road, Raleigh, North Carolina. The mailing address is 6714 Mail Service Center, Raleigh, NC 27699-6714.

(b) Forms and information about the office may be obtained from the agency's website at: www.oah.state.nc.us.

History Note: Authority G.S. 7A-751(a);
Eff. January 1, 1991;
Amended Eff. October 1, 2008; August 1, 2000; December 1, 1999; April 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016.

26 NCAC 01 .0102 OFFICE HOURS: FILING OF DOCUMENTS

History Note: Authority G.S. 150B-11;
Eff. January 1, 1991;
Repealed Eff. July 1, 1998.

26 NCAC 01 .0103 COST TO PUBLIC

(a) Copies of any public records filed in the Office of Administrative Hearings are available at the "actual cost" as defined in G.S. 132-6.2(b). The Office of Administrative Hearings shall provide its "actual cost" on the Office of Administrative Hearings website.

(b) There is no charge to the requesting party unless the actual cost is equal to or exceeds ten dollars (\$10.00).

History Note: Authority G.S. 7A-751; 132-6.2; 150B-19; 150B-21.25; 150B-37;
Eff. August 1, 1986;
Amended Eff. April 1, 1990; January 1, 1989;
Recodified from 26 NCAC 1 .0001 Eff. January 1, 1991;
Amended Eff. April 1, 2009; May 1, 2001; August 1, 2000; February 1, 1994; August 2, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;
Amended Eff. August 1, 2021.

26 NCAC 01 .0104 EMPLOYEE INSURANCE COMMITTEE

History Note: Authority G.S. 7A-751(a); 58-31-60;
Eff. February 1, 1987;
Recodified from 26 NCAC 1 .0003 Eff. January 1, 1991;
Amended Eff. December 1, 1999; April 1, 1991; January 1, 1991;
Repealed Eff. November 1, 2012.

26 NCAC 01 .0105 EMERGENCY WAIVER

The Director of the Office of Administrative Hearings shall waive any rule adopted by the Office of Administrative Hearings that is not statutorily required if the Director finds that the waiver is necessary to protect the public health and safety at any time:

- (1) the President of the United States, the Governor, the General Assembly, or a mayor or board of county commissioners, declares a state of emergency or state of disaster;
- (2) the State Health Director or a local health director issues an isolation or quarantine order; or
- (3) the business and disaster recovery plan required by G.S. 147-33.89 is implemented by the OAH Business Continuity Management Team.

History Note: Authority G.S. 7A-751(a);
Eff. October 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016.

SECTION .0200 - PETITION FOR RULE-MAKING - DECLARATORY RULINGS

26 NCAC 01 .0201 INSTRUCTIONS FOR FILING A PETITION FOR RULE-MAKING

(a) Any person may petition the Office of Administrative Hearings (OAH) to adopt a new rule, or amend or repeal an existing rule by submitting a rule-making petition to OAH. The petition must be titled "Petition for Rule-making" and must include the following information:

- (1) the name and address of the person submitting the petition;
- (2) a citation to any rule for which an amendment or repeal is requested;
- (3) a draft of any proposed rule or amended rule;
- (4) an explanation of why the new rule or amendment or repeal of an existing rule is requested and the effect of the new rule, amendment, or repeal on the procedures of OAH;
- (5) any other information the person submitting the petition considers relevant.

(b) The Director of the Office of Administrative Hearings (Director) must decide whether to grant or deny a petition for rule-making within 30 days of receiving the petition. In making his decision, the Director will consider the information submitted with the petition and any other relevant information.

(c) When the Director denies a petition for rule-making, he must send written notice of the denial to the person who submitted the request. The notice must state the reason for the denial. When the Director grants a rule-making petition, he must initiate rule-making proceedings and send written notice of the proceedings to the person who submitted the request.

*History Note: Authority G.S. 150B-20;
Eff. January 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016.*

26 NCAC 01 .0202 DECLARATORY RULINGS: AVAILABILITY

(a) The Director or his designee may issue declaratory rulings. All requests for declaratory rulings shall be in writing and submitted to:

Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, North Carolina 27609

(b) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner,
- (2) the reference to the statute or rule in question,
- (3) a statement as to why the petitioner is a person aggrieved, and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) A declaratory ruling shall not be issued on a matter requiring an evidentiary proceeding.

*History Note: Authority G.S. 150B-4;
Eff. January 1, 1987;
Recodified from 26 NCAC 1 .0002 Eff. January 1, 1991;
Amended Eff. November 1, 2012; August 2, 1993;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016.*