

26 NCAC 03 .0112 DISCOVERY

- (a) Discovery methods are means designed to assist parties in preparing to meet their responsibilities and protect their rights during hearings without unduly delaying, burdening or complicating the hearings process and with due regard to the rights and responsibilities of other parties and persons affected. Accordingly, parties are obliged to exhaust all less formal opportunities to obtain discoverable material before utilizing this Rule.
- (b) Any means of discovery available pursuant to the North Carolina Rules of Civil Procedure, G.S. 1A-1, is allowed. If the party from whom discovery is sought objects to the discovery, the party seeking the discovery may file a motion with the administrative law judge to obtain an order compelling discovery. In the disposition of the motion, the party seeking discovery shall have the burden of showing that the discovery is needed for the proper presentation of the party's case, is not for purposes of delay, and that the issues in controversy are significant enough to warrant the discovery. In ruling on a motion for discovery, the administrative law judge shall recognize all privileges recognized at law.
- (c) When a party serves another party with a Request for Discovery, that request need not be filed with the Office of Administrative Hearings but shall be served upon all parties.
- (d) The parties in any contested case shall immediately commence to exchange information voluntarily, to seek access as provided by law to public documents and to exhaust other informal means of obtaining discoverable material.
- (e) All discovery shall be completed no later than the first day of the contested case hearing. An administrative law judge may shorten or lengthen the period for discovery and adjust hearing dates accordingly and, when necessary, allow discovery during the pendency of the contested case hearing.
- (f) No later than 15 days from receipt of a notice requesting discovery, the receiving party shall:
 - (1) move for relief from the request;
 - (2) provide the requested information, material or access; or
 - (3) offer a schedule for reasonable compliance with the request.
- (g) Sanctions for failure of a party to comply with an order of the administrative law judge made pursuant to the discovery rules of this Chapter shall be as provided for by G.S. 1A-1, Rule 37, to the extent that an administrative law judge may impose such sanctions, and Rule .0114 of this Section.

History Note: *Authority G.S. 1A-1, Rule 5; 150B-28; 150B-33(b)(3)(4);
 Eff. August 1, 1986;
 Amended Eff. February 1, 1994; November 1, 1987;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016.*