

## CHAPTER 24 - EMPLOYMENT SECURITY

### SUBCHAPTER 24A – GENERAL

#### SECTION .0100 – GENERAL

##### **04 NCAC 24A .0101 OFFICE LOCATION**

The administrative office of the North Carolina Department of Commerce, Division of Employment Security (hereinafter "DES" or "The Division") is located at 700 Wade Avenue, in Raleigh, North Carolina. The general mailing address is Post Office Box 25903, Raleigh, NC 27611-5903. The office is open to the public during business hours, from 8:00 a.m. to 5:00 p.m., Monday through Friday, except for State holidays as set forth in 25 NCAC 01E .0901, including subsequent amendments and editions.

*History Note:* Authority G.S. 96-4;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018.

##### **04 NCAC 24A .0102 ADDRESS CHANGES AND ELECTRONIC ADDRESS CHANGES**

(a) Each employing unit that has or had individuals in employment as defined in G.S. 96-1 shall notify DES in writing of any change to its mailing address. This notice shall be transmitted by facsimile, via the internet on the DES website, or by postal mail within seven days after the effective date of the change. All notices shall be submitted to the Tax Administration Section, Attn: Address Change by mail to Post Office Box 26504, Raleigh, North Carolina, 27611-6504, facsimile to (919) 733-1255, or email to des.tax.customerservice@nccommerce.com.

(b) Each claimant with an active claim or who is registered for work at a public employment office, shall notify DES in writing of any change in address or electronic mail address within seven days after the effective date of the change. All notices shall be submitted to the DES Customer Call Center, Attn: Address Change, by mail to Post Office Box 25903, Raleigh, NC 27611-5903, facsimile to (919) 857-1296, or email to des.ui.customerservice@nccommerce.com. Claimants may also make and submit address and electronic mail address changes from their home page in the Southeast Consortium Unemployment Benefits Integration (SCUBI) system.

(c) Each claimant who is liable to DES for an overpayment of benefits, shall notify DES by facsimile, via the DES website, or by postal mail of any change of address within seven days after the effective date of the change. All notices of overpayment address changes shall be submitted to the Benefits Integrity Unit, Attn: Overpayment Address Change by mail to Post Office Box 25903, Raleigh, NC 27611-5903, facsimile to (919) 733-1369, or email to des.ui.bpc@nccommerce.com.

*History Note:* Authority G.S. 96-4; 96-40; 20 C.F.R. 640.1;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018; September 1, 2017.

##### **04 NCAC 24A .0103 ADDRESSES FOR NOTICE AND ELECTRONIC NOTICE**

(a) In all transactions requiring notice by G.S. 96 or these Rules, DES shall provide notice to a claimant's or employer's last known address as reflected in its official records.

(b) Except as provided in this Chapter, DES shall mail notice of an initial claim to the employer at one of the following addresses:

- (1) the address of the employer for which the claimant last worked;
- (2) if the employer has more than one branch or division at different locations, the address of the branch or division for which the claimant last worked; or
- (3) an address designated by the employer as reflected in DES's official records.

(c) Claimants may elect to receive communications from DES by electronic transmission as defined in 04 NCAC 24A .0105.

- (1) A claimant who consents to receive communication by electronic transmission may withdraw consent at any time by providing DES with a written withdrawal of consent.
- (2) Any communication that was sent to a claimant by electronic transmission before the withdrawal of consent shall be effective as an electronic transmission.

- (3) Except as provided in Paragraph (f) of this Rule, withdrawal of consent to receive communication by electronic transmission shall become effective on the date that DES receives the written withdrawal of consent.
- (d) A claimant who elects to receive communications by electronic transmission shall provide DES with a valid email address.
  - (1) DES shall validate each email address by sending a notification containing a hyperlink to the email address provided by the claimant. The email sent by DES shall require the claimant to click on the hyperlink in the email in order to navigate to SCUBI to complete validation.
  - (2) After a claimant validates the email address, DES shall provide all communication by electronic transmission, including determinations, requests for information, notices, and decisions. For each action taken on an account, DES shall notify each claimant by email that an action was taken, and shall direct the claimant to log into his or her SCUBI account.
- (e) A claimant who elects to receive communication from DES by electronic transmission shall not receive communication from DES by mail, unless the communication transmitted to the claimant's email address is returned to DES as undeliverable.
  - (1) When an electronic communication is returned to DES as undeliverable, DES shall suspend communications by electronic transmission to the claimant's email address, and shall place an alert on the claimant's SCUBI home page. The alert shall notify the claimant:
    - (A) that electronic transmissions to his or her email address have been suspended;
    - (B) to contact the Customer Call Center to update his or her mailing and email addresses as provided in 04 NCAC 24A .0102; and
    - (C) that the claimant may elect to resume receiving communications by electronic transmissions.
  - (2) Upon suspension of electronic transmissions to the claimant, DES shall send all communications to the claimant by first class mail.
  - (3) A claimant who elected to receive communications by electronic transmissions from DES, and who desires to continue receiving electronic communications, but instead receives postal mail, shall contact the Customer Call Center by phone at (888) 737-0259 or facsimile at (919) 250-4315 to provide a valid email address, and request DES to send communications by electronic transmission.
- (f) Except as otherwise provided in this Chapter, DES shall use the date and time of the electronic transmission to the email address provided by the claimant, or authorized agent, as the service date for purposes of calculating the time periods for correspondence, notices, deadlines, and filings. Time periods shall be determined by the date of electronic transmission when a communication is not received by the claimant as a result of an error or omission on the part of the claimant, or agent of the claimant.

*History Note:* Authority G.S. 96-4; 96-9.2; 96-14.1; 96-15; 96-40;  
 Eff. July 1, 2015;  
 Amended Eff. September 1, 2017.

**04 NCAC 24A .0104 ADDRESSES FOR FILING CLAIMS, APPEALS, EXCEPTIONS, REQUESTS OR PROTESTS**

- (a) Claimants shall file a claim for unemployment insurance benefits on DES's website or by telephone.
  - (1) The telephone number for DES's Customer Call Center for filing a new initial claim or inquiring about an existing claim is (888) 737-0259.
  - (2) The telephone number for filing weekly certifications is (888) 372-3453.
- (b) Appeals from a Determination by Adjudicator shall be filed with the Appeals Section in SCUBI, by mail, facsimile or email.
  - (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
  - (2) The facsimile number is (919) 857-1296.
  - (3) The email address is des.public.appeals@nccommerce.com.
  - (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and

employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number for the party or party's legal representative.

(c) Appeals of a Non-Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit in SCUBI, by mail or facsimile.

- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
- (2) The facsimile number is (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number for the party or party's legal representative.
- (5) Any questions regarding the contents of a Non-Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 857-1296, or email at [des.ui.bpc@nccommerce.com](mailto:des.ui.bpc@nccommerce.com).

(d) Appeals of a Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit in SCUBI, by mail or facsimile.

- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
- (2) The facsimile number is (919) 857-1296.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number for the party or party's legal representative.
- (5) Any questions regarding the contents of a Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 857-1296, or email at [des.ui.bpc@nccommerce.com](mailto:des.ui.bpc@nccommerce.com).

(e) Appeals of a Monetary Determination denying a protest to a Wage Transcript and Monetary Determination shall be filed with the Tax Administration Section in SCUBI, by mail, facsimile or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is [des.tax.customerservice@nccommerce.com](mailto:des.tax.customerservice@nccommerce.com).
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number for the party or party's legal representative.
- (6) Any questions regarding the contents of a determination denying a protest to a Wage Transcript and Monetary Determination shall be directed to the Wage Records Unit of the Tax Administration Section by telephone to (919) 707-1191, facsimile at (919) 733-1255, or email at [des.tax.customerservice@nccommerce.com](mailto:des.tax.customerservice@nccommerce.com).

(f) Protests of a Wage Transcript and Monetary Determination shall be filed with the Tax Administration Section in SCUBI, by mail or facsimile.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

- (4) Protests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest, the docket or identification number of the determination being protested, the claimant's identification number, the names of the claimant and employer, each reason for the protest, the name of the individual filing the protest, the official position of an individual filing the protest on behalf of the party, and a telephone number for the party or party's legal representative.
  - (5) Any questions regarding the contents of a Wage Transcript and Monetary Determination shall be directed to the Wage Records Unit by telephone to (919) 707-1191, facsimile at (919) 733-1255, or email at [des.tax.customerservice@nccommerce.com](mailto:des.tax.customerservice@nccommerce.com).
- (g) Petitions for Waiver of Overpayment shall be filed with the Benefits Integrity Unit in SCUBI, by mail or facsimile.
- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
  - (2) The facsimile number is (919) 857-1296.
  - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Petitions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the petition, docket or identification number of the overpayment determination, the claimant's identification number, the name of the claimant, each reason for the request to waive repayment of the overpayment, the name of the individual filing the petition, the official position of an individual filing the petition on behalf of the party, and a telephone number for the party or party's legal representative.
- (h) Claimant Appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter shall be filed with the Benefits Integrity Unit in SCUBI, by mail or facsimile.
- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
  - (2) The facsimile number is (919) 857-1296.
  - (3) Correspondence regarding a claimant's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter being appealed, the claimant's identification number, the name of the claimant, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number for the party or party's legal representative.
  - (5) Any questions regarding the contents of a claimant's NCDOR Offset Letter shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 857-1296, or email at [des.ui.bpc@nccommerce.com](mailto:des.ui.bpc@nccommerce.com).
- (i) Employer Appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter for outstanding tax debts shall be filed with the Tax Administration Section by mail or facsimile.
- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
  - (2) The facsimile number is (919) 733-1255.
  - (3) Correspondence regarding an employer's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or identification number of the offset letter, the name of the employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number for the party or party's legal representative.
  - (5) Any questions regarding the contents of an employer's NCDOR Offset letter for outstanding tax debts shall be directed to the Tax Administration Section by facsimile at (919) 733-1255, or email at [des.tax.customerservice@nccommerce.com](mailto:des.tax.customerservice@nccommerce.com).
- (j) Claimant Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Benefits Integrity Unit in SCUBI, by mail or facsimile.
- (1) The mailing address is Post Office Box, 27967, Raleigh, North Carolina 27611-7697.
  - (2) The facsimile number is (919) 857-1296.
  - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

- (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the claimant's identification number, the name of the claimant, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number or the party or party's legal representative.
  - (5) Claimant questions regarding TOP shall be directed to a Recovery Specialist by telephone to (919) 707-1338, or email at [des.ui.bpc@nccommerce.com](mailto:des.ui.bpc@nccommerce.com).
- (k) Employer Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Tax Administration Section by mail or facsimile.
- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
  - (2) The facsimile number is (919) 733-1255.
  - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or identification number of the TOP notice, the name of the employer, each reason for the request, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number for the party or party's legal representative.
  - (5) Employer questions regarding TOP shall be directed to the Tax Administration Section by telephone to (919) 707-1150, facsimile at (919) 733-1255, or email at [des.tax.customerservice@nccommerce.com](mailto:des.tax.customerservice@nccommerce.com).
- (l) Appeals from an Appeals Decision shall be filed with the Board of Review in SCUBI, by mail, facsimile or email.
- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611-8263.
  - (2) The facsimile number is (919) 733-0690.
  - (3) The email address is [des.ha.appeals@nccommerce.com](mailto:des.ha.appeals@nccommerce.com).
  - (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the appeal, the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the appeal, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number for the party or party's legal representative.
- (m) Protests or Appeals of Adequacy Determinations shall be filed with the Claims Unit in SCUBI, by mail or facsimile.
- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
  - (2) The facsimile number is (919) 857-1296.
  - (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the party filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number for the party or party's legal representative.
- (n) Protests or Appeals of a Tax Liability Determination shall be filed with the Tax Administration Section by mail, facsimile or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
  - (2) The facsimile number is (919) 715-7197.
  - (3) The email address is [des.tax.customerservice@nccommerce.com](mailto:des.tax.customerservice@nccommerce.com).
  - (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination being appealed, the claimant's identification number, the names of the

claimant and employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number for the party or party's legal representative.

(o) Protests or Appeals of a Tax Rate Assignment shall be filed with the Tax Administration Section by mail, facsimile or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the rate assignment, the name and address of the employer, the employer's account number, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number for the party or party's legal representative.

(p) Protests or Appeals of Audit Results shall be filed with the Tax Administration Section by mail, facsimile or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the result being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number for the party or party's legal representative.

(q) Protests or Appeals of Tax Assessments shall be filed with the Tax Administration Section by mail, facsimile or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the assessment being protested or appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of the individual filing the protest or appeal on behalf of the party, and a telephone number for the party or party's legal representative.

(r) Exceptions to a Tax Opinion shall be filed with the Board of Review by mail, facsimile or email.

- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611-8263.
- (2) The facsimile number is (919) 715-7193.
- (3) The email address is BOR@nccommerce.com.
- (4) Correspondence and exceptions submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Exceptions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the exceptions, the docket or identification number of the tax opinion, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the exceptions, each reason for the exceptions, the official position of an individual filing the exceptions on behalf of the party, and a telephone number for the party or party's legal representative.

(s) Requests for Non-Charging of Benefits to an employer's account, and protests or appeals of benefit charges to an employer's account shall be filed with the Claims Unit in SCUBI, by mail or facsimile.

- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
  - (2) The facsimile number is (919) 857-1296.
  - (3) Correspondence, requests, protests, or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Requests for non-charging and protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or employer's identification number, the name of the employer, each reason for the request, the name and official position of the individual filing the request, protest, or appeal, on behalf of the party, and a telephone number for the party or party's legal representative.
- (t) Requests for Seasonal Determinations and Protests or Appeals of a Denial of Seasonal Assignment shall be filed with the Tax Administration Section by mail, facsimile or email.
- (1) The mailing address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
  - (2) The facsimile number is (919) 715-7197.
  - (3) The email address is des.tax.customerservice@nccommerce.com.
  - (4) Correspondence and protests or appeal submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the denial being appealed, the name of the employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number for the party or party's legal representative.
- (u) Transmittal of interstate work search records and photo identification shall be filed with the Claims Unit by mail or facsimile.
- (1) The mailing address is Post Office Box 27967, Raleigh, North Carolina 27611-7967.
  - (2) The facsimile number is (919) 857-1296.
- (v) Requests for oral arguments or to reschedule oral arguments shall be filed with the Board of Review in SCUBI, by mail, facsimile or email.
- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611-8263.
  - (2) The facsimile number is (919) 733-0690.
  - (3) The email address is des.ha.appeals@nccommerce.com.
  - (4) Correspondence and requests for oral arguments submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Requests for oral arguments shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the request, the docket or issue identification number of the decision being appealed, the claimant's identification number, the names of the claimant and employer, the name and official position of the individual filing the request on behalf of the party, a telephone number for the party or party's legal representative and a statement that a copy of the request was served on the opposing party, if one exists.
- (w) Employers may file Requests for Compromise of Tax Debts with DES's Tax Administration Section by mail, facsimile or email.
- (1) The address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
  - (2) The facsimile number is (919) 733-1255.
  - (3) The email address is des.tax.customerservice@nccommerce.com.
  - (4) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (5) The letter shall contain the date of the request, the name of the employer, the name and official position of the individual filing the election on behalf of the employer, and a telephone number for the party or party's legal representative.
- (x) Employers electing to pay reimbursements for benefits, rather than contributions, shall submit written notice of their election to DES's Tax Administration Section by mail, facsimile or email.
- (1) The address is Post Office Box 26504, Raleigh, North Carolina 27611-6504.
  - (2) The facsimile number is (919) 733-1255.
  - (3) The email address is des.tax.customerservice@nccommerce.com.
  - (4) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

- (5) The letter shall contain the date of the notice of election, the name and address of the employer, the name and official position of the individual filing the election on behalf of the employer, and a telephone number for the party or party's legal representative.
- (y) Employers shall make payments to DES by credit card, money order, electronic check, business check with funds drawn from a U.S. financial institution, cashier's check from a U.S. financial institution, automated clearing house (ACH) credit, or cash submitted in-person to DES's Tax Auditor.
  - (1) Payments made by money order, business check or cashier's check shall be sent by mail or delivery service to DES's Tax Administration Section, Post Office Box 26504, Raleigh, North Carolina 27611-6504, or by delivery to an agent of DES designated to accept payments in accordance with G.S. 96-10.
  - (2) Payments by electronic transmission, as defined in 04 NCAC 24A .0105(25), shall be made on DES's website.
  - (3) Payments by ACH credit shall be initiated by employers through their U.S. financial institution.
- (z) Claimants shall make payments to DES by cashier's check from a U.S. financial institution, by personal check with funds drawn from a U.S. financial institution, by money order, or by credit card.
  - (1) Payments by mail or delivery service shall be sent to the Benefit Payment Control (BPC) Unit, Post Office Box 25903, Raleigh, North Carolina 27611-5903.
  - (2) Payments by credit card shall be made on DES's website, or by calling BPC at (919) 707-1338.
- (aa) Payment of fees for documents, digital recordings, and transcripts shall be made by money order, cashier's check from a U.S. financial institution, or by personal or business check with funds drawn from a U.S. financial institution.
  - (1) An agency of state or federal government, a county, or a municipality may pay fees by bank draft.
  - (2) Payment shall be sent by mail to DES's Office of Finance & Budget, Post Office Box 25903, Raleigh, North Carolina 27611-5903.
- (bb) Protests or Appeals from a Result of Investigation shall be filed with the Legal Services Section, ATTN: Chief Counsel, by mail or facsimile.
  - (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611-5903.
  - (2) The facsimile number is (919) 733-8745.
  - (3) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
  - (4) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the date of the protest or appeal, the docket or identification number of the determination or result being appealed, the claimant's identification number, the names of the claimant and employer, each reason for the protest or appeal, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number for the party or party's representative.
  - (5) Questions regarding Results of Investigation shall be directed to the Legal Services Section by telephone to (919) 707-1025, or facsimile to (919) 733-8745.

*History Note:* Authority G.S. 75-62; 96-4; 96-9.6; 96-9.8; 96-10; 96-10.1; 96-14.1; 96-15; 96-17; 96-18; 96-40; 20 C.F.R. 603.4; 20 CFR 603.8;  
 Eff. July 1, 2015;  
 Amended Eff. September 1, 2017;  
 Amended Eff. August 1, 2020; July 1, 2018.

#### **04 NCAC 24A .0105 DEFINITIONS**

- (a) In addition to the terms defined in G.S. 96, the following definitions apply whenever these terms are used in this Chapter:
  - (1) "Additional claim" means the reopening of a valid initial claim for unemployment insurance benefits after a claimant, as defined in Item (16) of this Rule, ceased filing a weekly certification as defined in G.S. 96-14.9, for one or more weeks due to intervening employment. The first week of eligibility filed after a claim has been reopened shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.
  - (2) "Agent state" means any state from which, or through which a claimant files a claim for benefits from another state.

- (3) "Adjudicator" means an employee of DES appointed to conduct an informal investigation and render a determination as required by G.S. 96-15(b).
- (4) "Appeal" means a submission by a party with statutory appeal rights requesting the Appeals Section of DES or the Board of Review to review a determination or decision that is adverse to that party.
- (5) "Appeals Referee" or "Hearing Officer" means an attorney appointed to hear or decide an appeal from a determination by an adjudicator and issues involving the rights, status, and liabilities of an employer pursuant to the provisions of G.S. 96-4(q) or 96-15(c).
- (6) "Appeals Section" means the section within DES where Appeals Referees conduct quasi-judicial administrative evidentiary hearings and make decisions in contested cases for unemployment insurance benefits. The Appeals Section also consists of support staff that assists Appeals Referees.
- (7) "Application for a position" means supplying the information required by an employer to place an individual in a particular position or opening. Such information may include proof of the qualifications or license required by the position or opening, employment history, and personal information, such as full name, Social Security Number or other identification number, telephone number, and current address. An application for a position may be accomplished in whatever manner acceptable to an employer, including the completion of a designated form, the provision of a written resume, or verbally.
- (8) "Authorized Representative" means an individual authorized by an employer or employing unit to act on the employer or employing unit's behalf before DES.
- (9) "Base period" means as defined in G.S. 96-1(b)(3). Calendar quarters are January through March, April through June, July through September, and October through December.
- (10) "Benefit week" means a period of seven consecutive calendar days, ending at 11:59 pm on Saturday.
- (11) "Benefit wage credits" means wages used to determine a claimant's monetary eligibility for benefits. Benefit wage credits consist of the wages a claimant received or should have received during the claimant's base period of employment and to include those wages that were awarded and paid to the claimant after the base period pursuant to a court order; a National Labor Relations Board determination; another adjudicative agency; or by private agreement, consent, or arbitration for loss of pay because of discharge. DES shall credit the awarded wages to the quarter in which the wages should have been paid.
- (12) "Board of Review" means as defined in G.S. 96-15.3 and is the body that conducts "higher authority review" of appeals arising from the decisions of the Division, tax liability hearings, and labor disputes. The Board of Review is also referred to as the "Board" or "BOR."
- (13) "Calendar Period" means the 52 week period beginning with the first day of a week in which an individual first files a valid claim for benefits and registers for work. The week begins on the first Sunday preceding the initial claim filed and ends the following year at 11:59 p.m. on Saturday.
- (14) "Charging cycle" means each calendar quarter following the prior reporting cycle, during which the employer's account is assessed and charged for erroneous unemployment insurance benefit payments resulting from untimely or inadequate responses, as defined in 04 NCAC 24D .0301, from the employer to particular Requests for Separation Information during that charging cycle if the employer met or exceeded the adequacy threshold in the prior reporting cycle.
- (15) "Chief Appeals Referee" includes the Chief Appeals Referee's designee, unless otherwise stated.
- (16) "Claimant" means an individual who files an unemployment insurance benefits claim for payments as provided in G.S. 96-14.1.
- (17) "Clear and convincing evidence" means evidence indicating that the thing to be proved is highly probable or reasonably certain.
- (18) "Customarily," as the term is used in G.S. 96-16, means during at least seventy-five percent of the calendar years of an observation interval.
- (19) "Customary" as used in G.S. 96-15.01 means the usual and habitual number of hours worked.
- (20) "Day" means a calendar day.
- (21) "Delivery service" means an authorized designated carrier pursuant to Rule 4(j) of the North Carolina Rules of Civil Procedure and 26 U.S.C. 7502(f)(2).
- (22) "DES website" means the internet address found at [www.des.nc.gov](http://www.des.nc.gov).

- (23) "Due diligence" means the measure of carefulness, precaution, attentiveness, and good judgment as to be expected from, and exercised by a reasonable and prudent person under the particular circumstances.
- (24) "Effective date of a claim" means either the benefit year beginning on the Sunday preceding the payroll week ending date if the claimant is payroll attached, or the benefit year beginning on the Sunday of the calendar week within which a claimant filed a valid claim for benefits and registered for work if the claimant is not payroll attached.
- (25) "Electronic transmission" means. delivery to an electronic mail address at which an individual or employer has consented to receive notices, documents, or other communications; or posting on an electronic network or site accessible by internet through use of a mobile application, computer, mobile device, tablet, or any other electronic device, and sending separate notice of the posting, or using any other delivery method to which the individual or employer has consented. Communication sent by DES electronic transmission shall be complete on transmission.
- (26) "Equity and good conscience" means fairness as applied to a given set of circumstances.
- (27) "Fault" means an error or defect of judgment or of conduct; any deviation from prudence or duty resulting from inattention, incapacity, perversity, bad faith, or mismanagement.
- (28) "Good cause" means a legally sufficient reason.
- (29) "In-person/telephone hearing" means an administrative hearing before the Appeals Section, Board of Review, or other designated Hearing Officer where at least one party or witness appears in-person, and another party or witness appears by telephone.
- (30) "Interstate benefit payment plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits may be paid to unemployed claimants absent from the state (or states) where benefit wage credits accumulated. This Rule incorporates the United States Department of Labor's Interstate Benefit Payment Plan, Interstate Agreements, ET Handbook No. 392 app. B (2d ed. 1997) by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public as allowed under 04 NCAC 24A .0201.
- (31) "Interstate claimant" means a claimant who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state, or directly with the liable state. The term "interstate claimant" shall not include any claimant who customarily commutes from a residence in an agent state to work in a liable state unless the Division finds that this exclusion would create an undue hardship.
- (32) "Labor dispute" means a dispute between an employer and its employees about wages, hours, working conditions, or issues concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or condition of employment, between those who could be concerned in the controversy.
- (33) "Last known address" means the most recent address provided to DES by the claimant or taxpayer located in its official record, except that DES shall update addresses maintained in its official records by referring to data accumulated and maintained in the United States Postal Service (USPS) National Change of Address database that retains change of address information (NCOA Database). If the claimant or taxpayer's name and last known address in DES's official records match the claimant or taxpayer's name and previous mailing address contained in the NCOA database, the new address in the NCOA database is the taxpayer's last known address. This Rule incorporates the United States Postal Service's National Change of Address Database by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.
- (34) "Legal representative" means a licensed attorney or a person supervised by a licensed attorney.
- (35) "Liable state" means any state against which a claimant files a claim for benefits through another state.
- (36) "NDNH" is an acronym, and means the National Directory of New Hires. NDNH is a national database of wage and employment information established by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and operated by the federal Office of Child Support Enforcement.

- (37) "Observation interval" means an interval of time including the four consecutive calendar years preceding the calendar year in which an application for a seasonal determination is made pursuant to G.S. 96-16. In the case of a newly liable employer or an employer whose operational activities have changed, the observation interval may be less than four calendar years.
- (38) "Official record" means information in the records of a state or state unemployment compensation agency that pertains to the administration of the unemployment insurance program. Official records include claim information, wage information, confidential information, and unemployment compensation information as defined in 20 C.F.R. 603.2, which is incorporated by reference, and includes subsequent amendments and editions of the referenced material. This material is available, free of charge, at <http://www.ecfr.gov>. Official records also include information provided by a federal, state, or private entity, or a claimant or employer for reliance upon, or use by the state in administering its unemployment insurance program.
- (39) "Party with appeal rights" means a party who has the right to appeal an unfavorable determination or decision pursuant to G.S. 96-4(q) and G.S. 96-15.
- (40) "Public employment office" means a local office managed and operated by the Division of Workforce Solutions (DWS) of the North Carolina Department of Commerce.
- (41) "Regularly recurring" means a period or periods of operational activity and shall be deemed regularly recurring if, during at least seventy-five percent of the calendar years in the observation interval, the beginning and ending dates of the period or periods do not vary more than four weeks.
- (42) "Reopened claim" means the resumption of a valid initial claim following a break in filing weekly certifications during a benefit year and the break was caused by reasons other than intervening employment. The first week of eligibility following the effective date of the reopened claim shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.
- (43) "Reporting cycle" means the 52 week period beginning August 1<sup>st</sup> and ending July 31<sup>st</sup> the following year in which the employer's account is examined and recorded for any inadequate responses to Requests for Separation Information (NCUI 500AB).
- (44) "SCUBI" is an acronym, and means the Southeast Consortium Unemployment Benefits Initiative referenced in G.S. 96-40(b)(1). SCUBI is a multi-state consortia consisting of North Carolina, South Carolina, and Georgia.
- (45) "SIDES" is an acronym, and means the State Information Data Exchange System. SIDES is a secure, nationally standardized, web based system that allows electronic transmission of information requests from DES to employers or third party administrators, as well as electronic transmission of replies containing the requested information back to DES.
- (46) "State" means any of the 50 states in the United States and includes the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.
- (47) "Valid email address" means a unique identifier for an email account that is used to send and receive messages over the internet, and is composed of three parts: the user name, the "at symbol" (@), and the domain. To be valid, an email address shall be one to which DES can send emails, and shall be provided to DES for use by the claimant, employer, legal representative, or other authorized representative of the claimant or employer. The most recent email address provided to DES shall be maintained in DES's records, as the claimant's or employer's official email address.
- (48) "Wages paid" means both wages actually received by a worker, and wages "constructively paid." Wages are constructively paid when they are credited to the account of, or set apart for a worker without any substantial restriction as to the time or manner of payment or condition upon which payment is to be made, and shall be made available so that the worker may draw upon them at any time, and payment brought within the worker's control and disposition, although not reduced to possession.
- (49) "Wages payable" means wages earned but not paid.
- (50) "Weekly period" means a seven day period beginning at 12:00 a.m. Sunday and ending on the following Saturday at 11:59 p.m.
- (51) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits for the week are claimed.

*History Note:* Authority G.S. 84; 96-1; 96-4; 96-9.2; 96-9.6; 96-14.1; 96-14.9; 96-15; 96-17; 96-20; Eff. July 1, 2015;

*Temporary Amendment Eff. March 1, 2016;  
Temporary Amendment Expired December 10, 2016;  
Amended Eff. September 1, 2017; April 1, 2017.*

#### **04 NCAC 24A .0106 FILING/MAILING DATES AND USE OF FORMS**

- (a) Except as otherwise provided in this Chapter, a document or form shall be filed with DES on the date the document or form is received by DES.
- (b) When a filing deadline or due date for a form or payment falls on a Saturday, Sunday, or State holiday as set forth in 25 NCAC 01E .0901, the deadline or due date shall be extended to the first business day following the Saturday, Sunday, or State holiday.
- (c) When determining whether a party had good cause for filing a late appeal or protest, DES shall consider the date mailed in the order listed:
- (1) the postmark date or the postal meter date, where there is only one;
  - (2) the postmark date if there is both a postmark date and a postal meter date, if they conflict; or
  - (3) the date the document was delivered to a delivery service, which is equivalent to a postmark date of the United States Postal Service.
- (d) A document received in an envelope bearing no legible postmark, postal meter date, or date of delivery to the delivery service shall be considered to have been sent three business days before receipt by DES, or on the date of the document, if the document date is less than three days earlier than date of receipt.
- (e) If the envelope is lost after delivery to DES, the date on the document shall control. If the document is undated, DES shall deem the date the writing was sent to be three business days prior to receipt by DES, subject to sworn testimony establishing an earlier date from the sender of the writing.
- (f) Except as otherwise provided in this Chapter, the date and time that DES receives a document shall be used when the document is sent by facsimile transmission or via the internet.
- (g) Except as otherwise provided in this Chapter, when a document furnishes information that is sufficient to indicate the purpose or intent of the document, but is not on a form prescribed by DES, the controlling date shall be determined as described in this Section.

*History Note: Authority G.S. 1A-1, Rule 6; 96-4;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018.*

#### **04 NCAC 24A .0107 DIGITAL SIGNATURES**

A digital signature provided by an employing unit or claimant shall authenticate a written electronic communication sent to DES with the same force and effect as that of a manual signature by the person or individual using it. The digital signature shall have the following characteristics:

- (1) unique to the person or individual using it;
- (2) ability to be independently verified;
- (3) under the sole control of the person or individual using it; and
- (4) infeasible to change the data in the communication without invalidating the digital signature.

*History Note: Authority G.S. 96-4; 96-9.15;  
Eff. July 1, 2015.*

#### **04 NCAC 24A .0108 SIGNATURES ON REPORTS AND FORMS**

Where DES requires a signature on a report or form, the writing shall be signed by:

- (1) the individual, if the person required to submit the report or form is an individual;
- (2) the president, vice president, or other officer if the employing unit required to submit the report or form is a corporation;
- (3) a partner, if the employing unit required to submit the report or form is a partnership or limited liability partnership;
- (4) a member, if the employing unit required to submit the form is a limited liability company or professional limited liability company;
- (5) an authorized member or officer having knowledge of its affairs, if the employing unit required to submit the report or form is an unincorporated organization;
- (6) the fiduciary, if the employing unit required to submit the report or form is a trust or estate;

- (7) an authorized representative of a governmental entity; or
- (8) an agent appointed by the employing unit under a power of attorney in accordance with 04 NCAC 24A .0109.

*History Note:* Authority G.S. 96-4; 96-9.15;  
Eff. July 1, 2015;  
Amended Eff. June 1, 2022.

**04 NCAC 24A .0109 POWER OF ATTORNEY**

(a) An employer may appoint an agent with authority to act on his, her, or its behalf with DES in accordance with G.S. 32C-2-214. An employer's appointment of an agent shall be made in writing in the manner prescribed by G.S. 32C-3-301, or by using the Power of Attorney and Declaration of Representative form found on DES's website.

(b) An agent appointed pursuant to a power of attorney may:

- (1) complete and submit documents for filing employers' tax and wage reports;
- (2) complete and submit documents regarding an employer's tax rate, contributions, and direct reimbursements;
- (3) respond to benefit claims documents, including responding to requests for information about a claimant's separation or status;
- (4) engage in discussions with DES representatives regarding the actions listed above; and
- (5) accept or receive correspondence sent by DES regarding claims for benefits or an employer's contributions.

*History Note:* Authority G.S. 32C-2-214; 32C-3-301; 96-4; 96-9.15;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018; September 1, 2017.

**04 NCAC 24A .0110 LIMITATION ON AUTHORITY GRANTED BY POWER OF ATTORNEY**

(a) A representative authorized to act for a claimant or employer pursuant to a power of attorney shall not enter appeals or protests from any decisions made by an adjudicator, appeals referee, hearing officer, the Assistant Secretary, the Board of Review, or any other employee authorized to act on behalf of DES or the Board of Review, unless the representative is qualified to serve as a legal representative pursuant to G.S. 96-17(b).

(b) A representative authorized to act for a claimant or employer pursuant to a power of attorney may appear as a witness, but shall not represent the claimant or employer in any hearings conducted by DES, the Board of Review, or any employee designated to act on behalf of DES or the Board of Review.

(c) An individual authorized to act as a legal representative in a hearing before an Appeals Referee shall submit notice in writing to the Appeals Referee in accordance with 04 NCAC 24C .0302.

(d) An individual authorized to act as a legal representative in a hearing before the Board of Review, or to enter an appeal or protest before the Board of Review, shall submit notice in writing in accordance with 04 NCAC 24F .0204.

*History Note:* Authority G.S. 84-2.1; 84-4; 84-4.1; 84-5; 96-4; 96-17;  
Eff. September 1, 2017.

**SECTION .0200 - REQUESTS FOR DOCUMENTS AND RECORDS UNRELATED TO PENDING APPEAL OR CONTESTED CASE**

**04 NCAC 24A .0201 WRITTEN REQUEST REQUIRED**

Any individual or employing unit requesting to inspect or copy any record containing confidential unemployment insurance information shall make the request in writing. All requests shall be submitted to the Legal Services Section, ATTN: Legal Release by mail to Post Office Box 25903, Raleigh, North Carolina, 27611-5903, by facsimile to (919) 715-7194, or by email to legal.release@nccommerce.com.

*History Note:* Authority G.S. 96-4; 20 CFR 603.5;  
Eff. July 1, 2015;  
Amended Eff. March 1, 2020; July 1, 2018.

#### **04 NCAC 24A .0202 CLEAR DESCRIPTION OF RECORDS REQUIRED**

- (a) Each written request for unemployment insurance information shall describe the record or records sought and provide sufficient details to permit identification and location of the records.
- (b) The request shall specify:
- (1) the subject matter of the record;
  - (2) the date or approximate date that the record was made;
  - (3) the place where the record was made;
  - (4) the person or office that made the record; and
  - (5) any other necessary identifying details about the record, such as an account or form number.
- (c) If the description is insufficient for an employee familiar with the subject area of the request to locate the record, the Chief Counsel or designee shall notify the person making the request and indicate the additional information required to locate the record.

*History Note* Authority G.S. 96-4; 20 CFR 603.5;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018.

#### **04 NCAC 24A .0203 DETERMINATION AS TO DISCLOSURE**

- (a) If the Chief Counsel or designee determines that the applicable law does not permit disclosure of the requested information, the Chief Counsel or designee shall provide written notification to the person making the request. The notice shall state reasons for the denial, including the applicable law prohibiting disclosure.
- (b) Where there is specific information in a record that is prohibited from disclosure, the specific information shall be deleted or redacted before providing the requested record.

*History Note:* Authority G.S. 96-4; 20 CFR 603.5;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018.

#### **04 NCAC 24A .0204 RELEASE OF INFORMATION TO THIRD PARTY**

- (a) Upon written request, a claimant, employer, applicant, or other person who authorizes information or records to be released to a third party or person shall provide:
- (1) the name of the third party or person;
  - (2) the address of the third party or person; and
  - (3) a statement that the claimant, employer, applicant, or other person authorizing the disclosure of information waives confidentiality as to the information directed to be released.
- (b) An individual requesting that DES release or disclose to a third party or person the individual's quarterly wage records, including the amount of wages and names of each employer reporting wages for the individual shall:
- (1) identify the third party or person by name;
  - (2) provide the address of the third party or person;
  - (3) contain a statement that the individual waives confidentiality as to the information authorized to be disclosed to the identified third party; and
  - (4) state that the authorization and waiver is given on the basis of informed consent as mandated by 20 CFR 603.5 and any other applicable federal regulation that may be promulgated by the U.S. Department of Labor.

*History Note:* Authority G.S. 96-4; 20 CFR 603.5;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018.

#### **04 NCAC 24A .0205 FEES FOR COPIES AND SERVICES**

- (a) Search Fees:
- (1) The fee for searching DES records by authorized staff shall be four dollars and forty cents (\$4.40) for each one-quarter hour or fraction thereof required to obtain the records to be searched or to search the records.

- (2) If the search for requested records requires transportation of DES staff to the location of the records, or transportation of the records to DES staff at a cost of more than five dollars (\$5.00), the actual transportation costs shall be added to the search time cost.
  - (3) If the search for requested records requires batch processing by computer, the Chief Counsel or designee shall provide an estimate of DES's cost to produce the information to the individual making the request. The amount of the estimate provided shall be based on the computer programming and other actions necessary for the batch processing. Upon consenting to the estimate provided by the Chief Counsel or designee, DES shall send an invoice for the actual cost of producing the requested information to the individual making the request.
- (b) **Reproduction Fees:** The fees for obtaining copies of records shall be computed as follows:
- (1) copying: one cent (\$0.01) per page;
  - (2) transcription of hearing: three dollars and seventy-five cents (\$3.75) per quarter hour or fraction thereof; and
  - (3) recording of hearing: three dollars and seventy-five cents (\$3.75) per compact disk or recording.
- (c) No more than 10 copies of any document shall be furnished in response to any request.
- (d) **Administrative and Overhead Fees:** The fee required for the time required for the Chief Counsel or designee to review a request and determine whether the request is authorized by G.S. 96-4 shall be five dollars and eighty-four cents (\$5.84) for each one-quarter hour or fraction thereof. The overhead cost for processing and invoicing shall be four dollars and fifty cents (\$4.50) per invoice.
- (e) Any individual receiving records from DES under this Section shall be charged a minimum fee of fifteen dollars (\$15.00).

*History Note:* Authority G.S. 96-4; 20 CFR 603.8;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018.

#### **04 NCAC 24A .0206 METHOD OF PAYMENT**

Payment of fees for the release of records unrelated to a pending matter or contested case shall be made to DES in accordance with 04 NCAC 24A .0104(aa).

*History Note:* Authority G.S. 96-4; 20 CFR 603.8;  
Eff. July 1, 2015;  
Amended Eff. August 1, 2020; July 1, 2018.

#### **04 NCAC 24A .0207 PAYMENT REQUIRED BEFORE INFORMATION RELEASE**

- (a) Payment shall accompany all requests for release of information. If payment does not accompany a request, or is insufficient to cover all fees, DES shall send an invoice for all fees due to the individual making the request, due immediately upon receipt.
- (b) If the search for requested records exceeds the minimum fee under 04 NCAC 24A .0205, the Chief Counsel or designee shall provide an estimate of DES's cost to produce the information to the individual making the request. Upon consenting to the estimate provided by the Chief Counsel or designee, DES shall send an invoice for the actual cost of producing the requested information to the individual making the request. Payment shall be due immediately, as set forth in Paragraph (a) of this Rule.
- (c) When exigent circumstances require the immediate release of information to local, state, or federal law enforcement officials, DES shall release the information upon receipt of a written assurance demonstrating a guaranty of future payment from the law enforcement official making the request.

*History Note:* Authority G.S. 96-4; 20 CFR 603.8;  
Eff. July 1, 2015;  
Amended Eff. July 1, 2018.

### **SECTION .0300 – PETITIONS FOR RULE-MAKING**

#### **04 NCAC 24A .0301 RIGHT TO PETITION**

- (a) The petition shall be in writing and contain the following information:
  - (1) the subject area to which the petition is directed;

- (2) a draft of the proposed or amended rule;
- (3) the reason for the proposal;
- (4) the effect of the requested rule change;
- (5) any data supporting the proposal;
- (6) the name and address of each petitioner; and
- (7) the date.

(b) Any person submitting a petition requesting the adoption, amendment, or repeal of a rule under this Chapter shall address the petition to the Rules Coordinator, Attn: DES Legal Services Section, Post Office Box 25903, Raleigh, North Carolina 27611-5903.

*History Note:* Authority G.S. 96-4; 150B-20;  
Eff. July 1, 2015.

#### **04 NCAC 24A .0302 DISPOSITION OF PETITION**

- (a) Upon receipt of a petition, the Secretary of Commerce, or designee shall review the petition to determine whether the public interest would be served by granting the request.
- (b) Within 30 days of receiving the petition, the Secretary or designee shall make a decision on the petition and inform the petitioner by mailing:
  - (1) a written denial of the petition and the reason for the denial; or
  - (2) written notice to the petitioner that the Secretary or designee will initiate a rule-making proceeding as required by G.S. 150B-20(c).
- (c) Each determination granting or denying a petition shall include a statement that the Secretary or designee's decision is a final agency decision subject to judicial review.
- (d) Each determination shall include instructions for filing a request for judicial review in the superior court pursuant to G.S. 150B-45 within 30 days after receiving the determination.

*History Note:* Authority G.S. 96-4; 150B-20; 150B-45;  
Eff. July 1, 2015.

#### **04 NCAC 24A .0400 RESERVED FOR FUTURE CODIFICATION**

### **SECTION .0500 – REQUESTS FOR DOCUMENTS, HEARING RECORDS, AND TRANSCRIPTS RELATED TO PENDING APPEAL OR CONTESTED CASE**

#### **04 NCAC 24A .0501 WRITTEN REQUEST REQUIRED**

- (a) A party requesting a copy of file documents, a digital recording of a hearing, or a written transcript of a hearing in a matter where an appeal is pending shall submit the request in writing.
- (b) A party's written request for a copy of the file documents, digital recording of the hearing, or written transcript of the hearing shall include:
  - (1) the name and address of the party making the request;
  - (2) the claimant's name, if applicable;
  - (3) the employer's name, if applicable;
  - (4) the docket or issue identification number of the case;
  - (5) the date of or approximate date that the record was made;
  - (6) the person or office that made the record; and
  - (7) the name and address to which the record shall be sent.
- (c) When a party has requested a written transcript, any other party with appeal rights to the proceeding may request a copy of the transcript. The request shall meet the requirements of Paragraphs (a) and (b) of this Rule.
- (d) The request may accompany or be included in an appeal letter. Requests may also be submitted to the Legal Services Section, ATTN: Request for Hearing Record by mail to Post Office Box 25903, Raleigh, North Carolina, 27611-5903, or by facsimile to (919) 733-8745.
- (e) Requests for file documents, digital recordings, or hearing transcripts from any individual or entity who is not a party with appeal rights in the proceeding shall be evaluated pursuant to Section .0200 of this Subchapter.
- (f) Requests for file documents, digital recordings, or hearing transcripts in a matter where appeal rights have expired and the decision became final shall be made in accordance with Section .0200 of this Subchapter.

*History Note:* Authority G.S. 96-4; 96-15; 20 CFR 603.5;  
Eff. August 1, 2020.

#### **04 NCAC 24A .0502 INDIGENCY**

(a) A party who is unable to provide payment assurance with a written transcript request pursuant to 04 NCAC 24A .0501 may proceed in forma pauperis. The party may obtain a transcript if the request is accompanied by a written affidavit stating that he or she is unable to advance the required costs, and proof pursuant to Paragraph (b) of this Rule.

(b) The Chief Counsel or designee shall authorize release of the transcript to an indigent party if the person submits the required affidavit and meets one or more of the following criteria:

- (1) receives electronic food and nutrition benefits;
- (2) receives Work First Family Assistance;
- (3) receives Supplemental Security Income (SSI);
- (4) is represented by a legal services organization that has as its primary purpose the furnishing of legal services to indigent persons;
- (5) is represented by private counsel working on behalf of or under the auspices of a legal services organization in accordance with Subparagraph (4) of this Paragraph; or
- (6) is represented by private counsel under a written agreement to provide pro bono legal services.

*History Note:* Authority G.S. 1-110; 96-4; 96-15;  
Eff. August 1, 2020.

#### **04 NCAC 24A .0503 INVOICE AND FEES**

(a) A party who requests a copy of the file documents or a digital recording in a pending appeal or contested case under this Section shall be provided with the file documents and digital recording free of charge.

(b) A request for a written transcript of the hearing shall include payment assurance by stating that the requesting party will pay the fee for the transcript in accordance with 04 NCAC 24A .0104(z) or (aa). Payment is due upon receipt, but no more than 15 days after the date that the transcript was mailed or transmitted to the party.

(c) A party who requests a written transcript of a hearing but does not provide payment assurance in accordance with 04 NCAC 24A .0104(z) or (aa) shall receive a digital recording of the hearing free of charge.

(d) A party who requests a written transcript of a hearing with payment assurance as set forth in 04 NCAC 24A .0104(z) or (aa) shall receive a written transcript. An invoice for the fees charged by DES shall accompany the transcript and shall not exceed the lesser of sixty-five cents per page or sixty-five dollars (\$65.00) per transcript pursuant to G.S. 96-15(f).

(e) Payment for transcripts under this Section shall include the invoice number and be made in accordance with 04 NCAC 24A .0104(z) or (aa).

*History Note:* Authority G.S. 96-4; 96-15; 20 CFR 603.8;  
Eff. August 1, 2020.

#### **04 NCAC 24A .0504 DISCLOSURE OF RECORDS RELATED TO PENDING APPEAL OR CONTESTED CASE**

(a) The Chief Counsel or designee shall transmit a copy of the requested record to the requesting party by mail, unless the party requests or authorizes delivery by electronic transmission or delivery service in accordance with 04 NCAC 24A .0103.

(b) A party who files an appeal to the superior court from a decision of the Board of Review regarding the rights, liabilities, and status of an employer and complies with the requirements of G.S. 96-4 shall receive a copy of the transcript of all testimony, records, evidence, and assignment of errors free of charge when it is transmitted to the court in accordance with G.S. 96-4(q).

(c) A party who files a petition for judicial review and complies with the requirements of G.S. 96-15 shall receive a copy of the transcript and entire record under review free of charge when it is transmitted to the court in accordance with G.S. 96-15(h).

*History Note:* Authority G.S. 96-4; 96-15; 20 CFR 603.5;  
Eff. August 1, 2020.

## SECTION .0600 – FORMS

### 04 NCAC 24A .0601 OFFICIAL FORMS

(a) Unless otherwise provided, all employer forms referenced under the rules of this Chapter are available at [des.nc.gov](http://des.nc.gov), or by contacting the Employer Call Center (ECC) as follows:

- (1) mailing address is Post Office Box 26504, Raleigh, North Carolina 27611;
- (2) phone number is (919) 707-1150;
- (3) facsimile number is (919) 715-0780; or
- (4) email address is [des.tax.customerservice@nccommerce.com](mailto:des.tax.customerservice@nccommerce.com).

(b) Unless otherwise provided, all claimant forms referenced under the rules of this Chapter are available at [des.nc.gov](http://des.nc.gov), or by contacting the Customer Call Center (CCC) as follows:

- (1) mailing address is P.O. Box 25903, Raleigh, North Carolina 27611-5903;
- (2) phone number is (888) 737-0259;
- (3) facsimile number is (919) 250-4315; or
- (4) email address is [des.ui.customerservice@nccommerce.com](mailto:des.ui.customerservice@nccommerce.com).

*History Note: Authority G.S. 96-4;  
Eff. July 1, 2015;  
Recodified from 04 NCAC 24D .1401 Eff. August 1, 2020;  
Amended Eff. August 1, 2020.*