

09 NCAC 06B .1111 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 shall 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 hearing officer 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 warrant the discovery. In ruling on a motion for discovery, the hearing officer 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 hearing officer but shall be served upon all parties.

(d) The parties 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) Unless otherwise ordered, all discovery shall be completed no later than the first day of the hearing. The hearing officer may shorten or lengthen the period for discovery and adjust hearing dates accordingly and, where necessary for a fair and impartial hearing, allow discovery during the pendency of the hearing.

(f) Unless otherwise ordered, no later than 15 days after 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 hearing officer made pursuant to this Rule shall be as provided for by G.S. 1A-1(37), to the extent that a hearing officer may impose such sanctions, and Rule .1114 of this Section.

*History Note: Authority G.S. 147-33.76(b1); 150B-38(h);
Temporary Adoption Eff. January 1, 2000;
Eff. August 1, 2000;
Recodified from 09 NCAC 06B .1020 Eff. March 19, 2008;
Amended Eff. September 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*