

SUBCHAPTER 57C – ADMINISTRATIVE LAW PROCEDURES

SECTION .0100 – APPRAISAL BOARD HEARINGS

21 NCAC 57C .0101 FORM OF COMPLAINTS AND OTHER PLEADINGS

- (a) Complaints shall be in writing and contain the following information:
- (1) name of the trainee, appraiser, or appraisal management company;
 - (2) name of the complainant;
 - (3) physical address and contact information of the complainant; and
 - (4) the facts that form the basis of the complaint.
- (b) When a complaint is received by the Board it shall be considered an allegation. The Board staff shall review the allegation to determine whether it shall be investigated, including examination of the appraisal report, if applicable, which shall be requested from the appraiser, and if based on this information there appears to be no violations of USPAP or any of the Board rules or statutes, then the allegations shall not be further investigated and will be dismissed. A three-panel committee of the Board shall review this decision.
- (c) If the three-panel committee determine that further investigation is required, then a formal complaint shall be opened, and the Board staff shall request a response and the entire workfile from the appraiser and shall proceed to investigate the matter.
- (d) After the review as set forth above, when the Board staff investigates a complaint, the scope of the investigation shall not be limited to the persons or transactions described or alleged in the complaint.
- (e) Complainants are not parties to contested cases heard by the Board, but may be witnesses in the cases.
- (f) There is no specific form required for answers, motions, or other pleadings submitted prior to the hearing relating to contested cases before the Board, except they shall be in writing. The document shall identify the file number and state the matters it alleges, answers, or requests. Motions may be made on the record during the course of the hearing before the Board.
- (g) After the review as set forth above, during the course of an investigation of a complaint, the Board, through its legal counsel or staff, may send a trainee, appraiser, or appraisal management company one or more letters of inquiry requesting a response from the trainee, appraiser, or appraisal management company. The initial letter of inquiry, or attachments thereto, shall set forth the subject matter being investigated. Upon receipt of a letter of inquiry, the trainee, appraiser, or appraisal management company shall respond within 30 calendar days. The response shall include copies of all documents requested in a letter of inquiry.
- (h) Hearings in contested cases before the Board shall be governed by the provisions of Article 3A of Chapter 150B of the General Statutes.
- (i) A complaint shall not be accepted if the applicable time period for retention of the work file for that appraisal assignment pursuant to the Recordkeeping Rule of the Uniform Standards of Professional Appraisal Practice has expired. This Section does not apply to complaints involving the actions outlined in G.S. 93E-1-12(b)(1),(2),(4), and (5).

History Note: Authority G.S. 93E-1-10; 93E-1-12; 93E-2-3; 93E-2-8;
Eff. July 1, 1994;
Amended Eff. July 1, 2014; January 1, 2011; July 1, 2003; August 1, 2002;
Readopted Eff. July 1, 2018;
Amended Eff. May 1, 2020.

21 NCAC 57C .0102 PRESIDING OFFICER

- (a) The Appraisal Board may designate any of its members to preside over the hearing in a contested case. When no designation is made, the Chairman of the Board shall preside, or, in his absence, the Vice Chairman shall preside. The presiding officer shall rule on motions or other requests made in a contested case prior to the conduct of the hearing in that case except when the ruling on the motion would be dispositive of the case. When the ruling on a motion or request would be dispositive of the case, the presiding officer shall make no ruling and the motion or request shall be determined by a majority of the Board.
- (b) The Chairman of the Board may allow the Board's Executive Director to grant the first request for a continuance of a hearing. Any subsequent requests for continuance shall be granted by the Chairman of the Board. The granting of a continuance is wholly discretionary.

History Note: Authority G.S. 93E-1-10;

Eff. July 1, 1994;
Amended Eff. July 1, 2003; August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

21 NCAC 57C .0103 SUBPOENAS

- (a) The Executive Director of the Appraisal Board and the Board's Legal Counsel shall have the authority to issue subpoenas in the name of the Board.
- (b) The presiding officer in a contested case shall also have the authority to issue subpoenas relating to that contested case.

History Note: Authority G.S. 93E-1-10;
Eff. July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

21 NCAC 57C .0104 PETITION TO REOPEN PROCEEDING

- (a) After a final decision has been reached by the Board in a contested case, a party may petition the Board to reconsider a case. Petitions will not be granted except when the petitioner can show that the reasons for reconsidering the case are to introduce newly discovered evidence which was not presented at the initial hearing because of some justifiable, excusable or unavoidable circumstance. Upon the running of the 30 day period for seeking judicial review, such petitions will have no effect. Petitions for reopening the proceedings shall not toll the 30 days available for seeking judicial review, as provided in G.S. 150B-45.
- (b) Decisions on petitions to reopen cases are within the discretion of the Board.

History Note: Authority G.S. 93E-1-10;
Eff. July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0200 - PETITIONS FOR RULES

21 NCAC 57C .0201 PETITION FOR RULEMAKING HEARINGS

- (a) Any person wishing to file a petition requesting the adoption, amendment or repeal of a rule by the Board shall file a written petition with the Executive Director.
- (b) The petition shall include the following information:
- (1) name, address and occupation of petitioner;
 - (2) a summary of the proposed action (adoption, amendment or repeal of a rule or rules);
 - (3) a draft of the proposed rule or other action;
 - (4) a complete statement of the reason for the proposed action; and
 - (5) an identification of the persons or class of persons most likely to be affected by the proposed action.
- (c) The Board shall decide whether to allow or deny a rule-making petition.

History Note: Authority G.S. 93E-1-10; 150B-20;
Eff. July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0300 - RULE-MAKING

21 NCAC 57C .0301 WRITTEN SUBMISSIONS

Any person may file a written submission containing data, comments or arguments after publication of a rule-making notice and prior to the decision of the Board to adopt, amend or repeal the rule or rules in question. Written submissions shall be addressed to the Board and shall clearly state the rule or proposed rule to which the comments are directed.

History Note: Authority G.S. 93E-1-10; 150B-21.2(e);
Eff. July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

21 NCAC 57C .0302 PRESIDING OFFICER

The presiding officer at any rule-making hearing shall have control of the proceedings, including: recognition of speakers, time allotments for presentations, the right to question speakers, direction of the discussion, and management of the hearing.

History Note: Authority G.S. 93E-1-10;
Eff. July 1, 1994;
Amended Eff. August 1, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

21 NCAC 57C .0303 RECORD OF PROCEEDINGS

A record of rule-making proceedings will be available for public inspection during regular office hours at the Board's office. This record will contain the original petition, if any, the notice, all written memoranda and information submitted, and a record or summary of oral presentations, if any, and, in any case where a proposal was rejected, the reason therefor.

History Note: Authority G.S. 93E-1-10; 150B-21;
Eff. July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.

SECTION .0400 - DECLARATORY RULINGS

21 NCAC 57C .0401 REQUESTS FOR RULINGS: DISPOSITION OF REQUESTS

(a) All requests for declaratory rulings shall be written and filed with the Board. The request must contain the following information:

- (1) the name, address and signature of petitioner;
- (2) a concise statement of the manner in which petitioner is aggrieved by the rule or statute in question, or its potential application to him;
- (3) a statement of the interpretation given the statute or rule in question by petitioner;
- (4) a statement of the reasons, including any legal authorities, in support of the interpretation given the statute or rule by petitioner.

(b) The Board shall either deny the request, stating the reasons therefor, or issue a declaratory ruling. When in its discretion, the Board determines that the issuance of a declaratory ruling is undesirable, it may refuse to issue such ruling.

(c) The Board shall not issue a declaratory ruling when the petitioner or his or her request is the subject of, or materially related to, a matter under investigation by the Board or a contested case before the Board.

History Note: Authority G.S. 93E-1-10;
Eff. July 1, 1994;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 3, 2017.