26 NCAC 03 .0112 DISCOVERY

(a) 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.

(b) 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.

(c) The parties in any contested case shall voluntarily exchange information upon filing the contested case, seek access as provided by law to public documents, and exhaust other informal means of obtaining discoverable material within the timeframe set in the scheduling order.

All discovery shall be completed no later than the first day of the contested case hearing.

- (d) 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.

(e) 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 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; Amended Eff. April 1, 2023.