

26 NCAC 03 .0115 MOTIONS

(a) Any application to the administrative law judge for an order shall be by motion, which shall be in writing unless made during a hearing, and must be filed and served upon all parties not less than ten days before the hearing, if any, is to be held either on the motion or the merits of the case. The nonmoving party shall have ten days from the date of service of the motion to file a response. A response must be in writing. Motions practice in contested cases before the Office of Administrative Hearings shall be governed by Rule 6 of the General Rules of Practice for the Superior and District Courts.

(b) If any party desires a hearing on the motion, he shall make a request for a hearing at the time of the filing of his motion or response. A response shall set forth the nonmoving party's objections. All motions in writing shall be decided without oral argument unless an oral argument is directed by the administrative law judge. When oral argument is directed by the administrative law judge, a motion shall be considered submitted for disposition at the close of the argument. A hearing on a motion will be directed by the administrative law judge only if it is determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. All orders on such motions, other than those made during the course of a hearing, shall be in writing and shall be served upon all parties of record not less than five days before a hearing, if any, is held.

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