

26 NCAC 03 .0123 is amended with changes as published in 35:20 NCR 2271 as follows:

26 NCAC 03 .0123 OFFICIAL RECORD

(a) The official record of a contested case shall be available for public inspection upon request. An administrative law judge may, consistent with law, order ~~part or all~~ or part of an official record sealed.

(b) The official record shall be prepared in accordance with G.S. 150B-37(a).

(c) Contested case hearings shall be recorded either by a hearing assistant provided by the Office of Administrative Hearings ~~four track recording system~~ or a court reporter listed by the North Carolina Administrative Office of the Courts as authorized and approved to prepare transcripts of proceedings held in the courts of all counties [General Court of Justice by the Administrative Office of the Courts] procured directly by one or more parties to the contested case. ~~using stenomask or stenotype.~~

~~(d) Transcript costs incurred shall be divided equally among the party(ies) requesting a transcript.~~

~~(e) Any other costs incurred when using a court reporter shall be divided equally among the requesting party(ies).~~

~~(d)(f)~~ If a contested case hearing is cancelled, the party responsible for the cancellation shall provide a A 24-hour cancellation notice to the other parties ~~is required~~ in all cases in which a hearing assistant is provided by the Office of Administrative Hearings. ~~cases. The party(ies) responsible for the cancellation are liable for any cancellation fees.~~

~~(e)(g)~~ Transcripts of proceedings held in the Office of Administrative Hearings during which oral evidence is presented shall be made only upon request of a party. ~~OAH shall contract with an independent contractor to provide transcript services. When proceedings are recorded by a court reporter, transcript requests shall must be made directly to the court reporter. When proceedings are recorded by a hearing assistant, transcript requests shall be made directly to a transcriptionist listed by the North Carolina Administrative Office of the Courts as authorized and approved to prepare transcripts of proceedings held in the courts of all counties. [General Court of Justice by the Administrative Office of the Courts.] independent contractor. The name and phone number of the independent contractor may be obtained by calling the Office of Administrative Hearings. Transcript costs shall be provided to the requesting party by the independent contractor. An attorney requesting a transcript on behalf of a party shall be a guarantor of payment of the cost. The independent contractor may require an advance security deposit to cover the prospective cost.~~

(f) A party who orders a transcript shall use an Office of Administrative Hearings Transcript Contract form to order the transcript, which shall include the following information:

- (1) case name and number;
- (2) requestor information; and
- (3) transcriptionist information.

That form is available on the Office of Administrative Hearings website at <https://www.oah.nc.gov> and may be obtained from the Chief Hearings Clerk upon request. The party ordering the transcript shall file the transcript contract with the Office of Administrative Hearings and shall serve the transcript contract on all other parties and the transcriptionist. The transcriptionist shall deliver the transcript to the parties and file the transcript with the Office of

1 Administrative Hearings by email to oah.clerks@oah.nc.gov in PDF format no later than 30 days after having been
2 served with the transcript contract.

3 ~~(g)(h)~~ Copies of recordings made by a hearing assistant are available upon written request at a cost set out in 26 NCAC
4 01 .0103.

5 ~~(i) Copies of OAH Hearings recordings or non-OAH certified transcripts therefrom are not part of the official record.~~

6 ~~Note: Rule 5.3(B) of the Rules of Professional Conduct permits an attorney to advance or guarantee expenses of~~
7 ~~litigation provided the client remains ultimately liable for such expenses.~~

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9 *History Note: Authority G.S. 7A-751; 150B-37;*

10 *Eff. August 1, 1986;*

11 *Amended Eff. August 1, 1998; April 1, 1990; February 1, 1989; November 1, 1987;*

12 *September 1, 1986;*

13 *Recodified from Rule .0122 Eff. August 1, 2000;*

14 *Amended Eff. April 1, 2009;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*
16 *2016;*

17 *Amended Eff. August 1, 2021.*
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