

26 NCAC 03 .0501 is amended with changes as published in 30:24 NCR 2613 as follows:

SECTION .0500 – ELECTRONIC FILING

26 NCAC 03 .0501 DEFINITIONS

In addition to the definitions contained in G.S. 150B-23.3, the following terms shall mean:

- (1) "Electronic filing" or "filed electronically" means the electronic transmission of the petition, notice of hearing, pleadings, or any other documents filed in a contested case with the Office of Administrative Hearings by uploading to the case docket using the OAH electronic filing system (e-OAH) accessed through a link on the OAH website at www.ncoah.com.
- (2) "Electronic Filing Service Provider (EFSP)" means the service provided by the Office of Administrative Hearings for electronic filing and electronic service of documents by way of the Internet accessed through a link on the OAH website at www.ncoah.com.
- (3) "Electronic signature" or "signed electronically" means a graphic version of the e-OAH user's signature or "s/" followed by the e-OAH user's typewritten name. This shall be the legal equivalent of the e-OAH user's handwritten signature.
- (4) "Electronic service" or "served electronically" means the electronic transmission of the petition, notice of hearing, pleadings, or any other documents filed in a contested case with the Office of Administrative Hearings to an attorney, mediator, or party ~~utilizing the attorney's, mediator's, or party's electronic mail address registered with the Office of Administrative Hearings in e-OAH.~~ by means of the Electronic Filing Service Provider.
- (5) "Filed" means received ~~[and accepted for filing]~~ by the chief hearings clerk of the Office of Administrative Hearings in e-OAH.

*History Note: Authority G.S. 7A-750; 150B-23; 150B-23.3;
Eff. March 1, 2016;
Amended Eff. October 1, 2016.*

26 NCAC 03 .0502 is amended with changes as published in 30:24 NCR 2613 as follows::

26 NCAC 03 .0502 GENERAL

(a) The Office of Administrative Hearings shall permit documents filed and served in a contested case to be filed and served electronically by means of the Electronic Filing Service Provider. All attorneys, mediators, and other parties using e-OAH shall register to use the system through a link on the OAH website at www.ncoah.com. All e-OAH users shall keep current their electronic mail address in e-OAH. When all attorneys and unrepresented parties to a contested case are registered in e-OAH, documents filed and served in that contested case shall be filed and served electronically by means of the Electronic Filing Service Provider.

(b) In contested cases filed in e-OAH, registration as an e-OAH user constitutes ~~waiver of the right to receive notice or service by first class mail, certified mail, or personal delivery, and~~ consent to electronic service and receipt of contested case ~~documents~~ documents, including a notice of hearing given by OAH, ~~at the e-OAH user's electronic mail address registered in e-OAH.~~ by means of the Electronic Filing Service Provider.

(c) An e-OAH user shall be responsible for the readability of any document filed or served electronically by that user. Within five business days of receipt of an unreadable document filed or served electronically, the receiving party shall notify the sending party of the unreadability of the document.

(d) Pleadings and other documents filed or served electronically shall contain the electronic signature of the attorney, mediator, or party who prepared the document and the preparer's name, mailing address, electronic mail address, and telephone number. Documents prepared by an attorney shall have the attorney's North Carolina State Bar number. An attorney registered as an e-OAH user in a contested case shall electronically file [and serve] a notice of appearance in that contested case. An attorney's electronic signature to a petition for a contested case filed electronically shall be that attorney's notice of appearance in that contested case.

(e) Documents filed in e-OAH are filed when received [and accepted for filing] by the chief hearings clerk of the Office of Administrative Hearings. Upon completion of filing, the clerk shall send the e-OAH user a confirmation receipt that includes the date and time of filing which shall be proof of filing.

(f) Documents filed electronically after 5 pm shall be deemed filed at 8 am the following business day.

(g) Documents filed in a contested case by an e-OAH user shall be filed electronically by means of the Electronic Filing Service Provider and ~~An e-OAH filing in a contested case~~ shall be served electronically by means of the Electronic Filing Service Provider on all other attorneys or other parties registered in e-OAH in that contested case and shall include a certificate of service.

(h) Electronic service shall be treated as the same as service by mail for the purpose of adding three days to the prescribed period to respond under Rule 6(e) of the Rules of Civil Procedure as contained in G.S. 1A-1.

(i) A subpoena issued in a contested case by the chief hearings clerk of the Office of Administrative Hearings shall be signed electronically by the clerk.

(j) In contested cases filed electronically, the applicable filing fee shall be:

- (1) forwarded by first class mail or overnight express mail contemporaneously with the electronic filing;

- 38 (2) paid personally to the chief hearings clerk of the Office of Administrative Hearings within five
39 business days of the filing; or
40 (3) paid by electronic funds transfer.

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42 *History Note:* *Authority G.S. 7A-750; 150B-23; 150B-23.2; 150B-23.3;*
43 *Eff. March 1, 2016;*
44 *Amended Eff. October 1, 2016.*