

1 04 NCAC 24A .0108 is amended with changes as published in 36:16 NCR 1379 as follows:

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3 **04 NCAC 24A .0108 SIGNATURES ON REPORTS AND FORMS**

4 Where DES requires a signature on a report or form, the writing shall be signed by:

- 5 (1) the individual, if the person required to submit the report or form is an individual;
- 6 (2) ~~an~~ the president, vice president, or other [principal] ~~officer or authorized representative~~, if the
- 7 employing unit required to submit the report or form is a corporation;
- 8 (3) ~~a partner or other authorized representative~~ partner, if the employing unit required to submit the
- 9 report or form is a partnership; ~~or limited liability partnership~~;
- 10 (4) ~~a member or other authorized representative~~, member, if the employing unit required to submit the
- 11 form is ~~an association~~ a limited liability company or professional limited liability company;
- 12 (5) an [responsible and duly] authorized member or officer having knowledge of its affairs, if the
- 13 employing unit required to submit the report or form is an unincorporated organization;
- 14 (6) the fiduciary, if the employing unit required to submit the report or form is a trust or estate; ~~or~~
- 15 (7) ~~the head of the department, or designee having control of the services to which contributions,~~
- 16 ~~reimbursements, or other payments are attributable, if the employing unit required to submit the~~
- 17 ~~report or form is the State of North Carolina.~~ [responsible and duly] an authorized representative of
- 18 a governmental entity; or
- 19 ~~(8) an agent appointed by the employing unit under a power of attorney in accordance with 04 NCAC~~
- 20 24A .0109.

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22 *History Note: Authority G.S. 96-4; 96-9.15;*

23 *Eff. July 1, 2015;*

24 *Amended Eff. June 1, 2022.*

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1 04 NCAC 24C .0204 is amended with changes as published in 36:16 NCR 1379 as follows:

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3 **04 NCAC 24C .0204 APPEALS HEARING NOTICE**

4 (a) The Appeals Section shall mail notice of the hearing to each party at least 14 days before the hearing date,
5 unless a party elects to receive correspondence and notices by electronic transmission pursuant to 04 NCAC 24A
6 .0103, date.

7 (b) A party who elects to receive correspondence and notices by electronic transmission shall receive an email
8 notification, ~~that the hearing notice, documents, or other information are available for electronic retrieval, along with~~
9 ~~instructions for retrieval.~~ at least 14 days before the hearing date, indicating that the hearing notice is available [on the
10 portal, in their SCUBI account.

11 (c) Notice of the hearing shall include:

- 12 (1) the determination appealed;
- 13 (2) the appealing party;
- 14 (3) the time of the hearing;
- 15 (4) the date of the hearing;
- 16 (5) if requested at the time of filing the appeal, the physical location of an in-person hearing;
- 17 (6) the telephone number of each party for telephone hearings;
- 18 (7) each issue, with statutory reference, to be heard and decided;
- 19 (8) the name and contact information of the designated Appeals Referee;
- 20 (9) the manner by which witnesses may offer evidence and participate in the hearing;
- 21 (10) each party's right to legal representation;
- 22 (11) instructions for requesting a rescheduling of the hearing; hearing pursuant to 04 NCAC 24C .0207;
- 23 (12) each party's right ~~and instructions for requesting~~ to request the issuance of a subpoena for the
24 production of records or for individuals to appear and to testify, as well as instructions for making
25 these [requests;] requests pursuant to 04 NCAC 24C .0401;
- 26 (13) instructions on how to request an in-person hearing; ~~and~~
- 27 (14) instructions on how to give evidence at a hearing; hearing pursuant to 04 NCAC 24C .0209;
- 28 (15) notice that documents accompanying the hearing notice are available [on the portal] their SCUBI
29 account; and
- 30 (16) instructions that if the individual's telephone number is not listed or is incorrect to contact the
31 Appeals Referee prior to the scheduled start time of the hearing to provide the correct telephone
32 [number;] number pursuant to 04 NCAC 24C .0205.

33 (d) The determination, the written ~~appeal,~~ appeal, the claimant's application for unemployment insurance, the
34 employer's response to claimant's application for unemployment insurance, if any, and any ~~additional~~ documents
35 provided to the Appeals Section with the appeal by either party shall accompany the hearing notice. If a party desires
36 to introduce additional documents or other evidence, e.g., audio or video recordings, photographs, or screenshots, at

1 a hearing, the party shall submit the additional documents or other evidence to the Appeals Referee or hearing officer
2 and to all other parties prior to the hearing in accordance with 04 NCAC 24C .0209(a), (c), and (d).

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4 *History Note: Authority G.S. 96-4; 96-15;*
5 *Eff. July 1, 2015;*
6 *Amended Eff. September 1, 2017;*
7 *Amended Eff. June 1, 2022.*

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1 04 NCAC 24C .0205 is amended as published in 36:16 NCR 1379 as follows:

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3 **04 NCAC 24C .0205 TELEPHONE HEARINGS**

4 (a) Hearings shall be conducted by telephone conference call, unless a request is made for an in-person hearing at
5 the time the appeal is filed or an objection is made pursuant to Rule .0206 of this Section.

6 (b) ~~In cases of telephone hearings, the Appeals Section shall provide a Telephone Hearing Questionnaire for each
7 party to use to submit each telephone number to be called by the Appeals Referee for the hearing. The Appeals
8 Hearing Notice will list a telephone number for each party. This is the telephone number the Appeals Referee will
9 call unless a different telephone number is provided in accordance with this Rule.~~

10 (1) If no telephone number is listed for a party, that party shall provide a telephone number directly to
11 the Appeals Referee prior to the scheduled start time of the hearing.

12 (2) If a party wishes to be called at a telephone number other than the one listed, that party shall
13 provide a telephone number directly to the Appeals Referee prior to the scheduled start time of the
14 hearing.

15 (3) If a party wishes to have witnesses called for participation in the hearing, that party shall provide
16 the name and telephone number for each witness directly to the Appeals Referee prior to the
17 scheduled start time of the hearing.

18 ~~(c) Each party may complete and submit the Telephone Hearing Questionnaire containing each number to be called
19 for the hearing to the Appeals Referee listed in the hearing notice, or pursuant to 04 NCAC 24A .0104(b).~~
20 Telephone numbers for parties and additional witnesses shall be provided to the Appeals Referee by telephone or by
21 email. The telephone number and email address for the Appeals Referee are listed on the Appeals Hearing Notice.

22 ~~(d) After receiving the hearing notice, and prior to the hearing, any party may contact the Appeals Referee to
23 provide the name of each participant and each telephone number to be called for the hearing. In the absence of the
24 submission by a party of any telephone number to be called for the hearing, the Appeals Referee shall call the party
25 at the telephone number listed on the hearing notice. If a party fails to provide a telephone number to the Appeals
26 Referee prior to the scheduled start time of the hearing, the Appeals Referee shall call the party at the telephone
27 number listed on the Appeals Hearing Notice. If no telephone number is listed for a party, and no number has
28 otherwise been provided in accordance with this Rule, no call will be placed to that party for the hearing.~~

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30 *History Note: Authority G.S. 96-4; 96-15;*
31 *Eff. July 1, 2015;*
32 *Amended Eff. October 1, 2017;*
33 *Amended Eff. June 1, 2022.*

04 NCAC 24C .0207 is amended with changes as published in 36:16 NCR 1379 as follows:

04 NCAC 24C .0207 RESCHEDULING A HEARING

(a) An Appeals Referee may continue a hearing for “good cause” as defined in 04 NCAC 24A .0105. ~~Either before or during a hearing, an Appeals Referee, on his or her own motion, or on the motion of a party, may continue or adjourn a hearing for "good cause" in accordance with 04 NCAC 24A .0105. In addition to the reasons set forth in G.S. 96-15(d1), the reasons for which a continuance or an adjournment, may be granted at the request of a party [when a party, witness, or the Appeals Referee is unavailable] due to [includes] include, but are not limited to, the following:~~

- (1) illness; of the party;
- (2) death ~~in the~~ of an immediate family member. Immediate family member is defined as an individual’s wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, granddaughter, regardless of whether the relationship is a biological, adoptive, step-, half-, or in-law relationship;
- (3) a need to obtain an interpreter or translator;
- (4) a religious observance;
- (5) jury duty;
- (6) actively seeking legal representation;
- (7) appearance in ~~court [or]~~ another proceeding before the Division or the Board of Review; ~~appearance unrelated to DES;~~
- (8) active military duty;
- (9) a scheduling conflict created by ~~new employment;~~ or to accommodate return-to-employment activities of the claimant; ~~or~~
- (10) to accommodate the business needs of the employer;
- (11) a scheduling conflict of the Appeals Referee; or
- (12) based on the operation and scheduling needs of the Appeals Section.

(b) Any request for continuance by a party prior to the hearing shall be made in writing to the Appeals Referee listed on the Appeals Hearing Notice, or where applicable, Order for Continuance or Order for Adjournment. The written request shall explain the reasons the request is being sought. ~~Before a hearing, requests for a continuance of the hearing shall be made to the designated Appeals Referee orally or in writing. The request for a continuance of a hearing shall specifically state and explain the reasons for the request.~~

(c) Unless the parties are notified by the Appeals Referee or the Appeals Section that a request for continuance has been granted, the hearing will be conducted as scheduled.

*History Note: Authority G.S. 96-4; 96-15;
Eff. July 1, 2015;
Amended Eff. June 1, 2022.*

1 04 NCAC 24C .0209 is amended as published in 36:16 NCR 1379 as follows:

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3 **04 NCAC 24C .0209 CONDUCT OF HEARINGS**

4 (a) Hearings may be conducted by a Hearing Officer or an Appeals Referee, including the Chief Appeals Referee and
5 the Deputy Chief Appeals Referee. Consistent with G.S. 96-15(f), all hearings shall be conducted in a manner to
6 preserve the substantial rights of the parties.

7 (1) The parties to an appeal before an Appeals Referee have the right to present relevant and material
8 evidence as determined by the Appeals Referee.

9 (2) The Appeals Referee may ask questions to develop the record as to the relevant facts, circumstances,
10 and issues presented at the hearing.

11 (3) The Appeals Referee may examine parties and witnesses, and shall allow cross-examination, ~~to the~~
12 ~~extent necessary to afford the parties due process.~~

13 (4) All issues relevant to the appeal shall be considered and ruled upon.

14 (b) The Appeals Referee shall give each party 10 minutes from the time of the scheduled hearing to appear for the
15 hearing. If the appealing party fails to appear at the hearing and a continuance had not been previously granted, the
16 Appeals Referee shall issue an Appeals Decision dismissing the appeal. If the appealing party ~~is present~~ appears
17 and the non-appealing party fails to appear, the Appeals Referee shall proceed with the hearing.

18 (c) If a party wishes to introduce documents or other evidence not provided by the Appeals Section with the Appeals
19 Hearing Notice, the party shall provide a copy to the Appeals Referee and to all other parties prior to the hearing. ~~A~~
20 ~~party desiring to introduce documents or other evidence at a hearing shall provide an authenticated copy plus one copy~~
21 ~~for the Appeals Referee to include in the official record, and a copy to each party to the proceeding. Documents or~~
22 ~~other evidence shall be provided to the opposing party prior to the hearing.~~

23 (d) [If the number of documents or other exhibits, e.g., photographs, screenshot, introduced by one party exceeds 25
24 pages, the party offering the documents or other exhibits shall number each document or other exhibit and provide an
25 index listing each exhibit and its corresponding page number. The index shall accompany the exhibits and become
26 part of the official hearing record.] Any party propounding in excess of 25 pages of documents, photographs, or screen
27 shots shall number and paginate each exhibit, and provide an index listing each exhibit and its corresponding page
28 number, which will become part of the official record. ~~A party offering numerous documents into evidence shall~~
29 ~~prepare a list of documents in the order of their presentation. The list shall be provided to the Appeals Referee and~~
30 ~~opposing party before the hearing, to become part of the official hearing record.~~

31 (e) Official notice may be taken by the Appeals Referee of all facts for which judicial notice may be taken as well as
32 ~~and of~~ other facts within the specialized knowledge of the [Division:] DES. The official notice and its source shall be
33 stated on the record ~~and made known to the parties at the earliest practicable time.~~ ~~A~~ Each party shall be given an
34 opportunity to dispute the noticed fact by argument and submission of evidence on the record.

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36 *History Note: Authority G.S. 96-4; 96-15; 20 CFR 650.2;*
37 *Eff. July 1, 2015;*

1 04 NCAC 24C .0214 is amended with changes as published in 36:16 NCR 1379 as follows:

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3 **04 NCAC 24C .0214 WITHDRAWAL OF APPEAL**

4 ~~(a) An appealing party may withdraw its appeal with the approval of the Appeals Referee.~~

5 ~~(b) An appealing party's request to withdraw its appeal shall be in writing and contain:~~

6 ~~(1) — the reason for the request to withdraw the appeal;~~

7 ~~(2) — the date of the request;~~

8 ~~(3) — the docket or issue identification number of the determination being appealed;~~

9 ~~(4) — the claimant's identification number;~~

10 ~~(5) — the names of the claimant and employer;~~

11 ~~(6) — the name of the individual making the request to withdraw the appeal;~~

12 ~~(7) — the official position of an individual filing the request to withdraw the appeal on behalf of the party;~~

13 ~~and~~

14 ~~(8) — a telephone number.~~

15 ~~This request shall be directed to DES's Appeals Section or to the Appeals Referee designated to hear the case, or~~
16 ~~recorded by the Appeals Referee using the digital recording system used to record hearings in accordance with G.S.~~
17 ~~96-15(e).~~

18 ~~(c) Following receipt of a request to withdraw the appeal, the Appeals Referee shall review each reason for the request.~~

19 ~~(a) The appealing party may request to withdraw an appeal. Any request to withdraw an appeal must be made to the~~
20 ~~Appeals Referee scheduled to conduct the hearing.~~

21 ~~(b) A request to withdraw an appeal may be made in writing or orally.~~

22 ~~(1) If the request is made in writing, it shall be made part of the record and include:~~

23 ~~_____ (A) the Appeals Docket Number;~~

24 ~~_____ (B) the names of parties to the appeal;~~

25 ~~_____ (C) the name of the individual making the request, and the individual's job [title,] title if the employer~~
26 ~~is the~~

27 ~~_____ requesting party; title if he individual is making the request on behalf of the employer; and~~

28 ~~_____ (D) a telephone number where the individual making the request to withdraw may be reached. The~~
29 ~~written request to withdraw [must] shall be made part of the record.~~

30 ~~(2) If the request is made orally, it [must] shall be recorded by the Appeals Referee using the digital recording~~
31 ~~system used to record hearings in accordance with G.S. 96-15(c).~~

32 ~~(d)(c) If a request to withdraw the appeal is approved, granted, the Appeals Referee shall issue an a written order,~~
33 ~~granting the request to withdraw the appeal. The order shall contain no right to appeal the withdrawal of the appeal.~~

34 ~~(e)(d) If a-the request to withdraw the appeal is denied, the Appeals Referee shall notify the requesting party and~~
35 ~~make an oral ruling on the [digital recording system] record providing the information considered and the reason the~~
36 ~~request was denied. issue an order denying the request to withdraw the appeal, informing the party of the information~~

1 ~~considered and the reason for the ruling.~~ The order shall contain no right to appeal the denial of the withdrawal of the
2 appeal.

3 ~~(f)(c) A copy of the party's request to withdraw the appeal and the~~ The Appeal Referee's order granting or denying
4 the request shall be included in the official record of the case.

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6 *History Note: Authority G.S. 96-4; 96-15;*

7 *Eff. July 1, 2018;*

8 *Amended Eff. June 1, 2022.*

1 04 NCAC 24C .0215 is amended with changes as published in 36:16 NCR 1379 as follows:

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3 **04 NCAC 24C .0215 NEW FILING AFTER WITHDRAWAL OF APPEAL**

4 ~~(a) A party whose request to withdraw the appeal was granted who then files an appeal of the same determination or~~
5 ~~issue number shall be deemed to have filed the appeal on the date that DES receives the new filing.~~

6 ~~(b) The record on appeal for a matter that was closed before a new appeal was received shall include the appealing~~
7 ~~party's initial request to withdraw the appeal, the order granting the request to withdraw the appeal, and the new appeal~~
8 ~~filing.~~

9 ~~(c) The Division DES or a party may raise the issue of the timeliness of the appeal if the appeal is filed after the~~
10 ~~appeal rights have expired on the determination or issue being appealed.~~

11 ~~(d) Timeliness of the appeal shall be determined in accordance with 04 NCAC 24A .0106.~~

12 [An aggrieved party may file a new appeal to a Determination by Adjudicator after the initial appeal has been
13 withdrawn.] A party who has withdrawn their appeal pursuant to 04 NCAC 24C .0214 may file a new appeal of the
14 determination by the Adjudicator consistent with 04 NCAC 24C .0203. The refiled appeal shall be scheduled for
15 hearing before an Appeals Referee consistent with G.S. 96-15(c). Either the [Division] DES or a party may raise the
16 issue of timeliness if the refiled appeal is received after the appeal rights to the determination have expired. The issue
17 of timeliness shall be determined in accordance with G.S. 96-15(b)(2).

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19 *History Note: Authority G.S. 96-4; 96-15;*
20 *Eff. July 1, 2018;*
21 *Amended Eff. June 1, 2022.*