

26 NCAC 03 .0101 is amended as published in 39:14 NCR 936-37 as follows:

**26 NCAC 03 .0101           GENERAL**

(a) The Rules of Civil Procedure as contained in G.S. 1A-1 and the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes shall apply in contested cases in the Office of Administrative Hearings (OAH) unless another specific statute or rule of the Office of Administrative Hearings provides otherwise.

(b) The Office of Administrative Hearings shall permit the filing of contested case documents and other pleadings in the OAH electronic filing system (e-OAH), by facsimile (fax), or by electronic mail with an attached file either in PDF format or a document compatible with the most recent version of Microsoft Word. Faxed documents shall be sent to: (984) 236-1871. Electronic mail with attached file shall be sent by electronic transmission to: oah.clerks@oah.nc.gov. ~~The faxed documents or electronic mail with attached file shall be deemed a "filing" within the meaning of 26 NCAC 03 .0102(a)(2) provided the original signed filing and the appropriate filing fee (if a fee is required by G.S. 150B-23.2) are received by OAH within seven business days following the transmission of the faxed documents or electronic mail with attached file.~~ Electronic mail without an attached file as specified in this Paragraph shall not constitute a valid filing with the Office of Administrative Hearings.

(c) Every pleading and other documents filed with OAH shall be signed by the attorney, mediator, or other party who prepared the document, and shall contain 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.

(d) Except as otherwise provided by statutes or by rules adopted under G.S. 150B-38(h), the rules contained in this Chapter shall govern the conduct of contested case hearings under G.S. 150B-40 when an Administrative Law Judge has been assigned to preside in the contested case.

*History Note:     Authority G.S. 7A-750; 7A-751(a); 150B-23.2; 150B-23.3; 150B-40(c);  
Eff. August 1, 1986;  
Amended Eff. May 1, 2009; January 1, 2006; April 1, 2004; April 1, 2001; August 1, 2000; February 1, 1994; July 1, 1992; May 1, 1989; January 1, 1989;  
Emergency Amendment Eff. October 1, 2009;  
Temporary Amendment Eff. December 1, 2009;  
Amended Eff. October 1, 2010;  
Temporary Amendment Eff. January 1, 2012;  
Amended Eff. March 1, 2016; November 1, 2012;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;  
Amended Eff. September 1, 2025; October 1, 2022.*

26 NCAC 03 .0102 is amended as published in 39:14 NCR 936-37 as follows:

**26 NCAC 03 .0102 DEFINITIONS AND CONSTRUCTION**

(a) The definitions contained in G.S. 150B-2 are incorporated herein by reference. In addition, the following definitions apply:

(1) "Chief Administrative Law Judge" means the person appointed according to G.S. 7A-752.

(2) "File" or "Filing" means:

(A) to place the paper or item to be filed into the care and custody of the chief hearings clerk of the Office of Administrative Hearings, and acceptance thereof by the clerk, except that when a party submits a document for filing to the administrative law judge during the course of a contested case hearing and the filing is accepted by the administrative law judge, the judge shall note thereon the filing date. All documents filed with the Office of Administrative Hearings, except exhibits, shall be in letter size 8 1/2" by 11"; or

(B) electronic filing as defined in 26 NCAC 03 .0501(1).

(3) "Service" or "Serve" means:

(A) delivery by electronic mail with an attached file in a format that is readily accessible to the recipient;

(B) delivery by facsimile (fax);

(C) personal delivery;

(D) delivery by first class United States Postal Service mail;

(E) delivery by overnight express mail service; or

(F) electronic service as defined in 26 NCAC 03 .0501(4).

(4) "Document Constituting Agency Action" means the written notice described in G.S. 150B-23(f). When describing the "procedure" for filing a contested case, the agency shall include the name of the agency, and its authorized process agent to ensure the specified agency can be served as required by G.S. 150B-23(a).

(b) A Certificate of Service ~~by the person making the service~~ shall be appended to every document requiring service under these Rules.

(c) Service by mail is complete upon placing the item to be served, enclosed in a wrapper addressed to the person to be served, in an official depository of the United States Postal Service.

(d) Service by overnight express mail is complete upon placing the item to be served, enclosed in a wrapper addressed to the person to be served, in the custody of an overnight express mail service.

(e) Service by electronic mail or fax shall be deemed to occur one hour after it is sent, provided that:

(1) documents sent after 5 pm are deemed sent at 8 am the following business day; and

(2) documents sent by electronic mail or fax that are not readable by the recipient are not deemed served.

Within five business days of receipt of an unreadable document, the receiving party shall notify the sending party of the unreadability of the document.

1 Service by electronic mail or fax is treated the same as service by mail for the purpose of adding three days to the  
2 prescribed period to respond under Rule 6(e) of the Rules of Civil Procedure as contained in G.S. 1A-1.

3 (f) The rules of statutory construction contained in Chapter 12 of the General Statutes shall be applied in the  
4 construction of these Rules.

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6 *History Note: Authority G.S. 7A-752; 150B-23; 150B-23.3;*

7 *Eff. August 1, 1986;*

8 *Amended Eff. October 1, 1991; January 1, 1989; November 1, 1987; September 1, 1986;*

9 *Temporary Amendment Eff. January 1, 2012;*

10 *Amended Eff. March 1, 2016; November 1, 2012;*

11 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23,*  
12 *~~2016-2016;~~*

13 *Amended Eff. September 1, 2025.*