

16 NCAC 06G .0701 (Parental Concern Hearings)
Proposed Permanent Rule
Fiscal and Regulatory Impact Analysis

Agency: State Board of Education

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Basis for Fiscal Note	X	Impact on State Funds
	X	Impact on Local Government
		Substantial Economic Impact

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Executive Summary

In 2023, the General Assembly enacted S.L. 2023-106, more commonly known as the “Parents’ Bill of Rights.” Section 2.(a) of the law created G.S. 115C-76.60, which provides parents of children in North Carolina public schools the ability to request a parental concern hearing (“PCH”) before the State Board of Education (“SBE”) regarding the “procedure or practice” of a public school unit under Chapter 115C, Article 7B, Part 4 of the General Statutes. The provision also directed the SBE to establish rules for these hearings. S.L. 2023-134, Section 7.81.(d) directed the SBE to adopt an emergency rule for PCH and begin receiving requests by January 30, 2024. The emergency rule became effective on November 16, 2023. In accordance with G.S. 150B-21.1A(a), the SBE simultaneously commenced the process for adopting a temporary rule, which became effective February 8, 2024.

The SBE is now proposing a permanent rule that is substantively identical to the temporary rule it will replace. This fiscal note analyzes the projected cost of the proposed rule, which exclusively arises from the costs of hiring an independent hearing officer to conduct any hearing that may be required under the rule. Unfortunately, the SBE does not have precise data on which to base its projects because it has not received a single request for a PCH since the emergency rule went into effect on November 16, 2023.¹ No historical analogue exists to provide comparable data, nor has the SBE been able to identify similar procedures in other states that might inform its projections. In lieu of such information, the SBE has based its projections around comparable hearings conducted by independent hearing officers to review internal agency decisions, specifically those regarding the application for and distribution of federal funds by the Department of Public Instruction (“DPI”).

G.S. 115C-76.60(b)(1)e. requires the PSU involved in a PCH to pay for the cost of the hearing officer. As such, the proposed rule (as an extension of the statute) could affect a unit of local government as described in G.S. 150B-21.4(b). The rule will not require the expenditure or distribution of state funds as described in G.S. 150B-21.4(a) other than small opportunity costs for the SBE, in particular related to the addition of the “jurisdictional review.” In addition, while data on the number or cost of PCHs is, as explained above, nonexistent at this time, the SBE projects it will not come anywhere close to the \$1 million aggregate financial impact within a 12-month period described in G.S. 150B-21.4(b1). As a result, the sole basis for this fiscal note is the potential costs to local governments and the potential minimal opportunity costs to the state agency.

The SBE estimates that the proposed rule will have an average cost of **\$2,068.61** per hearing. The SBE is unable to provide a reasonable estimate of the annual cost of the rule given the lack of reliable data on the number of hearings that may be held in a typical year, but if current trends continue, the SBE projects that the number will be insignificant from a financial and regulatory impact perspective.

Description of Proposed Rule

The proposed rule is designed to cover all substantive areas mandated by statute. It also provides definitions, interpretations, and clarifications designed to clarify the rule’s scope. The following is a description of each paragraph within the rule:

Paragraph (a) defines several terms that are used throughout the rule.

¹ This is not especially surprising because, as explained in greater detail below, the breadth of issues for which a parent could request such a hearing is quite narrow.

- The following terms use the statutory definitions appearing in G.S. 115C-76.1:
 - Child
 - Parent
 - Principal
 - Superintendent
- “Hearing officer” is defined as a person who meets the qualifications for a hearing officer mandated by G.S. 115C-76.60(b)(1)a.
- The definitions for “procedure” and “practice” are intended to clarify the kinds of concerns for which a parent can request a PCH. The definitions are based on common understanding definitions of those terms and make clear that isolated incidents or isolated conduct by PSU personnel are not covered by the rule. This is an important distinction that the SBE believes is consistent with legislative intent, which is to ensure that public school units adopt and maintain policies consistent with Chapter 115C, Article 7B, Part 4 of the General Statutes. In addition, it limits the scope of the rule, which by extension limits its potential financial and regulatory impact.

Paragraph (b) sets forth the process for a parent to request a PCH.

- The process requires a parent to submit certain information in writing to the SBE and provide a copy of the submission to the superintendent of the PSU. The information requested will either be personally known to the parent or readily available from public sources (PSU policies, for example, are public information and are usually posted on the PSU’s website). The purpose of requiring the parent to send a copy to the superintendent is to ensure the PSU has fair notice of the request and an opportunity to prepare should the SBE grant a hearing.
- The SBE has already developed a standard hearing request form for use during the emergency and temporary rule stages that should streamline the process for future requests.

Paragraph (c) establishes a “jurisdictional review” stage whereby the SBE or its authorized designee conducts an initial review of the parent’s request to determine if it qualifies for a hearing.

- The SBE/designee may dismiss the request on several grounds, including in cases where the parent’s concern does not address the “procedure” or “practice” of a PSU.
- The purpose of this review is to avoid the need to appoint a hearing officer, and thereby incur unnecessary costs to the PSU, if a parent submits a request for a hearing for reasons not covered by the statute. Parents regularly contact the SBE and DPI to register complaints or concerns about an issue at their PSU, but very few of those complaints or concerns would entitle them to a parental concern hearing. In addition, the parent may request a resolution that is not within the legal authority of the PSU or SBE. This part of the rule guards against improper use of the process.
- The SBE has by policy designated the SBE/DPI Office of General Counsel (“OGC”) to conduct these reviews.

Paragraph (d) directs the SBE to appoint a hearing officer once the OGC has established jurisdiction.

Paragraph (e) sets forth the process for scheduling and conducting the hearing.

- The provision incorporates certain requirements in G.S. 115C-76.60(b)(1), but otherwise aligns with similar hearings conducted by the SBE, such as those related to appeals of decisions by the DPI Office of Federal Programs regarding distribution of federal funds under 34 C.F.R. § 76.401(a) or 34 C.F.R. § 76.783, appeals of decisions of the Charter Schools Review Board (“CRSB”) under SBE Policy CHTR-023, or appeals of decisions of administering organizations for interscholastic athletics under SBE Policy ATHL-010.
- The SBE believes that the process allows sufficient time and opportunity for each party to be heard without overburdening the PSU with an extensive and costly hearing. Although not legally binding because these hearings do not involve the deprivation of individual rights, the procedural due

process analysis in the seminal case of *Mathews v. Eldridge*, 424 U.S. 319 (1976), is instructive — procedural due process must be evaluated by using a balancing test that accounts for the interests of the affected individual, the interest of the government in limiting procedural burdens, and the risk of erroneously curtailing individual interests under existing procedures. The SBE believes the process established by this paragraph appropriately balances the interests of students, parents, PSUs, and the SBE.

- In practice, the SBE intends to conduct and record the hearings virtually using DPI’s master WebEx subscription. As a result, there will be no travel expenses, facility rental fees, or other ancillary costs associated with the hearing itself.

Paragraph (f) sets forth the obligations of the hearing officer following the hearing, including what the hearing officer must include in the hearing officer’s recommendation to the SBE. The requirement to provide a recommendation to the SBE within 30 days of appointment is mandated by G.S. 115C-76.60(b)(1)c.

Paragraph (g) sets forth the obligations of the SBE upon receipt of the hearing officer’s recommendation and follows the requirements of G.S. 115C-76.60(b)(1)c.

Paragraph (h) establishes the hourly rate for the hearing officer, a deadline for the hearing officer to submit an invoice to the PSU, and a deadline for the PSU to pay the invoice. The \$200.00 hourly rate is consistent with the rate paid to other hearing officers appointed by the SBE and slightly below the market rate for such appointments. G.S. 115C-76.60(b)(1)(e) mandates that the PSU pay for costs of the hearing officer but does not specify the cost amounts.

Impact Analysis

This section analyzes the amount of local funds that will be expended because of the proposed rule, explains how that amount was computed, and discerns and analyzes the impacts attributed to the rule.

Persons Affected

The persons subject to, or affected by, the proposed SBE rule are all public school units within the State of North Carolina. This includes the following:

- 115 local school administrative units
- 211 charter schools (as of March 18, 2024)
- 1 regional school
- 3 residential schools serving the deaf and blind
- 8 laboratory schools operated by the University of North Carolina

The rule also indirectly impacts the parents of students enrolled in PSUs in the sense that it sets forth the procedures with which they must comply to exercise their right to a parental concern hearing. There is no fee or other financial obligation associated with filing such a request, and the SBE has concluded that any temporal or administrative burden imposed on a parent—including time and effort spent collecting the necessary documentation and completing a short request form—are *de minimis*. Moreover, there is no affirmative obligation on any parent to file such a request, and it would only arise in circumstances where a parent believes a PSU has failed to comply with the requirements of Chapter 115C, Article 7B, Part 4 of the General Statutes. For these reasons, this analysis is limited to the rule’s impact on PSUs.

Regulatory Baseline

For purposes of this impact analysis, the impact of the proposed rule is measured against the baseline requirements of G.S. 115C-76.60. As a result, the following statutory components are part of the regulatory baseline assumed in this analysis:

- The requirement that the State Board of Education appoint a hearing officer who is a lawyer in good standing with the North Carolina State Bar with experience in education or administrative law within the last five years.
- The requirement that the hearing officer serve as a finder of fact in disputes between a PSU and a parent and issue a recommendation to the SBE within 30 days of assignment to a PCH.
- The requirement that the PSU pay for the costs of the hearing officer.
- Definitions of key terms such as child, parent, principal, and superintendent.

This impact analysis focuses on those aspects of the SBE rule that are within the SBE's discretion, including the hourly rate for hearing officers and specific provisions governing the length and other logistics of the hearing.

Cost Estimate

As previously noted, the SBE has received no requests for a PCH during the more than six months that the emergency and temporary rules have been in place, and therefore has no reliable data on the number of such hearings likely to occur in a typical year or the average cost of such hearings to a PSU. In addition, SBE been unable to identify similar procedures in other states that might inform its projections. In lieu of such information, the SBE has based its projections around comparable hearings conducted by independent hearing officers to review decisions related to the distribution of federal funding by DPI. Under federal law, DPI must provide applicants for or recipients of federal grants "notice and an opportunity for a hearing prior" to denial of an application or termination of a grant. *See* 34 C.F.R. §§ 76.401(a); 76.783. The most common appeals under these provisions arise from DPI's administration of grants for 21st Century Community Learning Centers under Title IV, Part B of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015 ("21st Century Grants").

These hearings are the best available analogue to the parental concern hearings given and share the following common attributes:

- A dispute between a non-State party (a grant recipient or a parent) and a state or local education authority (DPI or a PSU).
- An independent hearing officer who does not work for DPI or the PSU.
- A recommendation issued by the hearing officer to the SBE.
- A final decision issued by the SBE.

Federal funding appeals follow a comparable format to those provided by the PCH rule, including the default timeline for the curation and submission of documents by parties prior to the hearing, the default length of the hearing (30 minutes per side, or one hour total), and the compensation for the hearing officer (\$200.00 per hour).

Exhibit A below is a sample invoice from July 2023 for services rendered by a hearing officer. These services involved in an appeal by a local nonprofit organization of DPI's decision to terminate its 21st Century Grant due to the organization's failure to abide by federal and state regulations associated with the grant. For privacy purposes, the name of the hearing officer has been redacted.

Exhibit A – Sample Invoice

Lexis Services

4711 Hope Valley Road, Ste 4F-512
Durham, NC 27707
(919) 442-8593
Services@Lex-is.com
www.Lex-is.com



INVOICE

BILL TO
NC Dept. of Public Instruction
c/o Allison Schafer
Raleigh, NC
Via email: Allison.Schafer@dpi.nc.gov

INVOICE
DATE 07/25/2023
TERMS Due on receipt
DUE DATE 08/08/2023

DESCRIPTION	DATE	QTY	RATE	AMOUNT
Fed. Funding Appeal: TC w/A. Schafer; review initial email information and related information. eM T. Hoegemeyer re. hearing date. - [REDACTED]	06/30/2023	0:30	200.00	100.00
TC/eMs with SBE legal counsel; preliminary review of documents provided. - [REDACTED]	07/03/2023	0:20	200.00	66.67
TC/eMs with SBE legal counsel; preliminary review of documents provided. - [REDACTED]	07/04/2023	0:20	200.00	66.67
TC/eMs w/ Ms. Schafer. Review appointment letter. - [REDACTED]	07/07/2023	0:20	200.00	66.67
Detailed review of documents and rules; prepare and send Notice of Hearing; eMs Ms. Schafer - [REDACTED]	07/10/2023	2:25	200.00	483.33
Initial review of DPI brief and documents; eM A. Schafer and [REDACTED]. - [REDACTED]	07/13/2023	0:45	200.00	150.00
Appeal Hearing: preparation, facilitation, and follow up. - [REDACTED]	07/14/2023	2:45	200.00	550.00
Review hearing materials and emails; prepare draft recommended decision. prepare final draft; eM to parties - [REDACTED]	07/24/2023	3:00	200.00	600.00

We prefer bank transfer (ACH) payment if feasible. Thank you.

BALANCE DUE

\$2,083.34

Pay invoice

Exhibit A shows that the hearing officer in this case dedicated 10 hours and 25 minutes in billable hours to work this case. This included approximately one hour and 25 minutes communicating with SBE legal

counsel, three hours and 15 minutes reviewing documents submitted by the parties to the hearing, two hours and 45 minutes preparing and facilitating the hearing, and 3 hours reviewing the materials and preparing a written recommendation for the SBE. At a rate of \$200.00 per hour, the total cost of the hearing officer's services came to **\$2,083.34**.

Including the hearing above, DPI has conducted two hearings regarding appeals of federal programs in the past year and had two additional appeals that settled prior to hearing. The average cost of services rendered by the hearing officers in these cases was **\$2,068.61**.

If anything, these estimates likely overestimate the true cost of an average PCH. Appeals of DPI decisions regarding the administration of federal funds are complicated, requiring an understanding of complex federal and state regulations. The cases typically involve lengthy factual records related to the grant applicant or recipient's compliance with these regulations and any monitoring or oversight conducted by DPI. By contrast, any proper basis for requesting a parental concern hearing under G.S. 115C-76.60 will likely be simple in both fact and law, as it is limited to the "procedure or practice" of a public school unit under Chapter 115C, Article 7B, Part 4 of the General Statutes. The statutes that comprise Part 4 are simple and straightforward, covering less than two pages of the enabling legislation. The factual record will likely be limited to copies of the local policies and procedures at issue and the parent's communication with the PSU regarding the parent's concerns. For this reason, the SBE anticipates that the average hearing officer for a PCH will spend far less time in pre-hearing preparations and developing a recommendation to the SBE than the average hearing officer for the appeal of a DPI federal funding decision.

In addition to the direct cost to PSUs, the rule will create a minimal opportunity cost to SBE/DPI staff as a result of the "jurisdictional review" process established in Paragraph (c). As previously explained, these cases will not be especially complex and involve a relatively narrow set of statutory provisions. As a result, the SBE projects that staff will spend, on average, no more than 1-2 hours of work time evaluating a case to determine if the SBE has jurisdiction to conduct a PCH. In the event that a PCH request does result in a hearing, staff will likely spend an additional 2-3 hours setting up the hearing, providing technological and logistical support during the hearing, communicating with the hearing officer, and facilitating transition of the hearing officer's recommendation to the SBE for consideration.

Areas of SBE Discretion

The SBE has identified two discretionary aspects of the rule that will have a measurable impact on the financial and regulatory impact of the rule.

Hearing Logistics

The rule provides that each party to the hearing (the PSU and the parent) "shall have up to 30 minutes to present the party's case to and answer questions from the hearing officer," while providing the hearing officer with discretion to extend time for each party. Thus, each hearing could last at least one hour under the rule. This is the standard format for other hearings conducted by the SBE, including appeals related to federal funding decisions, appeals of CSRB decisions, and appeals related to interscholastic athletics.²

² Although all these appeals processes have similar structures, only federal funding appeals require the appointment of a hearing officer who must be compensated for his or her services. Appeals of CSRB decisions are heard by a special SBE committee, while appeals related to interscholastic athletics are heard by volunteer members of the Interscholastic Athletics Independent Appeals Board.

Although the hearing could last longer if the hearing officer extends time for each party, the SBE anticipates that this will be an exceedingly rare occurrence. As noted above, the subject matter of these hearings is not especially complex, and many factual questions are likely to be answer through documentation submitted to the hearing officer in advance. If anything, the SBE projects that the average length of a hearing will be under one hour.

Hourly Rate for Hearing Officer

Although the statute establishes the requirement that the PSU pay for the cost of the hearing officer, the SBE rule establishes the compensation rate of \$200.00 per hour. This is the same rate that the SBE currently pays hearing officers who review federal funding appeals, although it is arguably below the market rate for legal services in North Carolina.³ The SBE has concluded that this is the appropriate compensation rate for hearing officer services under this Rule.

No Substantial Economic Impact

As previously noted, the SBE concludes that the PCH rule will not have a substantial economic impact, as defined in G.S. 150B-21.4(b1), because the anticipated cost of the rule will not come anywhere close to a \$1 million aggregate financial impact within a 12-month period. Even if every PSU in the State were required to pay for at least one PCH in a 12-month period, the total cost would be only **\$699,190.18** (338 PSUs * \$2,068.61 average hearing officer cost). As previously noted, no parent has requested a PCH in the more than six months that the emergency and temporary rules have been in place, and the permanent rule is substantively identical to its antecedents.

There is no reason to anticipate a sharp increase in requests for PCHs following the adoption of the permanent rule. As previously explained, the statutory grounds upon which a parent may request a PCH is narrow, limited to the parent’s concerns about the “procedure or practice” of a PSU under Chapter 115C, Article 7B, Part 4 of the General Statutes. In summary, Part 4 requires PSUs to do the following:

- Adopt procedures to notify parents of issues related to their student’s physical or mental health.
- Provide student support services training consistent with standards established by DPI.
- Exclude instruction on gender identity, sexual activity, or sexuality from the curriculum for Kindergarten and Grades 1-4.

Under G.S. 115C-76.60, requests for a PCH are limited to a parent’s concern about the “procedure or practice” of the PSU as it relates to the above provisions. The definitions for “procedure” and “practice” included with the rule—which the SBE believes to be consistent with legislative intent—specifically excluded isolated instances or isolated conduct by PSU personnel, including those inconsistent with the established practices and procedures of the PSU. Provided that the PSU has adopted policies and procedures consistent with the requirements of Part 4, it is unlikely a parent would have a basis for requesting a PCH,

³ Lawyers in North Carolina charge an average of \$254.00 for legal services. Rates vary by practice area, from juvenile law on the low end (\$84.00 per hour) to tax law on the high end (\$392.00 per hour). Although there is no obvious practice area into which serving as a hearing officer for a PCH would fall, the SBE believes the most comparable are appellate law (\$136.00 per hour) or government law (\$265.00 per hour). See “How Much Should I Charge as a Lawyer in North Carolina?” *Clio*, <https://www.clio.com/resources/legal-trends/compare-lawyer-rates/nc> (last accessed June 19, 2024).

even if its officers or employees do not always follow them. A parent’s concern regarding an employee’s or officer’s failure to comply with local policy is a matter for the PSU’s grievance process, not a PCH.⁴

Moreover, even if there is a significant increase in *requests* for a PCH, that will not automatically result in an increase in costs to the PSUs. The “jurisdictional review” process provided in Paragraph (c) avoids the unnecessary cost to the PSU of appointing a hearing officer by allowing SBE legal staff to screen out meritless requests that do not meet the requirements of the rule. Accordingly, the SBE anticipates that parental concern hearings will remain a rare event with a small fiscal and regulatory impact.

Finally, it is worth noting that the impact of this rule is, to a significant extent, contingent upon a PSU’s compliance with State law. Provided that a PSU has complied with the requirements of Chapter 115C, Article 7B, Part 4 of the General Statutes, it is unlikely a parent would have a basis for requesting a PCH. Thus, any circumstances giving rise to a PCH are likely to be of the PSU’s own making, and thus any associated cost will be self-incurred by the PSU.

Summary

Although the State Board of Education expects that proposed rule 16 NCAC 06G .0701 will affect the expenditures of a unit of local government—specifically, local boards of education and the municipal governments that fund them—the lack of a reliable data makes it impossible to predict with any precision the cumulative annual impact of the rule. In lieu of such data, the SBE has estimated the potential cost of a single hearing based on the average cost of comparable hearings overseen by the SBE and DPI. This analysis has revealed that the individual impact of such hearings to an individual PSU, if one occurs, is likely to be small (approximately \$2,000 dollars per hearing). In addition, there is no financial impact on parents because there is no cost to request such a hearing, and any administrative or temporal costs to the parent will be *de minimis*. The requirement for initial screening of hearing requests could result in minimal opportunity costs to the SBE/DPI staff. Finally, the SBE has concluded that the rule will not have a substantial economic impact.

⁴ As an example, suppose a local board of education adopts a policy requiring school social workers to notify a parent of any “changes in services or monitoring related to his or her child’s mental, emotional, or physical health or well-being and the school’s ability to provide a safe and supportive learning environment for that child” to satisfy the requirements of G.S. 115C-76.45(a)(4). Now suppose Mr. Smith is a social worker at a middle school providing mental health services to a middle school student, Billy. If Mr. Smith negligently or even intentionally fails to notify Billy’s parents of a change in services in violation of local policy, the parent might have a basis for filing a grievance against the local board, but the parent would not have a basis for requesting a PCH.

Copy of Proposed Rule

16 NCAC 06G .0701 PARENTAL CONCERN HEARINGS

- (a) For the purposes of this Rule, the following definitions shall apply:
- (1) “Child” is defined in G.S. 115C-76.1(2).
 - (2) “Hearing officer” means an individual who meets the requirements in G.S. 115C-76.60(b)(1)a.
 - (3) “Parent” is defined in G.S. 115C-76.1(5).
 - (4) “Practice” means a regular method, process, or course of conduct, whether or not established in the written policies of a PSU, by which the PSU provides the notices or information to parents as required by Chapter 115C, Article 7B, Part 4 of the General Statutes. “Practice” does not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.
 - (5) “Principal” is defined in G.S. 115C-76.1(6).
 - (6) “Procedure” means a regular method or process, as established in the written policies of a PSU, by which the PSU provides the notices or information to parents as required by G.S. 115C-76.45, or age-appropriate instruction on certain topics as described in G.S. 115C-76.55. “Procedure” does not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.
 - (8) “Superintendent” is defined in G.S. 115C-76.1(8).
- (b) A parent who wishes to request a parental concern hearing before the State Board of Education regarding the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the General Statutes shall do so in writing. The parent shall submit a written request to the SBE in writing, with a copy to the superintendent, and include the following information:
- (1) The specific procedures or practices of the PSU about which the parent is concerned.
 - (2) The specific concerns that the parent has about the procedures or practices of the PSU.
 - (3) Copies of all written correspondence and summaries of all verbal correspondence with PSU personnel, including date, times, and parties involved for any correspondence conducted by telephone or in person, regarding the parental concern and efforts by the PSU to resolve the concern. The parent shall also include documented evidence that the parent has notified the principal of the school at which the parent’s child is enrolled about these concerns at least 30 days prior to requesting a hearing before the SBE.
 - (4) A description of the relevant facts.
 - (5) An explanation of why the parent believes that the concerns have not been resolved by the PSU.
 - (6) A proposed resolution to address the parent’s concerns.
- (c) Upon receipt of a request in accordance with Paragraph (b) of this Rule, the SBE or its authorized designee shall review the request and determine whether the SBE has jurisdiction to review the matters therein addressed. The SBE or designee may dismiss the request for any of the following reasons:
- (1) The parent has failed to provide any of the information required by Paragraph (b) of this Rule.
 - (2) The parent’s concern does not address the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the General Statutes.
 - (3) The parent has failed to provide the PSU 30 days to resolve the parent’s concern.
 - (4) The parent’s proposed resolution is not within the legal authority of the PSU or SBE.
- (d) If the SBE or designee determines that it has jurisdiction to review the matters addressed in the request, the SBE or designee shall appoint a hearing officer to review the request.
- (e) Upon appointment, the hearing officer shall hold a hearing, subject to the following requirements:
- (1) The parent and the superintendent shall attend as parties to the hearing and may be represented by legal counsel, provided that any party intending to be represented notifies the hearing officer at least three business days before the hearing. The hearing officer may delay the hearing if a party requests additional time to secure legal representation.
 - (2) The hearing officer shall provide the parties with notice of the time and place for the hearing at least five business days in advance. The hearing may be held in person or via teleconference, at the discretion of the hearing officer.
 - (3) Each party shall provide any documentation or written statements to the hearing officer and the other party at least three business days before the hearing.
 - (4) Each party shall have up to 30 minutes to present the party’s case to and answer questions from the hearing officer. The hearing officer may extend time for each party’s presentation at the hearing officer’s discretion.

- (5) The North Carolina Rules of Evidence, codified at Chapter 8C of the General Statutes, shall not apply to the hearing, and the hearing officer may consider any information that is relevant to the proceedings.
- (6) The hearing officer shall arrange for audio and video recording of the hearing.
- (f) Within 30 days of appointment and after having conducted a hearing in accordance with Paragraph (d) of this Rule, the hearing officer shall provide a recommendation to the SBE that includes the following:
 - (1) Findings of fact.
 - (2) Conclusions of law, including citations to any relevant statutes, rules, or policies.
 - (3) A proposed resolution to the case, which may include a finding that the parental concern lacks merit.
- (g) At the next regularly scheduled meeting of the SBE held more than seven days after receipt of the hearing officer's recommendation, the SBE shall vote to either approve, reject, or amend the hearing officer's recommendation. The decision of the SBE shall be final.
- (h) The hearing officer shall provide an invoice to the PSU for the cost of the hearing officer's services, at a rate of two hundred dollars (\$200.00) per hour, within 45 days of submitting the hearing officer's recommendation to the SBE. The PSU shall pay the hearing officer within 60 days of receipt of the invoice.

*History Note: Authority G.S. 115C-76.60;
Emergency Adoption Eff. November 16, 2023;
Temporary Adoption Eff. February 8, 2024;
Eff. January 1, 2025.*