

2021 Proposed Amendments

4. **Filing.**

A. Filing with Court. After the request for hearing and filing fee are delivered to the Court, all filings must be made with the administrative law judge assigned to the case and shall contain the docket number assigned. The Court will maintain its official file from the receipt of the request for hearing until a final order is issued by the administrative law judge.

B. Filing Defined. The date of the filing is the date of delivery or the date of mailing. Any document filed with the Court shall be accompanied by proof of service of such document on all parties, and, if filed by mail, shall be accompanied by a certificate of the date of mailing. A document is deemed filed with the Court by:

- (1) delivering the document to the Court;
- (2) by depositing the document in the U.S. mail, properly addressed to the Court, with sufficient first class postage attached; or
- (3) as otherwise approved by the Court through administrative order.

(4) Following the initial filing of a case with the ALC, parties may electronically file motions or other documents to the Court, if the signatures made in that submission are verified by a method approved by the Clerk of Court and the submission complies with all other Rules of the ALC. Filings pursuant to this Rule must be submitted by 11:59 p.m. on the date it is due. Failure of the filer's system will not excuse a failure to comply with a filing deadline unless the court exercises its discretion to extend the deadline.

C. Paper Size. All papers filed with the Court shall be on letter-size (8½ by 11 inches) paper. Exhibits or copies of exhibits in their original form which exceed that size shall be reduced by photocopying or otherwise to letter-size so long as such documents remain legible after reduction. All papers filed with the Court must be printed only on one side of a page, unless the document exceeds 30 pages.

2021 2019 Revised Notes

All filings are to be made with the assigned administrative law judge after the request for hearing and filing fee are delivered to the Court. All filed papers must be served upon all parties and, if filed by mail, must be accompanied by a certificate of service. All papers filed with the Court must be letter size and must be printed only on one side of a page, unless the document exceeds 30 pages in length. Exhibits or other documents that exceed that size are to be reduced before filing unless the process of reduction would make them illegible. The Court is responsible for the official record from the receipt of the request for a hearing until the administrative law judge issues the final order. Filing with the Court is defined as the date delivered to the Court or the date mailed by first class mail to the Court, along with a certificate of service. Filing with the Court may also be effectuated by methods which may be specifically approved by the Court through administrative order. Unless otherwise approved by administrative order of the Court, parties may not file documents with the Court by e-mail. Request for use of digital signatures in court filings must be approved first by the ALC. Documents will not be approved by the ALC unless there exists a means to validate the

document's integrity and digital signature(s) before submission. The document must also comply with all other Rules of the ALC.

5. **Service.** Any document filed with the Court shall be served upon all parties to the proceeding. Service shall be made upon counsel if the party is represented, or if there is no counsel, upon the party. Service shall be made by actual delivery, by mail to the last known address, or as otherwise approved by the Court through administrative order. Service is deemed complete upon mailing. Service that complies with Rule 5(b)(1), SCRCF, also shall satisfy this Rule. A party who furnishes an e-mail address to the Court consents to the service of documents issued by the Court via email, and the date of the e-mail is the date of service. Documents which have been approved to be submitted electronically to the ALC as set out in Rule 4 (B)(4) may also be served on all parties in the same manner.

2019 2021 Revised Notes

Service is required of all documents filed. It is complete upon mailing. The method of service is by delivery or mailing, but not fax. Any service that satisfies Rule 5, SCRCF also satisfies this Rule. Service of documents may also be effectuated by methods which may be specifically approved by the Court through administrative order. Parties who furnish an e-mail address to the Court consent to the service of documents issued by the Court via e-mail, and the date of the e-mail is the date of service. The rule now allows documents to be served electronically on all parties, provided the requirements of Rule 4 (B)(4) have been met.

40. **Opinion.** The administrative law judge shall render a decision in a written order which shall be served on all parties and filed with the clerk of the Court. The administrative law judge may affirm any ruling, order or judgment upon any ground(s) appearing in the Record and need not address a point which is manifestly without merit. Judicial review of any decision of the Court shall be as provided in S.C. Code Ann. §1-23-610 (2005) (as amended). Prior to filing a Notice of Appeal from the decision of an administrative law judge, a party must file a motion for rehearing stating with particularity the points supposed to have been overlooked or misapprehended by the court. ~~Motions for rehearing may be allowed in the discretion of the presiding administrative law judge.~~ Any A motion for rehearing must be filed within ten days of receipt of the order. The time for appeal is stayed by a timely motion for rehearing and runs from receipt of an order granting or denying the motion.

2019 2021 Revised Notes

The rules for hearing matters on appeal from the final decision of an agency are based on the South Carolina Appellate Court Rules as modified for the less complex matters heard by the Court. The South Carolina Appellate Court Rules should be examined to resolve novel issues of appellate procedure in the Court. The administrative law judge may affirm upon any ground appearing in the Record and may decline to address points which are without merit; however, issues raised on appeal but not addressed in the order are no longer deemed denied. Motions for rehearing must be filed within ten days of receipt of the order and are only allowed in the discretion of the presiding judge. The 2021 amendment changes the rule to require a motion for rehearing as a prerequisite to filing a notice of appeal from the administrative law judge's decision.

51. **Applicability.** The Rules in this section shall apply exclusively in matters heard on appeal from final decisions pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000) and Furtick v. S.C. Dep't of Probation, Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2003).
61. **Record on Appeal.** The record on appeal shall consist of the transcript of the proceedings before the agency, if any, and the record of the contested case as described by Rule 58. In appeals from decisions of the Probation, Pardon and Parole Board, the Department need only provide a copy of the agency decision, and where applicable, the decision following a motion for reconsideration.
74. **Remittitur.** When the remittitur is received from the appellate court at the conclusion of an appellate case taken under Rule 31, 41, or 66, it shall be filed in the Court's case file and the case will be closed, unless it is remanded for further action.