

Presently, Article 3 of the Administrative Procedure Act (APA) requires a final decision in every contested case after review by the agency final decision maker, arguably, even if the parties consent that the administrative law judge's decision will be the final decision. Some statutory exceptions, permitting the administrative law judges decision to become final, are found in G.S. 150B-36(c). The proposed provision will be added to G.S. 150B-36(c) as subsection (5).

There are incidences when both the petitioner and respondent desire to avoid the expense and delay associated with the agency final decision. Existing statutory language, found in G.S. 150B-31(c),\* permits contested case dispositions by stipulation and waiver. In order to carry out the parties' intent to resolve the contested case at the OAH hearing, the proposed language is offered to the list of final ALJ decisions to ensure that no further agency review is necessary. This procedure will eliminate the cost and delay for the parties associated with the mandatory 60 day (or 120 days by extension) time for agency review, in addition to the cost and delay associated with the preparation of the official OAH record as well as the cost and delay associate with the preparation of the final decision.

**§ 150B-36. Final decision.**

(c) The following decisions made by administrative law judges in contested cases are final decisions appealable directly to superior court under Article 4 of this Chapter:

- (1) A determination that the Office of Administrative Hearings lacks jurisdiction.
- (2) An order entered pursuant to the authority in G.S. 7A-759(e).
- (3) An order entered pursuant to a written prehearing motion that either dismisses the contested case for failure of the petitioner to prosecute or grants the relief requested when a party does not comply with procedural requirements.
- (4) An order entered pursuant to a prehearing motion to dismiss the contested case in accordance with G.S. 1A-1, Rule 12(b) when the order disposes of all issues in the contested case.
- (5) An order entered pursuant to the authority in G.S. 150B-31(b) when the stipulation or waiver confers final decision authority on the administrative law judge.**

**\*[§ 150B-31. Stipulations.**

(b) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default, or other method agreed upon by the parties.]