

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 02H .0303 Application

DEADLINE FOR RECEIPT: May 9, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Line 4, do you need the "the" prior to "Accessible Books and Library Services"? It seems out of place for an indefinite article.

Page 1, Lines 8 through 22: The items in your list need to be renumbered.

Page 1, Line 10: Did you intend to strike "(4)"?

Page 1, Line 10: Does "applicant's basic facts" and the examples thereof encompass all of the information the agency is going to require in completing the application? In summary, if an agency is going to require specific information on a form or application, the requirement must be in either a rule or statute. Please see G.S.150B-2(8a).

Page 1, Line 12: Is there a difference between the "Armed Forces of the United States" and the "United States Military"? Please see 10 U.S.C.A. § 101(a)(5).

Page 1, Lines 14 and 19: Is there a definition of "qualifying disability" elsewhere?

Page 2, Line 1: Do you intend to strike "(14)"?

Page 2, Line 4: Should you add after "eligibility" "pursuant to 07 NCAC 02H .0302"?

Page 2, Line 13, History Note: Ought not G.S.125-11.9 be cited as additional authority?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: April 27, 2022

1 07 NCAC 02H .0303 is amended as published in 36:14 NCR 1198 as follows:

2
3 **07 NCAC 02H .0303 APPLICATION**

4 (a) To obtain services from the ~~Library for the Blind and Physically Handicapped~~, Accessible Books and Library
5 Services, users shall submit an application to the Library, 1841 Capital Boulevard, Raleigh, North Carolina 27635.

6 Applications shall be submitted on a form prepared by the Library and include the user's:

- 7 (1) ~~name, address, and telephone number;~~
8 (2) ~~county of residence;~~
9 (3) ~~date of birth;~~
10 (4) ~~gender;~~ applicant's basic facts, such as applicant name and contact information;
11 (5) name, address, and telephone number of a ~~friend or relative;~~ an alternative contact;
12 (6) status as an honorably discharged veteran of the ~~Armed Forces of the United States;~~ States
13 military;
14 (7) qualifying ~~disability including:~~
15 (A) ~~blindness;~~
16 (B) ~~visual handicap;~~
17 (C) ~~physical handicap;~~
18 (D) ~~reading disability;~~ or
19 (E) ~~deaf and blind;~~ disability;
20 (8) degree of hearing ~~impairment of either:~~
21 (A) ~~moderate — some difficulty understanding speech;~~ or
22 (B) ~~profound — cannot hear or understand speech;~~ impairment, if any;
23 (9) ~~preferred items such as books recorded on digital cartridge with digital player, braille books, large~~
24 ~~print books, or music;~~
25 (10) ~~necessity for special attachments such as headphones, amplifier, breath switch, or remote control;~~
26 (11) ~~language preference;~~
27 (12) ~~service preference such as:~~
28 (A) ~~requested materials only;~~ or
29 (B) ~~materials requested by the Library based upon selected reading preferences;~~
30 (13) ~~reading preferences such as Fiction, Non Fiction, Adventure, Aging/Retirement, Animal Stories,~~
31 ~~Arts, Best Sellers, Biography, Black Literature, Technology/Computers, Classics,~~
32 ~~Cooking/Homemaking, Current Events, Disabilities, Family Stories, Fantasy, Folklore/Fairy~~
33 ~~Tales, General Fiction, Health/Medicine, Historical Fiction, History US, History World, Humor,~~
34 ~~Marriage/Family, Mysteries, Nature, North Carolina, Occult/Horror, Plays, Poetry,~~
35 ~~Politics/Government, Psychology, Religious Inspiration, Religion (scholarly), Romance, Science,~~
36 ~~Science Fiction, Sea Stories, Short Stories, Sports, Spy Stories, Business, Travel, War Stories, or~~
37 ~~Western; and~~

1 ~~(14) — reading restrictions such as strong language, violence, or explicit descriptions of sex language,~~
2 reading and service delivery method preferences.

3 (b) Applications shall be certified by ~~a competent authority~~an individual authorized under 36 CFR 701.6 to certify
4 an applicant's eligibility and shall include the ~~competent authority's~~certifying individual's name, address and
5 telephone number, title and occupation, and an original signature. ~~A competent authority shall be defined as~~
6 ~~provided in 36 CFR 701.6(b)(2), which is incorporated by reference, including subsequent amendments and~~
7 ~~editions, and available for free at https://www.ecfr.gov/cgi-~~
8 ~~bin/textidx?SID=56ff245ec016601b46b55f2331b4b7ee&mc=true&node=se36.3.701_16&rgn=div8.~~https://www.ecfr-
9 gov/cgi-bin/textidx?SID=56ff245ec016601b46b55f2331b4b7-ee&mc=true&node=se36.3.701_16&rgn=div8. ~~A~~
10 ~~competent authority~~The certifying individual shall not be ~~relatives~~a relative of the applicant, even if otherwise
11 qualified.

12
13 *History Note: Authority G.S. 125-2;*
14 *Eff. April 1, 2011;*
15 *Readopted Eff. February 1, ~~2018, 2018~~;*
16 *Amended Eff. June 1, 2022.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 02H .0305 Circulation

DEADLINE FOR RECEIPT: May 9, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Line 8: Can you define the criteria which will be used to determine whether services will be suspended? Who makes this determination? The Director?

Page 1, Line 8: Consider the active voice. For example: "The Director of Accessible Books and Library Services may suspend a user's Library services for one or more violations of the following:"

Page 1, Line 18: "as determined by the Director of Accessible Books and Library Services" may not be necessary if Page 1, Line 8 is clarified.

Page 1, Line 19: Consider the active voice. "The Director of Accessible Books and Library Services shall determine the period of suspension not to exceed six months."

Page 1, Line 25, History Note: Should G.S.125-11.9 be cited as additional authority I noticed that this statute refers to the State Depository Library system, but it isn't clear whether this Rule applies there.?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: April 27, 2022

1 07 NCAC 02H .0305 is amended as published in 36:14 NCR 1198 as follows:

2

3 **07 NCAC 02H .0305 CIRCULATION**

4 (a) The Library shall provide materials and playback equipment to users in accordance with the Library of
5 Congress' NLS Network Library Manual hereby incorporated by reference, including subsequent amendments and
6 editions, and accessible to users free of charge at [https://statelibrary.ncdcr.gov/blind-print-disabled/apply-](https://statelibrary.ncdcr.gov/blind-print-disabled/apply-services/loan-policies-and-handbook#nls-administrative-procedures)
7 [services/loan-policies-and-handbook#nls-administrative-procedures](https://statelibrary.ncdcr.gov/blind-print-disabled/apply-services/loan-policies-and-handbook#nls-administrative-procedures).

8 (b) The following violations by any Library user ~~shall~~may result in the suspension of Library services:

9 (1) failure to return materials within the borrowing period. The borrowing period for materials are as
10 follows:

11 (A) six weeks for books;

12 (B) two weeks for magazines; and

13 (C) three weeks for DVD and VHS tapes;

14 (2) damage to equipment or materials;

15 (3) unauthorized use of materials or equipment, such as loaning materials or equipment to an
16 ineligible person or modification of items owned by the Library; or

17 (4) exhibiting verbal or physical behavior toward Library staff that is abusive, offensive, or
18 threatening, as determined by the Director of the Accessible Books and Library Services.

19 (c) The period of suspension shall not exceed six months as determined by the Director of the Accessible Books and
20 Library Services. In setting the period of suspension, the Director shall consider the violation, the extent of harm to
21 the Library's property, and any violations previously committed by the user. The Director shall send a letter of
22 suspension to the user via U.S. Mail. The letter shall specify the violation and the period of suspension. Upon
23 expiration of the suspension period, the user may contact the Library for resumption of services.

24

25 *History Note: Authority G.S. 125-2;*

26 *Eff. May 1, 2011;*

27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,*
28 *2017;*

29 *Amended Eff. June 1, 2022; January 1, 2022; February 1, 2018.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 02H .0306 Reproduction Service

DEADLINE FOR RECEIPT: May 9, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Lines 1-6: Is staff availability the only contingent factor or can the Director deny a request based upon other criteria? If there are no other criteria, consider: "The Library shall reproduce materials in Braille or audio recording at the request of Library patrons contingent upon staff availability to provide this service as determined by the Director of Accessible Books and Library Services." If there are other criteria, the criteria should be stated.

Generally to the entire Rule: Does the Library need a rule to provide this service? Is the service required by state or federal law? If it is required, how can you escape providing the service because of the unavailability of staff?

Page 1, Line 8, History Note: Ought not G.S.125-11.9 be cited as additional authority? Is G.S. 143B-10 applicable?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel

Date submitted to agency: April 27, 2022

1 07 NCAC 02H .0306 is amended as published in 36:14 NCR 1198 as follows:

2

3 **07 NCAC 02H .0306 REPRODUCTION SERVICE**

4 The Library ~~shall~~may reproduce in Braille or audio recording materials requested by Library patrons for their
5 personal use as approved by the ~~Regional Librarian~~Director based on staff ~~availability and consideration of higher~~
6 ~~priority work~~availability.

7

8 *History Note: Authority G.S. 125-2; 143B-10;*

9 *Eff. April 1, 2011;*

10 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,*

11 *~~2017.2017;~~*

12 *Amended Eff. June 1, 2022.*

1 07 NCAC 02H .0307 is repealed as published in 36:14 NCR 1198 as follows:

2

3 **07 NCAC 02H .0307 VOLUNTEERS**

4

5 *History Note: Authority G.S. 125-2; 143B-10;*

6 *Eff. April 1, 2011;*

7 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,*

8 *2017-2017;*

9 *Repealed Eff. June 1, 2022.*