

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B (note rule numbers within document)

DEADLINE FOR RECEIPT: Friday, May 16, 2025

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

In reviewing these Rules, the staff recommends the following changes be made:

18 NCAC 07B .0102: *In item (18), the definition for journal, does the post-publication strike-through of the reference to statute and rule change the intended meaning? It reads to me like removing unnecessary verbiage to help with readability, but I want to make sure I have not missed some nuance in this change.*

18 NCAC 07B .0105: *Is there a concrete standard behind reasonable efforts? Or is that meant to be subjective to the person responding?*

Put another way, would you view it as a violation of this rule if a responder was unable to provide the information, described what they tried to do to obtain the information, and you believe that there are additional actions they should take?

18 NCAC 07B .0402: *Add an and at the end of item (1)(d).*

Add an and at the end of item (2)(i)(iv).

18 NCAC 07B .0411: *In item (2), I think you need a comma: "if a commissioned notary **public** **public**, the notary's commission number;"*

18 NCAC 07B .0420: *There is a potential grammar problem in your list in item (4). As written, it is unclear if "privacy or accuracy" is meant to modify just "credential verification" or both "credential verification" and "identity proofing." Depending on your intended meaning I think it needs to be either (highlights to emphasize difference):*

*"to involve security, **or** privacy or accuracy of **either** credential verification or identity proofing;" or*

*"to involve security, or privacy or accuracy of credential **verification**, or identity proofing;"*

18 NCAC 07B .0422: *In item (11)(b), capitalize rule in "this Rule".*

In item (11)(c)(iii), consider a comma after promises: “representations, promises, and assurances”.

18 NCAC 07B .0431: *Items (2) and (7) are identical. Remove one of them and renumber appropriately.*

18 NCAC 07B .0802: *With regards to item (c), is there a rule or statute that would otherwise indicate that a notary public could not rely on representations made by third parties?*

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

1 18 NCAC 07B .0102 is amended with changes as published in 39:13 NCR 804-807 as follows:

2
3 **18 NCAC 07B .0102 DEFINITIONS**

4 For purposes of this Chapter:

- 5 (1) "Appoint" or "Appointment" means the naming of an individual to the office of notary public after
6 determination that the individual has complied with Chapter 10B of the General Statutes and
7 Subchapter 07C of this Chapter. For the purposes of the rules in this Chapter, the terms "appoint,"
8 "reappoint," "appointment," "reappointment," "commission," "recommission," "commissioning,"
9 and "recommissioning" all refer to the term "commission" as defined in G.S. 10B-3(4) or to the
10 process of acquiring or maintaining the commission.
- 11 (2) "Appointee" means an individual who has been appointed or reappointed to the office of notary
12 public but has not yet taken the oath of office to be commissioned.
- 13 (3) "Authorization" means a notary commission, an electronic notary registration, an instructor
14 certification, an approval, a manufacturer or vendor registration, or a license issued by the
15 Department pursuant to Chapter 10B of the General Statutes.
- 16 (4) "Authorize" means the Department's action to issue an authorization.
- 17 (5) "Commission date" means the beginning date of commissioning or recommissioning as entered on
18 a commission certificate.
- 19 (6) "Court" means a tribunal of a locality, state, the Armed Forces of the United States, a federally
20 recognized tribe, or any nation.
- 21 (7) "Crime" means:
22 (a) an offense designated by law as a felony or misdemeanor;
23 (b) an attempt to commit an offense;
24 (c) an accessory to commission of an offense;
25 (d) aiding and abetting of an offense;
26 (e) conspiracy to commit an offense;
27 (f) solicitation to commit an offense; or
28 (g) threat to commit an offense.
29 An infraction as defined in G.S. 14-3.1 is not a crime.
- 30 (8) "Crime involving dishonesty" means a crime that involves untruthfulness, deceit, fraud, false
31 dealing, cheating or stealing.
- 32 (9) "Criminal convictions" means the following dispositions of criminal charges:
33 (a) adjudications of guilt;
34 (b) pleas of nolo contendere;
35 (c) pleas of guilty;
36 (d) Alford pleas;
37 (e) conditional discharges;

- (f) prayers for judgment continued; and
- (g) dispositions denominated differently but equivalent to Sub-Items (a)-(f) in this Item.
- (10) "Denial" with regard to public office means an individualized action:
- (a) to disqualify an individual from:
- (i) being a candidate for an elected public office; or
- (ii) holding or filling a public office; and
- (b) that is taken by:
- (i) a governmental agency, **board, or commission,** a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation; or
- (ii) a court.
- (11) "Disciplinary action" means an official action by a court, legislative body, governmental agency, board, or commission of any locality, state, federally recognized tribe, or nation resulting in:
- (a) a disciplinary order;
- (b) a censure;
- (c) a reprimand;
- (d) an admonition;
- (e) a resignation in lieu of termination or revocation;
- (f) a denial;
- (g) a written warning; ~~or~~
- ~~(h) a civil penalty or fine; or~~
- ~~(h)(i)~~ actions denominated differently but equivalent to Sub-Items (a)-(g)(h) in this Item.
- (12) "Disciplinary order" means a directive or its equivalent that:
- (a) is directed to a holder of a professional license or a commissioned notary public;
- (b) prohibits or conditions an individual from engaging in the practice of the profession or acting as a notary public for any amount of time;
- (c) is issued by a court or government agency, board, or commission of any locality, state, federally recognized tribe, or nation with authority to discipline or sanction the individual or notary public; and
- (d) is not stayed, rescinded, reversed, or expunged.
- Note: Suspensions, restrictions, and revocations of commissions or licenses are examples of disciplinary orders.
- (13) "Family member" means an individual related by blood, marriage, or adoption.
- (14) "Finding" means a decision, conclusion, or opinion by a court, legislative body, or governmental agency, board, or commission of any locality, state, federally recognized tribe, or nation that is based upon a review of evidence in an investigation, a quasi-judicial proceeding, or a judicial proceeding resulting in a determination that:

- 1 (a) a fact has been proved according to the applicable legal standard; or
2 (b) a law applies to the specific facts in a matter.
- 3 (15) "Harm" means:
4 (a) loss or damage to a person affecting:
5 (i) liberty;
6 (ii) child custody, parental rights, child support, or visitation;
7 (iii) reputation;
8 (iv) money;
9 (v) property;
10 (vi) time; or
11 (vii) a contract or transaction; or
12 (b) an act that undermines public confidence in the reliability of notarial acts or notarial
13 instructor certification.
- 14 (16) "IPEN" means an in-person electronic notary solution, comprised of an electronic notary public seal,
15 an electronic notary signature, and an electronic notary journal.
- 16 ~~(16)~~(17) "Issuance" with regard to public office means an action:
17 (a) to certify the results of an election signifying that an individual has been elected to the
18 public office; or
19 (b) to appoint an individual to fill a public office; and
20 (c) that is taken by:
21 (i) a governmental agency, board, or commission, a legislative body, or a member of
22 the executive branch of any locality, state, federally recognized tribe, or nation;
23 or
24 (ii) a court.
- 25 (18) "Journal" means a collection of entries describing notarial acts that is created and maintained by a
26 notary public. [public in compliance with Chapter 10B of the General Statutes and the rules in this
27 Chapter.]
- 28 ~~(17)~~(19) "Licensed member of the North Carolina State Bar" means an active member as defined in 27 NCAC
29 01A .0201(b).
- 30 ~~(18)~~(20) "Name for use on a notary public commission" or "commission name" means the name chosen by
31 a commission applicant as the applicant's commission name and consisting of:
32 (a) the full legal name of the commission applicant; or
33 (b) a combination of the applicant's surname and:
34 (i) full first or middle name; or
35 (ii) full first or middle name and one or more initials derived from the applicant's full
36 legal name.

37 Note: Full legal names, full first names, and full middle names shall not include nicknames.

(19)(21) "Notarial act" means, in addition to those acts listed in G.S. 10B-3(11), acts authorized to be performed by a notary public pursuant to:

- (a) G.S. 163-231(a); and
- (b) G.S. 53C-6-13(a).

(20)(22) "Notary course" means a course taught by a certified notary instructor for purposes of:

- (a) commissioning or recommissioning a notary public; ~~or~~
- (b) registering or reregistering an electronic notary ~~public~~; public; or
- (c) educating a compliance contact of a platform or IPEN regarding Chapter 10B of the General Statutes and the rules in this Chapter.

(21)(23) "Probation" with regard to criminal convictions means active supervision by a governmental agency or its legally authorized designee in lieu of jail or prison.

(22)(24) "Professional license" means an issuance that involves a grant of authority by a governmental agency, board, or commission of any locality, state, federally recognized tribe, or nation, to an individual to act in a fiduciary capacity, or in a capacity that affects the public interest or public trust, and that regards an occupation requiring training and formal qualification. Professional licenses are:

- (a) attorney;
- (b) appraiser;
- (c) architect;
- (d) boiler inspector;
- (e) building, electrical, fire, mechanical, or plumbing inspector;
- (f) certified nursing assistant;
- (g) certified public accountant;
- (h) code enforcement official;
- (i) electrical contractor;
- (j) engineer;
- (k) general contractor;
- (l) geologist;
- (m) insurance agent;
- (n) insurance company adjuster;
- (o) interpreter or transliterator;
- (p) investment advisor;
- (q) locksmith;
- (r) motor vehicle damage appraiser;
- (s) on-site wastewater contractor inspector;
- (t) pharmacist;
- (u) physician;

- (v) physician assistant;
- (w) plumbing, heating, and fire sprinkler contractor;
- (x) private investigator;
- (y) professional bondsman;
- (z) real estate broker;
- (aa) registered nurse, licensed practical nurse, nurse practitioner;
- (bb) securities broker, dealer, salesman;
- (cc) self-employed insurance adjuster;
- (dd) surety bondsman;
- (ee) sworn law enforcement officer; and
- (ff) teacher.

~~(23)~~(25) "Public office" means a position:

- (a) created by law to which an individual has been elected or appointed;
- (b) involving a delegation to the individual of some of the functions of government to be exercised by the individual for the benefit of the public; and
- (c) with authority that is not solely advisory.

~~(24)~~ "Restriction" with regard to public office means an individualized action:

- ~~(a) to restrain an individual from serving in public office; and~~
- ~~(b) that is taken by:~~
 - ~~(i) a governmental agency, board, or commission, a legislative body, or a member of the executive branch of any locality, state, federally recognized tribe, or nation;~~
 - ~~or~~
 - ~~(ii) a court.~~

~~(25)~~(26) "Release from prison, probation or parole" means:

- (a) completion of all terms of a sentence or judgment entered as part of a disposition of a criminal charge;
- (b) a certificate or order related to a criminal charge evidencing the individual's unconditional discharge;
- (c) a certificate of relief pursuant to G.S. 15A-173.4;
- (d) an endorsement from the Governor after satisfaction of conditions of a conditional pardon pursuant to G.S. 13-4;
- (e) an unconditional pardon pursuant to G.S. 13-3;
- (f) an order that a conviction is vacated; and
- (g) the individual's citizenship has been restored pursuant to G.S. 13-1;
- (h) an action that is equivalent to Sub-Items (a)-(f) of this Item entered by a court, or an official or body of a state, federally recognized tribe, or nation with the authority to grant pardons.

1 ~~(26)~~(27) "Residence address" means a physical location with a street name, and a number designating the
2 building in which an individual ~~resides~~, **resides (no P.O. boxes)**, including an apartment or unit
3 number if applicable, the city, state, zip code, and nation if not the United States.

4 (28) "Restriction" with regard to public office means an individualized action:

5 (a) to restrain an individual from serving in public office; and

6 (b) that is taken by:

7 (i) a governmental agency, board, or commission, a legislative body, or a member of
8 the executive branch of any locality, state, federally recognized tribe, or nation;

9 or

10 (ii) a court.

11 ~~(27)~~(29) "Revocation" with regard to an individual's capacity to serve in a public office means an
12 individualized action:

13 (a) to void or cancel a certification of election to office; or

14 (b) to remove an individual from a public office; and

15 (c) that is taken by:

16 (i) a governmental agency, board, or commission, a legislative body, or a member of
17 the executive branch of any locality, state, federally recognized tribe, or nation;

18 or

19 (ii) a court.

20 ~~(28)~~(30) "Suspension" with regard to a public office means an individualized action:

21 (a) to prohibit, for a finite period of time, an individual's authority to serve in a public office;
22 and

23 (b) that is taken by:

24 (i) a governmental agency, board, or commission, legislative body, or a member of
25 the executive branch of any locality, state, federally recognized tribe, or nation;

26 or

27 (ii) a court.

28
29 *History Note: Authority G.S. 10B-4; 10B-14(f); 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-*
30 *134.19; 10B-134.21; 10B-134.23;*

31 *Eff. April 1, 2007;*

32 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
33 *6, 2016;*

34 *Amended Eff. July 1, 2025; July 1, 2024.*

1 18 NCAC 07B .0105 is amended as published in 39:13 NCR 807 as follows:

2
3 **18 NCAC 07B .0105 OBTAINING REQUESTED INFORMATION**

4 A ~~filer~~ person responding to a departmental information request shall:

- 5 (1) use reasonable efforts to obtain information requested by the Department;
- 6 (2) deliver to the Department all requested information that is available to the ~~filer~~; person; and
- 7 (3) if unable to obtain requested information, describe to the Department the efforts taken to obtain the
- 8 information.

9
10 *History Note: Authority G.S. 10B-4; 10B-14(f); 10B-107; 10B-134.21;*

11 *Eff. July 1, ~~2024~~, 2024;*

12 *Amended Eff. July 1, 2025.*

1 18 NCAC 07B .0402 is amended with changes as published in 39:13 NCR 808-809 as follows:

2
3 **SECTION .0400 – FORMS**
4

5 **18 NCAC 07B .0402 CONTACT INFORMATION**

6 For purposes of the rules in this Section, unless otherwise indicated, "contact information" means:

7 (1) for ~~a key an~~ individual who is identified pursuant to ~~G.S. 10B-134.19(c)(2)~~; G.S. 10B-134.19(c)(2)
8 by a platform, by an IPEN, or for key individuals operating a sole proprietorship or general
9 partnership;

10 (a) the full name of the individual;

11 (b) the following addresses:

12 (i) residential address;

13 (ii) business address;

14 (iii) mailing address;

15 (c) business telephone numbers;

16 (d) business email addresses;

17 (e) any other names by which the individual is known, including nicknames;

18 (2) for a business entity:

19 (a) the name of the entity on record with the Secretary of State, formation or filing office in its
20 state, federally recognized tribe, or country of formation;

21 (b) the name of the state, federally recognized tribe, or country of formation;

22 (c) the year of formation;

23 ~~(e)(d)~~ the street address, and the mailing address if different, of the entity's principal office;

24 ~~(d)(e)~~ the street address, and the mailing address if different, of the entity's registered office;

25 ~~(e)(f)~~ the principal office telephone number of the entity;

26 ~~(f)(g)~~ the email address of the entity;

27 ~~(g)(h)~~ the URL for the entity's website, if any;

28 ~~(h)(i)~~ the name of an individual who is designated by the entity as the primary contact between
29 the Department and the entity, and for that individual:

30 (i) title and position;

31 (ii) telephone number;

32 (iii) mailing address if different from the addresses provided in Sub-Items (2)(c) and
33 (d) of this Item;

34 (iv) primary email address;

35 (v) secondary email address, if applicable;

1 ~~(j)~~(i) the name of an individual designated as the secondary contact between the Department and
2 the entity if the individual named in ~~Sub-Item (2)(h)~~ Sub-Item (2)(i) of this Item is not
3 available; and

4 ~~(j)~~(k) the information in ~~Sub-Item (2)(h)~~ Sub-Item (2)(i) of this Item for the secondary contact
5 individual named in ~~Sub-Item (i)~~ Sub-Item (2)(j) of this Item; or

6 (3) for a technology provider's, or traditional physical seal manufacturer manufacturer's or vendor's
7 registered agent listed on an ~~application filed pursuant to G.S. 10B-134.19:~~ application:

8 (a) the name of the registered agent;

9 (b) the registered office address for the registered agent and mailing address if different; and

10 (c) a business email address for the registered agent.

11
12 *History Note: Authority G.S. 10B-4; 10B-134.21;*

13 *Eff. July 1, ~~2024~~ 2024;*

14 *Amended Eff. July 1, 2025.*

1 18 NCAC 07B .0411 is amended with changes as published in 39:13 NCR 810 as follows:

2
3 **18 NCAC 07B .0411 NOTICE OF CHANGES REGARDING CRIMINAL HISTORY RECORD**

4 The form for notice of changes in criminal history record requires:

- 5 (1) the name of the individual;
- 6 (2) if a commissioned notary public the notary's commission number;
- 7 (3) the last four digits of the individual's SSN;
- 8 (4) contact information for the individual;
- 9 (5) for a previously unreported criminal charge:
- 10 (a) the date of the charge;
- 11 (b) the court in which the charge is filed;
- 12 (c) whether the charge is for a felony or misdemeanor;
- 13 (d) the name of the charge;
- 14 (e) whether the charge has been set for a hearing or trial and, if yes, the scheduled date; and
- 15 (f) the case number;
- 16 (6) for notice of a disposition of a criminal charge:
- 17 (a) the date of the disposition;
- 18 (b) the name of the court and the case number;
- 19 (c) if the disposition resulted in a conviction:
- 20 (i) whether the conviction was for a felony or misdemeanor; and
- 21 (ii) the sentence imposed;
- 22 (d) a copy of the disposition document or judgment;
- 23 (e) a copy of any document restoring citizenship rights; ~~and~~
- 24 (7) a declaration under penalty of perjury that the information provided is true and [correct]
- 25 complete to the best of the affiant's knowledge and belief; and
- 26 ~~(7)~~(8) the signature of the individual and the date signed.

27
28 *History Note: Authority G.S. 10B-4;*
29 *Eff. July 1, ~~2024~~ 2024;*
30 *Amended Eff. July 1, 2025.*

1 18 NCAC 07B .0420 is adopted as published in 39:13 NCR 810-811 as follows:

2
3 **18 NCAC 07B .0420 NOTARY FORM TO REPORT TECHNOLOGY DYSFUNCTIONS**

4 The form notaries public and electronic notaries public use to report technology dysfunctions pursuant to 18 NCAC
5 07D .0309 requires:

6 (1) the notary's commission name;

7 (2) the name of the technology provider with which the notary is experiencing dysfunctions;

8 (3) a description of the dysfunction;

9 (4) the basis for concern if a dysfunction is suspected to involve security, privacy or accuracy of
10 credential verification or identity proofing;

11 (5) the dates, times, and duration of the dysfunctions; and

12 (6) the efforts undertaken to resolve the dysfunctions by the notary or the technology provider.

13
14 History Note: Authority G.S. 10B-4; 10B-134.19;

15 Eff. July 1, 2025.

1 18 NCAC 07B .0422 is adopted as published in 39:13 NCR 811-812 as follows:

2
3 **18 NCAC 07B .0422 APPLICATION FOR TECHNOLOGY PROVIDER AUTHORIZATION –**
4 **GENERAL**

5 Technology provider application forms shall require:

6 (1) the type or types of authorization to which the application applies:

7 (a) IPEN;

8 (b) platform;

9 (c) credential analysis;

10 (d) identity proofing; or

11 (e) custodian;

12 (2) contact information:

13 (a) the information specified in Rule .0402(2) of this Section for the applicant;

14 (b) the information specified in Rule .0402(3) of this Section for the registered agent of a
15 business entity that is an applicant;

16 (c) the information specified in Rule .0402(1) of this Section for:

17 (i) the applicant's key individuals; and

18 (ii) the applicant's compliance contact employee designated pursuant to Item (4)(b)
19 of this Rule, except that the residential address shall not be required; and

20 (3) the following general information about the technology provider applicant and its business:

21 (a) the type of business entity;

22 (b) all states and nations in which the technology provider applicant has obtained a certificate
23 of authority to do business, or its equivalent;

24 (c) all assumed business names, trade names, or "doing business as" names used by the
25 applicant in North Carolina, other states, or nations;

26 (d) all fictitious or equivalent names registered with the Department or other states or nations
27 because the business' legal name is not available. Note: An example would be a fictitious
28 name registered with the Department pursuant to G.S. 55D-22(a)(6);

29 (e) for legal actions, the information required by 18 NCAC 07J .0416;

30 (f) for debarment involving the applicant or the applicant's key individuals, the information
31 specified in 18 NCAC 07J .0414;

32 (g) for disciplinary actions, the information specified in 18 NCAC 07J .0418;

33 (h) for voluntary exclusion in lieu of debarment involving the applicant or the applicant's key
34 individuals, the information specified in 18 NCAC 07J .0415;

35 (i) for bankruptcy, the information required by 18 NCAC 07J .0420;

36 (j) a summary of its most recent IT security audit as required by 18 NCAC 07J .0621;

37 (4) the following information related to the authorization that the applicant seeks:

- 1 (a) the name of the product and the version number for which authorization is sought;
2 (b) the full name of the compliance contact who meets the requirements of, and has the duties
3 set forth in, 18 NCAC 07J .0406;
4 (c) minimum hardware and software specifications as required by 18 NCAC 07J .0608;
5 (5) the following information regarding the applicant's provision of the same or similar notarial services
6 in jurisdictions other than North Carolina:
7 (a) the name of each state, tribe or nation; and
8 (b) for each named jurisdiction, the information required by 18 NCAC 07J .0405;
9 (6) a URL link to the information that the applicant is required to provide pursuant to 18 NCAC 07J
10 .0607;
11 (7) information regarding whether the applicant's services as a technology provider have within the
12 preceding five years been the subject of:
13 (a) a security breach; or
14 (b) a ransomware attack, as defined at G.S. 143B-1320(a)(14a);
15 (8) identification and information for third-party vendors, supporting vendors, and businesses pursuant
16 to 18 NCAC 07J .0408-.0411;
17 (9) the applicant's certifications, compliance reports, or equivalents by independent third-party entities
18 with:
19 (a) the information required by 18 NCAC .07J .0413; and
20 (b) if the certifications, compliance reports, or equivalents have levels, grades, or annotations,
21 those applicable to the applicant;
22 Note: Examples of acceptable certifications are ISO 270001 and SOC2;
23 (10) the applicant's certification that it complies with the requirements to have and implement the plans
24 required by 18 NCAC 07J Section .0600; and
25 (11) signature by a key individual employed by the technology provider applicant who has the authority
26 to:
27 (a) bind the applicant;
28 (b) make certifications required by this rule and the rules in 18 NCAC Subchapter 07J; and
29 (c) declare under penalty of perjury that:
30 (i) the information provided is true and complete to the best of the signer's knowledge
31 and belief;
32 (ii) the application was prepared under the signer's authority and supervision;
33 (iii) the applicant agrees that representations, promises and assurances of performance
34 in the application are binding on it; and
35 (d) the date on which the application was signed.
36

37 History Note: Authority G.S. 10B-4; 10B-126(d); 10B-134.19; 10B-134.21; 10B-134.23(b);

