

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07E .0108

DEADLINE FOR RECEIPT: February 23, 2024

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:

On line 5, is "under oath" the correct phrase here? It appears that the form described in rule 18 NCAC 07B .0414 requires it be a declaration "under penalty of perjury".

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

1 18 NCAC 07E .0108 is amended with changes as published in 38:09 NCR 572-573 as follows:

2
3 **18 NCAC 07E .0108 VERIFICATION THAT INSTRUCTOR APPLICANT CONTINUES TO MEET**
4 **REQUIREMENTS FOR A NOTARY COMMISSION**

5 An instructor applicant ~~for notary public instructor certification or recertification~~ shall verify ~~that:~~ under oath on the
6 instructor application form specified in 18 NCAC 07B .0414 that:

7 (1) the information on the application is true and complete; and

8 ~~(1)(2)~~ the applicant ~~continues to meet each of the qualifications for a notary commission in G.S. 10B-5~~
9 ~~and 10B-7; and will perform the responsibilities of [an] a certified notary~~ instructor as set out in
10 Chapter 10B of the General Statutes and the [Rules] rules in this Chapter to the best of the applicant's
11 ability.

12 ~~(2) With regard to changes requiring notification to the Division pursuant to Rule .0107 of this Chapter,~~
13 ~~verify:~~

14 ~~(a) That there have been no changes requiring notification to the Department;~~

15 ~~(b) That there have been changes requiring notification to the Department and that the~~
16 ~~applicant has made all required notifications; or~~

17 ~~(c) That there have been changes requiring notification to the Department and the applicant~~
18 ~~has not previously made the required notification to the Department but is including the~~
19 ~~notification with the application.~~

20
21 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*

22 *Eff. January 1, 2008;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
24 *6, 2016;*

25 *Transferred from 18 NCAC 07B .0706 Eff. June 1, ~~2023~~ 2023;*

26 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07E .0109

DEADLINE FOR RECEIPT: February 23, 2024

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:

On lines 10 and 11, does a notary instructor remain certified if they no longer teach at the institution on an application?

On line 12, can a certified instructor teach at multiple institutions at the same time?

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

1 18 NCAC 07E .0109 is adopted as published in 38:09 NCR 573 as follows:

2
3 **18 NCAC 07E .0109 CHANGE IN INSTRUCTOR'S ELIGIBLE INSTITUTION**

4 Within 45 days of a change in the eligible institution listed on the notary instructor application, an instructor applicant
5 or certified notary instructor shall notify the Department in writing of:

6 (1) the change in eligible institution;

7 (2) the date that the change is effective; and

8 (3) the name and contact information for the notary course administrator at the eligible institution.

9 For purposes of this Rule, "change in the eligible institution" means:

10 (1) that the applicant or certified notary instructor will not teach at the institution named in the
11 application; or

12 (2) that the applicant or certified notary instructor will teach at another institution.

13
14 History Note Authority G.S. 10B-4; 10B-14; 10B-134.21;

15 Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07E .0113

DEADLINE FOR RECEIPT: February 23, 2024

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:

This rule requires all notary instructors to be registered as electronic notaries. Is that intentional?

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

1 18 NCAC 07E .0113 is adopted as published in 38:09 NCR 573 as follows:

2
3 **18 NCAC 07E .0113 INSTRUCTORS AS REGISTERED ELECTRONIC NOTARIES**

4 An instructor applicant shall:

5 (1) be a registered electronic notary public at the time of application; or

6 (2) comply with all requirements for registration as an electronic notary within three months of
7 successfully completing the instructor certification course.

8
9 History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

10 Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07E .0207

DEADLINE FOR RECEIPT: February 23, 2024

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:

Rule .0112 requires the use of the 7B .0415 recommendation form and rule .0205 requires the use of the 07B .0416 affidavit. This rule seems to suggest that one form could be submitted to cover both rules. This appears to be a conflict between the rules. Please clarify in one or more of these rules.

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

1 18 NCAC 07E .0207 is adopted as published in 38:09 NCR 574 as follows:

2
3 **18 NCAC 07E .0207 EMPLOYER AFFIDAVIT MAY INCLUDE RECOMMENDATION**

4 An employer affidavit submitted pursuant to Rule .0205 of this Section may include a recommendation from the
5 employer pursuant to Rule .0112 of this Subchapter.

6
7 History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

8 Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07E .0602

DEADLINE FOR RECEIPT: February 23, 2024

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:

Are the requirements of the department curriculum laid out in rule or statute? As written, and with the authority granted by the statutes in the history note, that may be necessary.

If not, and I correctly understand what the Department wants to do, I think you can rewrite the rule to utilize the authority in G.S. 10B-8. Consider something like, "The Department shall provide a certified notary instructor with the curriculum for an approved course of study for notaries pursuant to G.S. §10B-8. A certified notary instructor shall follow that curriculum unless the Department grants a written variance to the instructor pursuant to the Rules in Section .0800 of this Subchapter." If you go in this direction, also include 10B-8 in your history note.

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

1 18 NCAC 07E .0602 is adopted as published in 38:09 NCR 577 as follows:

2
3 **18 NCAC 07E .0602 ADHERENCE TO CURRICULUM**

4 A certified notary instructor shall follow the Department curriculum for notary courses unless the Department grants
5 a written variance to the instructor pursuant to the Rules in Section .0800 of this Subchapter.

6
7 History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

8 Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07E .0801, .0802, .0803, .0804

DEADLINE FOR RECEIPT: February 23, 2024

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:

I don't see how the statutes listed in the history note provide sufficient authority for the rules in this section. However, it appears to me that this could be within the Secretary's authority under 10B-8 (along with the corresponding changes in 7E .0602.) If you decide to go this direction, please add 10B-8 to the history note for the rules in section .0800.

Otherwise, please explain the authority of the department to control the details of the curriculum (instructional aids, etc.) without 10B-8.

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

1 18 NCAC 07E .0801 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **SECTION .0800 – NOTARY INSTRUCTOR REQUESTS FOR APPROVAL OF INSTRUCTIONAL AIDS**

4
5 **18 NCAC 07E .0801 REQUEST FOR VARIANCE FROM APPROVED INSTRUCTIONAL AIDS**

6 ~~Instructors~~ Certified notary instructors may submit a written request addressed to the Director requesting that the
7 Department approve a variance allowing use of instructional aids in addition to or differing from those established by
8 the Department.

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

11 *Eff. July 1, 2024.*

1 18 NCAC 07E .0802 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **18 NCAC 07E .0802 VARIANCE REQUEST - EXEMPLAR REQUIRED**

4 ~~An instructor~~ A certified notary instructor who submits a request for variance pursuant to this Section shall include a
5 complete copy of the proposed instructional aid in its original size and colors.

6
7 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*

8 *Eff. July 1, 2024.*

1 18 NCAC 07E .0803 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **18 NCAC 07E .0803 VARIANCE REQUEST - EXPLANATION OF VALUE**

4 ~~An instructor~~ A certified notary instructor who submits a variance request shall explain to the Department how the
5 revised or new aid:

6 (1) will be used by the instructor; and

7 (2) will assist notary course students in understanding the role and responsibilities of a notary ~~public~~.
8 public or an electronic notary public.

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

11 *Eff. July 1, 2024.*

1 18 NCAC 07E .0804 is adopted with changes as published in 38:09 NCR 578 as follows:

2
3 **18 NCAC 07E .0804 VARIANCE REQUEST – APPROVAL CRITERIA**

4 The Department shall approve or deny a variance request using the following criteria:

- 5 (1) conformity with Chapter 10B of the General Statutes and the ~~Rules~~ rules in this Chapter;
- 6 (2) the value added to the curriculum;
- 7 (3) the impact of the change on the length of the course; and
- 8 (4) the quality of visual or audio ~~elements; and elements.~~
- 9 ~~(5) — avoidance of confusion.~~

10
11 History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;

12 Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07E .1001

DEADLINE FOR RECEIPT: February 23, 2024

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:

On line 24, keep 10B-8 in the authority note. That is “10B-8”.

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

Seth Ascher
Commission Counsel

Date submitted to agency: February 21, 2024

1 18 NCAC 07E .1001 is amended as published in 38:09 NCR 579 as follows:

2
3 **18 NCAC 07E .1001 STUDENT EVALUATIONS OF INSTRUCTION INSTRUCTORS**

4 ~~(a) If the employer of a certified notary public instructor conducts a written performance evaluation of the instructor~~
5 ~~at least once per calendar year, the instructor shall submit a copy of the performance evaluation to the Department~~
6 ~~within 30 days after receipt of the written performance evaluation from the employer.~~

7 ~~(b) If the employer of a certified notary public instructor does not conduct a written performance evaluation of the~~
8 ~~instructor at least once per calendar year, the~~ A certified notary instructor shall:

- 9 (1) ~~Require in each year of certification require that his or her notary public course students in at least~~
10 ~~one of the instructor's notary courses class each calendar year complete the Division's Department's~~
11 ~~student evaluation of notary public course instructor form; form specified in 18 NCAC 07B .0417,~~
12 ~~unless the instructor's employer institution obtains student evaluations during the same period; and~~
13 (2) ~~Shall submit to the Department copies of all completed student evaluation forms completed pursuant~~
14 ~~to Item (1) of this Rule to the Division within 30 45 days of receipt of the completed forms. NOTE:~~
15 ~~Where the employer institution obtains student evaluations more frequently than once per~~
16 ~~certification year, evaluations for a single class in the certification year satisfy the requirements of~~
17 ~~this Item.~~

18 ~~(c) The Department may conduct evaluations of instructional performance of certified notary public instructors by~~
19 ~~methods including:~~

- 20 (1) ~~Surveys of notary public students;~~
21 (2) ~~Requests for audio visual recordings of courses; and~~
22 (3) ~~Observation of classroom instruction.~~

23
24 *History Note: Authority G.S. 10B-4; 10B-8; 10B-14; 10B-134.21;*

25 *Eff. January 1, 2008;*

26 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
27 *6, 2016;*

28 *Transferred from 18 NCAC 07B .0717 Eff. June 1, ~~2023;~~ 2023;*

29 *Amended Eff. July 1, 2024.*