

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

AGENCY: Secretary of State

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

DEADLINE FOR RECEIPT: **Tuesday, May 13, 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 07H .0103: *Correct the statutory references in item 3. Note: these were discussed in the April 15 email from Ann Elmore.*

18 NCAC 07H .0200: *You appear to have left off a section heading. Note: this was discussed in the April 15 email from Ann Elmore.*

18 NCAC 07H .0202: *The phrasing of item (2) feels awkward to me, since the subject of the sentence is the notary but self refers to the principal. Consider something like: "self-attestation by a principal who is not using a GPS-enabled device."*

18 NCAC 07H .0207: *Am I understanding this rule correctly that the notary can rely on the principal's statement/opinion that the location cannot be divulged for reasons of national security?*

18 NCAC 07H .0303: *As written, there are not precise standards for how a notary determines that additional information is required. Is this meant to rely on the notary's subjective discretion? Or are there standards somewhere?*

Could a notary be disciplined for failing to request additional information if the software or in person standards at the time verify identity, even if the verification turns out to be wrong?

Could a notary be disciplined for requesting additional information if the software or in person standards at the time verify identity, but the notary in good faith (i.e. not based on impermissible discrimination or other violations of law) believes something is wrong?

18 NCAC 07H .0400: *Several of the rules in this section forbid of notarization if something is wrong "in the judgment of the notary" (i.e. altered image). Is this meant to rely on the notary's subjective judgment? Or are there standards somewhere.*

Put another way, are these rules only violated if the notary believes there is an issue and continues anyway? I.e., a notary believes that an image is altered and still completes the notarization.

18 NCAC 07H.0507: *As written, this rule seems to require a notary to ensure something that is potentially outside of their control. What is a notary supposed to do if they discover the records are not accessible to them?*

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

1 18 NCAC 07H .0103 is adopted with changes as published in 39:13 NCR 824 as follows:

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3 **18 NCAC 07H .0103 DEFINITIONS**

4 For purposes of this Subchapter:

- 5 (1) "Active duty" means that term as it is defined in 10 U.S.C. 101(d)(1).
6 (2) "Armed Forces" means that term as it is defined in 18 NCAC 07K .0101(2).
7 (3) "Credential" or "credentials" means a document presented as satisfactory evidence of identity
8 pursuant to G.S. 10B-3(22)(a) and ~~G.S. 10B-134.11(a)(2)(a)~~ G.S. 10B-134.11(a)(2)a.
9 (4) "Dependent" means that term as it is defined in 37 U.S.C. 401.
10 (5) "Military orders" means that term as it is defined in 50 U.S.C. 3955(i)(1), except that it shall not
11 include orders for separation or retirement.

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13 *History Note:* *Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
14 *Eff. July 1, 2025.*

1 18 NCAC 07H .0202 is adopted with changes as published in 39:13 NCR 824 as follows:

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3 **18 NCAC 07H .0202 MEANS OF DETERMINING PRINCIPAL LOCATION**

4 ~~An electronic~~ A notary public shall determine the location of a principal seeking a remote electronic notarization by:

- 5 (1) geolocation if the principal is using a GPS-enabled device; or
6 (2) self-attestation if the principal is not using a GPS-enabled device.

7
8 *History Note: Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
9 *Eff. July 1, 2025.*

1 18 NCAC 07H .0203 is adopted with changes as published in 39:13 NCR 824 as follows:

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3 **18 NCAC 07H .0203 PROCEDURE WHEN PRINCIPAL USES GPS-ENABLED DEVICE**

4 Unless an exception in Rule .0204 of this Section applies, ~~an electronic~~ a notary public shall terminate a notarial
5 transaction if:

- 6 (1) the platform indicates that the principal has a GPS-enabled device capable of geolocation that:
7 (a) has the GPS location feature disabled; and
8 (b) the principal declines to enable the GPS-location feature of the device; or
9 (2) the principal is not in a permitted location pursuant to G.S. 10B-134.1(10).

10
11 *History Note:* *Authority G.S. 10B-4; 10B-134.9; 0B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
12 *Eff. July 1, 2025.*

1 18 NCAC 07H .0204 is adopted with changes as published in 39:13 NCR 824 as follows:

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3 **18 NCAC 07H .0204 EXCEPTION TO RULE .0203**

4 ~~An electronic~~ A notary public shall not terminate a notarial transaction pursuant to Rule .0203 of this Section if the
5 principal seeking a remote electronic notarization makes a self-attestation pursuant to Rules .0206 or .0207 of this
6 Section.

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8 *History Note: Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
9 *Eff. July 1, 2025.*

1 18 NCAC 07H .0205 is adopted with changes as published in 39:13 NCR 824-825 as follows:

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3 **18 NCAC 07H .0205 CONTENTS OF ATTESTATION OF LOCATION**

4 A principal's self-attestation of current location shall consist of:

- 5 (1) the name of the principal who is identified to the ~~electronic~~ notary public;
- 6 (2) a statement that the principal is currently located:
- 7 (a) inside the United States including:
- 8 (i) the name of the state, territory, or federally recognized tribal area in which the
- 9 principal is located; and
- 10 (ii) the name of the county, parish, or equivalent governmental subdivision;
- 11 (b) outside the United States in a ~~United States~~ U.S. embassy, consulate or diplomatic mission
- 12 including:
- 13 (i) whether the principal is located in a U.S. embassy, a U.S. consulate, or a U.S.
- 14 diplomatic mission;
- 15 (ii) the name of the country and city in which the embassy, consulate, or diplomatic
- 16 mission is located; and
- 17 (iii) the name of the U.S. embassy, consulate, or diplomatic mission; or
- 18 (3) the information required by Rule .0206 of this Section for a principal on a United States military
- 19 installation or vessel outside the United States.

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21 *History Note:* *Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
22 *Eff. July 1, 2025.*

1 18 NCAC 07H .0206 is adopted with changes as published in 39:13 NCR 825 as follows:

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3 **18 NCAC 07H .0206 CONTENTS OF ATTESTATION OF LOCATION ON U.S. MILITARY**
4 **INSTALLATION OR VESSEL**

5 Self-attestation by a principal of current location on a United States military installation or vessel outside the United
6 States shall consist of:

- 7 (1) the name of the principal making the attestation to the ~~electronic~~ notary public;
- 8 (2) whether the principal is:
- 9 (a) a member of the Armed Forces of the United States; or
- 10 (b) a dependent of a member of the Armed Forces, and the name of the member;
- 11 (3) the branch of the Armed Forces in which the member serves;
- 12 (4) that the principal is physically located outside the United States on:
- 13 (a) a U.S. military installation; or
- 14 (b) a U.S. military vessel; and
- 15 (5) unless Rule .0207 of this Section applies, the name of:
- 16 (a) the installation and the country in which the installation is located; or
- 17 (b) the name of the vessel; and
- 18 (6) that the principal is on the named installation or vessel pursuant to military orders assigning the
19 member to active duty for more than 120 days.
- 20

21 *History Note: Authority G.S. 10B-4; 10B-134.9; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
22 *Eff. July 1, 2025.*

1 18 NCAC 07H .0207 is adopted with changes as published in 39:13 NCR 825 as follows:

2
3 **18 NCAC 07H .0207 EXCEPTION TO RULE .0206**

4 If a principal cannot provide the information in Rule .0206 of this Section for reasons of ~~U.S.~~ United States national
5 security, the principal may attest that:

6 (1) the principal is on a U.S. military installation or vessel pursuant to military orders assigning the
7 member to active duty for more than 120 days; and

8 (2) the name and location cannot be divulged for reasons of national security.

9
10 *History Note: Authority G.S. 10B-4; 10B-134.9; 10B-134.17; 10B-134.21; 10B-134.23;*
11 *Eff. July 1, 2025.*

1 18 NCAC 07H .0208 is adopted with changes as published in 39:13 NCR 825 as follows:

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3 **18 NCAC 07H .0208 ADDITIONAL REQUIREMENTS FOR WRITTEN ATTESTATION OF**
4 **LOCATION**

5 A remotely located principal may self-attest to the principal's location by using communication technology to deliver
6 a writing to the ~~electronic~~ notary public that conforms to Rules .0205 or .0206 of this Section and, in addition, contains:

- 7 (1) the printed name of the principal;
8 (2) the signature of the principal; and
9 (3) the date on which the principal signed the self-attestation, which shall be the same date as the remote
10 electronic ~~notarization~~ notarial act.

11
12 *History Note:* *Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
13 *Eff. July 1, 2025.*

1 18 NCAC 07H .0303 is adopted with changes as published in 39:13 NCR 826 as follows:

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3 ~~18 NCAC 07H .0304~~ **18 NCAC 07H .0303** NOTARY REQUEST FOR ADDITIONAL INFORMATION

4 If ~~an electronic~~ a notary public determines that additional ~~information~~ information, identity proofing, or identification
5 credentials are necessary to confirm the identity of the remotely located principal, then the ~~electronic~~ notary shall:

6 (1) require the principal to:

7 (a) provide additional information; or

8 (b) undergo additional identity proofing, credential ~~analysis~~ analysis, or both by the technology
9 provider; or

10 (2) cancel the remote notarial transaction if:

11 (a) the principal refuses to provide additional information or undergo additional credential
12 analysis; or

13 (b) the notary decides the principal's identity has not been verified.
14

15 *History Note: Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
16 *Eff. July 1, 2025.*

1 18 NCAC 07H .0401 is adopted with changes as published in 39:13 NCR 826 as follows:

2
3 **SECTION .0400 – CONTINUOUS COMMUNICATION BETWEEN NOTARY AND PRINCIPAL**

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5 **18 NCAC 07H .0401 UNOBSTRUCTED VIEW**

6 Except as noted in Rule .0406 of this Section, ~~an electronic~~ a notary public shall not perform a remote electronic
7 notarization unless, in the judgment of the ~~electronic~~ notary, there is a clear and unobstructed view of:

- 8 (1) all principals;
- 9 (2) any interpreter or transliterator who is interpreting for a principal; and
- 10 (3) the text that a CART captioner is providing to the principal.

11
12 *History Note: Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
13 *Eff. July 1, 2025.*

1 18 NCAC 07H .0402 is adopted with changes as published in 39:13 NCR 826 as follows:

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3 **18 NCAC 07H .0402 MODIFIED IMAGE OF PRINCIPAL**

4 ~~An electronic~~ A notary public shall not perform a remote electronic notarization if, in the judgment of the ~~electronic~~
5 notary, the live on-screen image of the remotely located principal:

6 (1) appears to be:

7 (a) altered;

8 (b) ~~filtered;~~ unnatural; or

9 (c) simulated; or

10 (2) does not accurately reflect a real-time two-way communication between the ~~electronic~~ notary and
11 the principal.

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13 History Note: Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;

14 Eff. July 1, 2025.

1 18 NCAC 07H .0403 is adopted with changes as published in 39:13 NCR 826 as follows:

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3 **18 NCAC 07H .0403 AUDIO IMPAIRMENT**

4 ~~An electronic~~ A notary public shall not perform a remote electronic notarization ~~if~~ if, in the judgment of the notary,
5 the quality and clarity of the audio communication ~~technology does not provide sound clear enough that prevents~~ each
6 participant ~~can hear and understand~~ from hearing and understanding all other participants. ~~For purposes of this Rule,~~
7 "sound clear enough" shall be as determined by the electronic notary.

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9 History Note: Authority G.S. 10B-4; 10B-134.5; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;

10 Eff. July 1, 2025.

1 18 NCAC 07H .0404 is adopted with changes as published in 39:13 NCR 826 as follows:

2
3 **18 NCAC 07H .0404 MODIFIED VOICE OF PRINCIPAL**

4 Except as permitted in Rule .0405 of this Section, ~~an electronic~~ a notary public shall not perform a remote electronic
5 notarization if, in the judgment of the ~~electronic~~ notary, the voice of the remotely located principal:

6 (1) appears to be:

7 (a) altered;

8 (b) ~~filtered;~~ unnatural; or

9 (c) simulated; or

10 (2) does not accurately reflect a live two-way communication between the ~~electronic~~ notary and the
11 remotely located principal.

12
13 *History Note:* *Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*

14 *Eff. July 1, 2025.*

1 18 NCAC 07H .0405 is adopted with changes as published in 39:13 NCR 826 as follows:

2
3 **18 NCAC 07H .0405 EXCEPTION TO RULE .0404**

4 ~~An electronic notary public may perform a remote electronic notarization if the electronic notary concludes that any~~
5 ~~alteration, filtration, simulation, or asynchronicity of a principal's voice is otherwise in compliance with the~~
6 ~~accommodation rules in 18 NCAC 07B .0800.~~

7 A notary public may perform a remote electronic notarization for a principal who, in order to be accommodated
8 pursuant to G.S. 134.1(1), must use a technology that:

9 (1) filters, alters, or simulates the principal's voice or produces speech that is asynchronous with the
10 video communication;

11 (2) is under the control of the principal; and

12 (3) is otherwise compliant with 18 NCAC 07B .0800.

13 Note: An example of a principal using this exception would be an individual with ALS who uses eye movements to
14 manipulate a computer to speak.

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16 History Note: Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;

17 Eff. July 1, 2025.

1 18 NCAC 07H .0406 is adopted with changes as published in 39:13 NCR 826 as follows:

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3 **18 NCAC 07H .0406 PRINCIPAL DISAPPEARANCE OR EXIT**

4 ~~An electronic~~ A notary public shall terminate the remote electronic notarial transaction process if the remotely located
5 principal:

6 (1) disappears from the ~~electronic~~ notary's view for an excessive amount of time, as determined by the
7 ~~electronic~~ notary; or

8 (2) exits the session.

9 Note: Examples of disappearing would be moving out of view or turning off the camera.

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11 *History Note:* *Authority G.S. 10B-4; 10B-134.15; 10B-134.17; 10B-134.21; 10B-134.23;*
12 *Eff. July 1, 2025.*