

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0101

DEADLINE FOR RECEIPT: February 22, 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:

On line 7, why are notaries "Constitutional" officers? The only reference in the NC Constitution I see is Art VI, Sec. 9, which excepts notaries from dual office holding restrictions, but does not appear to create the office. Would it be more appropriate to call them public or statutory officers?

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

1 18 NCAC 07B .0101 is amended with changes as published in 38:09 NCR 550 as follows:

2
3 **18 NCAC 07B .0101 SCOPE**

4 The rules in this Subchapter implement Chapter 10B of the General Statutes, the Notary Public and Electronic Notary
5 ~~Acts, Statutes.~~ The rules ~~govern~~ govern:

- 6 (1) the qualification, commissioning, notarial acts, ~~conduct~~ conduct, and discipline of notaries public
7 as Constitutional officers of the ~~State.~~ State;
- 8 (2) the qualification, certification, and discipline of certified notary instructors; and
- 9 (3) the qualification, approval or licensing, conduct, and discipline of technology providers.

10
11 *History Note: Authority G.S. ~~10B-2~~; 10B-4; 10B-14(f); ~~10B-102~~; 10B-106; 10B-125(b); 10B-126; 10B-134.15;*
12 *10B-134.17; 10B-134.19; 10B-134.21; 10B-134.23;*
13 *Eff. April 1, 2007;*
14 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
15 *6, 2016. 2016;*
16 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0102

DEADLINE FOR RECEIPT: February 22, 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:

On p. 1, lines 10-11, consider simplifying to “For the purposes of this Chapter, the terms”.

On p. 2, lines 1 and 2, should it be “charges entered and accepted by a court”? That is, are the charges that would be entered but not accepted, or accepted but not entered?

On p. 2, line 5, “pleas of ~~admission~~ guilty”.

On p. 2, line 37, is “professional licensee” being proposed for addition post publication? Or removal? Format accordingly.

On p.3, line 7, “upon a review of evidence in an investigation, a quasi-judicial proceeding, or a judicial proceeding”.

On p.4, line 4, not all acts authorized by these two statutes require a notary to participate, so you need to clarify. Consider “an act required to performed by a notary public pursuant to: ~~authorized by~~”.

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

18 NCAC 07B .0102 is amended with changes as published in 38:09 NCR 550-553 as follows:

18 NCAC 07B .0102 DEFINITIONS

(a) ~~The~~ In addition to the definitions in G.S. ~~40B-3~~ 10B-3, 10B-101, and 10B-134.1, and apply to this Subchapter.

(b) ~~For~~ for purposes of Chapter 10B of the General Statutes and ~~Subchapters 07B and 07C~~ of this Chapter:

(1) "Applicant" ~~means an individual who seeks appointment or reappointment to the office of notary public;~~

(2) ~~—~~ "Appoint" or "Appointment" means the naming of an individual to the office of notary public after determination that the individual has complied with Chapter 10B of the General Statutes and Subchapter ~~07B~~ 07C of this Chapter. For the purposes of ~~these Rules, the~~ [Rules] rules in this Chapter, the terms "appoint", "reappoint", "appointment", "reappointment", "commission", "recommission", "commissioning", "appoint," "reappoint," "appointment," "reappointment," "commission," "recommission," "commissioning," and "recommissioning" all refer to the term "commission" as defined in G.S. 10B-3(4) or to the process of acquiring or maintaining ~~such the~~ commission; commission.

~~(3)(2)~~ "Appointee" means an individual who has been appointed or reappointed to the office of notary public but has not yet taken the oath of office to be ~~commissioned; commissioned.~~

(3) "Authorization" means a notary commission, an electronic notary registration, an instructor certification, an approval, or a license issued by the Department pursuant to Chapter 10B of the General Statutes.

(4) "Authorize" means the Department's action to issue an authorization.

~~(4)(5)~~ ~~Commissioning~~ "Commission date" means the beginning date of commissioning or recommissioning as entered on a commission ~~certificate; certificate.~~

(6) "Court" means a tribunal of a locality, state, the Armed Forces of the United States, a federally recognized tribe, or any nation.

~~(5)(7)~~ "Crime" ~~means a crime or:~~ means:

(a) an offense designated by law as a felony or misdemeanor;

~~(A)(b)~~ Attempt an attempt to commit ~~a crime; an offense;~~

~~(B)(c)~~ Accessory an accessory to commission of ~~a crime; an offense;~~

~~(C)(d)~~ Aiding aiding and abetting of ~~a crime; an offense;~~

~~(D)(e)~~ Conspiracy conspiracy to commit ~~a crime; an offense; or~~

~~(E)(f)~~ Solicitation solicitation to commit ~~a crime. an offense; or~~

(g) threat to commit an offense.

An infraction as defined in G.S. 14-3.1 is not a crime.

(6) "Division" means the Notary Public Section of the North Carolina Department of the Secretary of State.

(8) "Crime involving dishonesty" means a [criminal offense] crime that [implicates untruthfulness or] involves untruthfulness, deceit, fraud, false dealing, cheating or stealing.

- 1 (9) “Criminal convictions” means the following dispositions of criminal ~~charges;~~ charges entered or
2 accepted by a court:
3 (a) adjudications of ~~guilt by a court;~~ guilt;
4 (b) pleas of nolo contendere;
5 (c) pleas of admission;
6 (d) Alford pleas;
7 (e) conditional discharges;
8 (f) prayers for judgment continued; and
9 (g) dispositions denominated differently but equivalent to Sub-Items (a)-(f) in this ~~Item~~
10 entered by a court; Item.
11 (10) “Denial” with regard to public office means an individualized action:
12 (a) to disqualify an individual from:
13 (i) being a candidate for an elected public office; or
14 (ii) holding or filling a public office; and
15 (b) that is taken by:
16 (i) a governmental agency, a legislative body, or a member of the executive branch
17 of any locality, state, federally recognized tribe, or nation; or
18 (ii) a court.
19 (11) “Disciplinary action” means an official action by a court, legislative body, governmental agency
20 agency, board, or commission of any locality, state, federally recognized tribe, or nation, or court
21 nation resulting in:
22 (a) a disciplinary order;
23 (b) a censure;
24 (c) a reprimand;
25 (d) an admonition;
26 (e) a resignation in lieu of termination or revocation;
27 (f) a denial;
28 (g) a written warning; or
29 (h) actions denominated differently but equivalent to Sub-Items (a)–(g) in this Item.
30 (12) “Disciplinary order” means a directive or its equivalent that:
31 (a) is directed to a holder of a holder of a professional licensee license or a commissioned notary public;
32 (b) prohibits or conditions an individual professional licensee or commissioned notary public
33 from engaging in the practice of the licensee’s profession or acting as a notary public for
34 any amount of time;
35 (c) is issued by a court or government agency agency, board, or commission of any locality,
36 state, federally recognized tribe, or nation with authority to discipline or sanction the
37 professional licensee individual or commissioned 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 agency, board, or commission of any locality, state, federally recognized tribe, or nation that is based upon review of evidence in an investigation, quasi-judicial, or judicial proceeding resulting in a determination that:

(a) a fact has been proved according to the applicable legal standard; or

(b) a law applies to the specific facts in a matter.

(15) “Harm” means:

(a) loss or damage to a person affecting:

(i) liberty;

(ii) child custody, parental rights, child support, or visitation;

(iii) reputation;

(iv) money;

(v) property;

(vi) time; or

(vii) a contract or transaction; or

(b) an act that undermines public confidence in the reliability of notarial acts or notarial instructor certification.

(16) “Issuance” with regard to public office means an action:

(a) to certify the results of an election signifying that an individual has been elected to the public office; or

(b) to appoint an individual to fill a public office; and

(c) 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.

(17) “Licensed member of the North Carolina State Bar” means an active member as defined in 27 NCAC 01A .0201(b).

(18) “Name for use on a notary public commission” means: or “commission name” means the name chosen by a commission applicant as the applicant’s commission name and consisting of:

(a) the full legal name of the commission applicant; or

(b) a combination of the applicant’s surname and:

(i) full first or middle name; or

(ii) full first or middle name and one or more ~~initials.~~ initials derived from the applicant's full legal name.

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

(19) "Notarial act" means, in addition to those acts listed in G.S. 10B-3(11), an act authorized by:

(a) G.S. 163-231(a); and

(b) G.S. 53C-6-13(a).

(20) "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.

(21) "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) "Professional license" means an issuance that involves a grant of authority by a governmental ~~agency~~ 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;

- 1 (v) physician assistant;
2 (w) plumbing, heating, and fire sprinkler contractor;
3 (x) private investigator;
4 (y) professional bondsman;
5 (z) real estate broker;
6 (aa) registered nurse, licensed practical nurse, nurse practitioner;
7 (bb) securities broker, dealer, salesman;
8 (cc) self-employed insurance adjuster;
9 (dd) surety bondsman;
10 (ee) sworn law enforcement officer; and
11 (ff) teacher.
- 12 (23) “Public office” means a [position] position:
13 (a) created by law to which an individual has been elected or [appointed, and that involves]
14 appointed;
15 (b) involving a delegation to the individual of some of the functions of government to be
16 exercised by the individual for the benefit of the [public] public; and
17 (c) [that are] with authority that is not solely advisory.
- 18 (24) “Restriction” with regard to public office means an individualized action:
19 (a) to restrain an individual from serving in public office; and
20 (b) 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 (25) “Release from prison, probation or parole” means:
26 (a) completion of all terms of a sentence or [judgement] judgment entered as part of a
27 disposition of a criminal charge;
28 (b) a certificate or order related to a criminal charge evidencing the individual’s unconditional
29 [discharge and specifying the restoration of the individual’s rights of citizenship pursuant
30 to G.S. 13-2;] discharge;
31 (c) a certificate of relief pursuant to G.S. 15A-173.4;
32 (d) an endorsement from the Governor after satisfaction of conditions of a conditional pardon
33 pursuant to G.S. 13-4;
34 (e) an unconditional pardon pursuant to G.S. 13-3;
35 (f) an order that a conviction is vacated; [or] and
36 (g) the individual’s citizenship has been restored pursuant to G.S. 13-1;

- 1 (h) an action that is equivalent to Sub-Items (a)-(f) of this Item entered by a court, or an official
2 or body of a state, federally recognized tribe, or nation with the authority to grant pardons.
- 3 (26) “Residence address” [or “residential address”] means a physical location with a street name, and a
4 number designating the building in which an individual resides, including an apartment or unit
5 number if applicable, the city, state, zip code, and nation if not the United States.
- 6 (27) “Revocation” with regard to an individual’s capacity to serve in a public office means an
7 individualized action:
8 (a) to void or cancel a certification of election to office; or
9 (b) to remove an individual from a public office; and
10 (c) that is taken by:
11 (i) a governmental agency, board, or commission, a legislative body, or a member of
12 the executive branch of any locality, state, federally recognized tribe, or nation;
13 or
14 (ii) a court.
- 15 (28) “Suspension” with regard to a public office means an individualized action:
16 (a) to prohibit, for a finite period of time, an individual’s authority to serve in a public office;
17 and
18 (b) that is taken by:
19 (i) a governmental agency, board, or commission, legislative body, or a member of
20 the executive branch of any locality, state, federally recognized tribe, or nation;
21 or
22 (ii) a court.

23

24 *History Note: Authority G.S. 10B-4; 10B-14(f); 10B-106; 10B-125(b); 10B-126; 10B-134.15; 10B-134.17; 10B-*
25 *134.19; 10B-134.21; 10B-134.23;*
26 *Eff. April 1, 2007;*
27 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
28 *6, ~~2016~~. 2016;*
29 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0106

DEADLINE FOR RECEIPT: February 22, 2022

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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 4, what does it mean for the "Department" (as opposed to an individual) to waive a rule? Are the rules or statutes providing clarity about who and how this works?

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 8, 2024

1 18 NCAC 07B .0106 is amended as published in 38:09 NCR 553 as follows:

2
3 **18 NCAC 07B .0106 WAIVER**

4 The ~~Director~~ Department may waive any rule in this ~~Subchapter~~ Chapter that is not statutorily required on request of
5 a filer or on its own initiative based on the factors set forth in Rule ~~.0901~~ .0108 of this ~~Chapter~~ Section.

6
7 *History Note: Authority G.S. 10B-4; ~~10B-14(f); 147-36~~;*

8 *Eff. April 1, 2007;*

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

10 *6, ~~2016~~ 2016;*

11 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0108

DEADLINE FOR RECEIPT: February 22, 2022

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

On line 16, consider “any ~~the~~ harm”.

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 8, 2024

1 18 NCAC 07B .0108 is adopted with changes as published in 38:09 NCR 554 as follows:

2
3 **18 NCAC 07B .0108 FACTORS USED IN CONSIDERING WAIVER REQUESTS**

4 Factors to be considered when the Department considers a waiver request are:

- 5 (1) information about the requestor and the request, including the requestor's:
- 6 (a) explanation of the reasons for the request;
- 7 (b) control over the circumstances leading to the request;
- 8 (c) experience with the Notary Act and the ~~Rules~~ rules in this Chapter;
- 9 (d) record of timeliness, completeness, and accuracy of filings with the Department;
- 10 (e) history of waiver requests, if any; and
- 11 (f) impact of granting or denying the request on the requestor; and
- 12 (2) impact on the public by granting or denying the request, including:
- 13 (a) harm or benefit to the public;
- 14 (b) consistency of implementation and enforcement of Chapter 10B of the General Statutes
- 15 and the ~~Rules~~ rules in this Chapter; and
- 16 (c) the harm to the Department if a waiver is ~~granted~~ granted or denied.
- 17

18 *History Note: Authority G.S. 10B-4;*
19 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0407

DEADLINE FOR RECEIPT: February 22, 2022

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

On lines 8 and 9, item (2)(b), as written if the applicant does not use a personal cell phone number for their residence, they would not provide any phone number. Is that intentional?

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 8, 2024

1 18 NCAC 07B .0407 is adopted with changes as published in 38:09 NCR 554-555 as follows:

2
3 **18 NCAC 07B .0407 INITIAL APPLICATION FOR NOTARY COMMISSION FORM**

4 The initial application for notary commission form requires:

- 5 (1) the information required by G.S. 10B-5, 10B-6, and 10B-7;
- 6 (2) from the commission applicant:
- 7 (a) whether the applicant is a licensed member of the North Carolina State Bar;
- 8 (b) a personal cell phone number, if the applicant uses that number as ~~the applicant's~~
9 ~~residential telephone number;~~ number for the applicant's residence;
- 10 (c) the ~~most recent~~ North Carolina notary commission number, if one was ~~issued;~~ issued, and
11 more than 12 months have elapsed since expiration;
- 12 (d) occupation;
- 13 (e) applicant's employer or status as:
- 14 (i) self-employed;
- 15 (ii) unemployed;
- 16 (iii) retired; or
- 17 (iv) a student;
- 18 (f) North Carolina county where employed;
- 19 (g) with regard to the notary course attended:
- 20 (i) the name of the eligible institution that offered the course;
- 21 (ii) the number of course hours;
- 22 (iii) the printed or typed name of the course instructor; and
- 23 (iv) the date the course was successfully completed;
- 24 (h) a description of included attachments, if any; and
- 25 (i) the declaration required by G.S. 10B-12; and
- 26 (3) from the notary course instructor:
- 27 (a) certification that:
- 28 (i) the date, eligible institution, and printed name of the instructor are correct; and
- 29 (ii) the applicant successfully completed the course and therefore qualifies for
30 consideration for a notary commission; and
- 31 (b) the course instructor's signature as required by G.S. 10B-6 and the date of the signature.
- 32

33 *History Note: Authority G.S. 10B-4;*
34 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0409

DEADLINE FOR RECEIPT: February 22, 2022

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

On line 8, consider adding commas “~~seal~~ seal, or most recently expired seal, ~~seal~~”

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 8, 2024

1 18 NCAC 07B .0409 is adopted with changes as published in 38:09 NCR 555 as follows:

2
3 **18 NCAC 07B .0409 APPLICATION FOR RECOMMISSIONING AS NOTARY PUBLIC**

4 The form for application for recommissioning as a notary public ~~form~~ before expiration of a commission or within 12
5 months of commission expiration requires:

- 6 (1) information regarding the applicant's current or, if expired, the ~~immediately preceding~~ most recent
7 commission, including the commission number;
- 8 (2) an imprint or stamp from the applicant's current seal or most recently expired seal if the applicant
9 currently possesses a seal;
- 10 (3) information required pursuant to G.S. 10B-11;
- 11 (4) the instructor's signature, if the applicant takes the notary course as part of the recommissioning
12 process;
- 13 (5) information required pursuant to Rule .0407 of this Section that is not otherwise included in Items
14 (1)-(3) of this Rule; and
- 15 (6) the declaration under penalty of perjury that is required by G.S. 10B-12.

16
17 *History Note: Authority G.S. 10B-4;*
18 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .410

DEADLINE FOR RECEIPT: February 22, 2022

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

On line 5, “required by 18 NCAC 07D .0301 ~~[.0301:]~~ shall include:”

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 8, 2024

1 18 NCAC 07B .0410 is adopted with changes as published in 38:09 NCR 555-556 as follows:

2
3 **18 NCAC 07B .0410 NOTICE OF ~~CHANGE~~ CHANGES IN ~~GENERAL NOTARY INFORMATION~~**
4 **REQUIRED BY 18 NCAC 07D .0301**

5 The form for notice of change in ~~general notary~~ the information requires: required by 18 NCAC 07D .0301:

- 6 (1) the ~~notary's~~ notary public's commission name and county of commission;
- 7 (2) the notary's commission number;
- 8 (3) contact information for the notary;
- 9 (4) last four digits of the notary's SSN;
- 10 (5) for ~~changes~~ each change: required to be reported pursuant to G.S. 10B-50, 10B-51, 10B-52, or 18
11 NCAC 07D .0301:
- 12 (a) which item of information regarding the notary has changed;
- 13 (b) the information as it existed before the change; and
- 14 (c) the information after the change; and
- 15 (6) the printed name and signature of the notary and the date signed.

16
17 *History Note: Authority G.S. 10B-4;*
18 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0411

DEADLINE FOR RECEIPT: February 22, 2022

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

On line 4, “in a criminal”.

On line 12, “is for a felony”.

On line 13, consider replacing item (d) with “the name of the charge”

On line 20, “was for a felony”.

On line 22, consider “disposition ~~document~~; document or judgment.”.

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 8, 2024

1 18 NCAC 07B .0411 is adopted with changes as published in 38:09 NCR 556 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~~, 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) what the charge is;
- 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;
- 23 (e) a copy of any document restoring citizenship rights; and
- 24 (7) the signature of the individual and the date signed.

25
26 *History Note: Authority G.S. 10B-4;*
27 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0418

DEADLINE FOR RECEIPT: February 22, 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:

On line 6 and 7, item (2), what happens if someone was a certified notary instructor and did not teach the course at least twice during the past two years?

On line 11, you have "true" twice.

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 8, 2024

1 18 NCAC 07B .0418 is adopted with changes as published in 38:09 NCR 557-558 as follows:

2
3 **18 NCAC 07B .0418 APPLICATION FOR RECERTIFICATION AS NOTARY INSTRUCTOR**

4 The notary instructor application for recertification form requires:

- 5 (1) the information specified in Rule .0414 of this Section;
- 6 (2) verification that the applicant has taught the notary instructor course at least twice a year during the
- 7 current two-year certification period;
- 8 (3) the date of initial certification as an instructor;
- 9 (4) whether certification has been continuous;
- 10 (5) a declaration under penalty of perjury that:
- 11 (a) the information provided is true, ~~complete, and correct;~~ true and complete;
- 12 (b) the applicant remains qualified to be commissioned as a notary public; and
- 13 (c) the applicant:
- 14 (i) understands the official duties and responsibilities of a notary public and notary
- 15 public instructor in North Carolina; and
- 16 (ii) will perform to the best of the applicant's ability all responsibilities of teaching
- 17 the notary courses in accordance with the law.

18
19 *History Note: Authority G.S. 10B-4; 10B-14; 10B-134.21;*
20 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0501

DEADLINE FOR RECEIPT: February 22, 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:

On line 18, "domestic violence" is not necessarily a single crime in NC. Consider including specific offenses, such as violation of a domestic violence protective order, assault on a female, or stalking.

On line 19, "driving under the influence" is not the name of the charge in NC. Consider "driving while intoxicated".

On line 35, "resisting arrest" is not the name of the charge in NC. Consider "resist, delay or obstruct a public officer in discharging or attempting to discharge an official duty".

On p. 2, line 1, is "terrorist threat or act" defined somewhere? Federal law?

On p. 2, line 2, consider if "sale of ~~drug~~ a controlled substance:".

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 8, 2024

1 18 NCAC 07B .0501 is adopted with changes as published in 38:09 NCR 558 as follows:

3 **SECTION .0500 – ~~COMMISSIONS~~ CRIMINAL RECORDS**

5 **18 NCAC 07B .0501 CRIMES**

6 For purposes of applications and discipline under Chapter 10B of the General Statutes and the ~~Rules~~ rules in this
7 Chapter, each of the following offenses ~~are examples of, and~~ shall be classified as, ~~either as~~ as a crime involving “moral
8 turpitude” as defined in G.S. 10B-3(9) or a “crime involving dishonesty” as defined in Rule .0102(8) of this

9 Subchapter:

- 10 (1) arson;
- 11 (2) assault;
- 12 (3) battery;
- 13 (4) burglary;
- 14 (5) carrying a concealed weapon without a permit;
- 15 (6) child molestation;
- 16 (7) child pornography;
- 17 (8) discharge of a firearm in a public place or into a dwelling;
- 18 (9) domestic violence;
- 19 (10) driving under the influence;
- 20 (11) embezzlement;
- 21 (12) failure to comply with a court order;
- 22 (13) failure to pay child support;
- 23 (14) failure to return to confinement;
- 24 (15) false financial statement;
- 25 (16) forgery;
- 26 (17) fraud;
- 27 (18) hit and run;
- 28 (19) identity theft;
- 29 (20) impersonation of a law enforcement officer;
- 30 (21) kidnapping;
- 31 (22) practicing law without a license;
- 32 (23) prostitution;
- 33 (24) rape;
- 34 (25) receipt of stolen goods or property;
- 35 (26) resisting arrest;
- 36 (27) robbery;
- 37 (28) tax evasion;

- 1 (29) terrorist threat or act;
- 2 (30) unlawful possession or sale of drug; and
- 3 (31) worthless check.
- 4

5 *History Note:* *Authority G.S. 10B-4;*
6 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0502

DEADLINE FOR RECEIPT: February 22, 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:

On line 14, "criminal history record registry" is potentially very broad. Do you want it prepared by a particular entity? By what standard? Should it be certified?

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

1 18 NCAC 07B .0502 is adopted with changes as published in 38:09 NCR 558 as follows:

2
3 **18 NCAC 07B .0502 ADDITIONAL REQUIREMENTS FOR AN INDIVIDUAL LISTING**
4 **CONVICTIONS**

5 An individual required to provide a criminal history record pursuant to Chapter 10B of the General Statutes and the
6 ~~Rules~~ rules in this Chapter shall include:

- 7 (1) a complete listing of felony convictions of the individual and the name under which each conviction
8 was entered;
- 9 (2) a complete listing of misdemeanor convictions of the individual and the name under which each
10 conviction was entered;
- 11 (3) if the individual's criminal history record includes a conviction in North Carolina, a copy of the
12 individual's criminal history record prepared by the North Carolina State Bureau of Investigation;
- 13 (4) if the individual has a criminal conviction in a jurisdiction other than North Carolina, a copy of the
14 individual's criminal history record from a criminal history record registry or repository of record
15 reflecting the conviction; and
- 16 (5) the signed explanation required by Rule .0503 of this Section.

17
18 *History Note:* *Authority G.S. 10B-4;*
19 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0505

DEADLINE FOR RECEIPT: February 22, 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:

On lines 4-6, consider:

“charge in a court ~~shall.~~ shall, for each pending criminal charge:
(1) notify the ~~Department~~ [Department:] Department of each pending criminal charge.”

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

1 18 NCAC 07B .0505 is adopted with changes as published in 38:09 NCR 559 as follows:

2
3 **18 NCAC 07B .0505 REQUIREMENTS FOR INDIVIDUAL WITH PENDING CRIMINAL CHARGES**

4 An individual required to provide a criminal history record who has a pending criminal charge in a court shall, for
5 each pending criminal charge:

6 (1) notify the ~~Department~~ Department:

7 (a) at the time of application to the Department; or

8 (b) within 45 days ~~of the charge~~; if a charge is brought after the application has been filed; and

9 (2) provide the information specified in the form in Rule .0411 of this Subchapter.

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

12 *Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0602

DEADLINE FOR RECEIPT: February 22, 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:

On lines 4 and 10, how are decisions being made by “the Department”. Similar to .0106, are the rules or statutes providing clarity about who and how this works?

On line 10, is “may” in place of “shall” intentional? What standard would determine if there is a denial?

On line 19, what limits does the Constitution of the State of North Carolina place on the authorization? Consider specifying what sections you are referring to.

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

18 NCAC 07B .0602 is amended with changes as published in 38:09 NCR 559-560 as follows:

18 NCAC 07B .0602 GENERAL APPLICATION DENIAL DENIALS

~~(1)(a)~~ The ~~Director~~ Department shall deny an application in which an applicant willfully and knowingly contains provided false information about about: the applicant's

(1) _____ a criminal ~~record~~ [history; history record;] or

(2) _____ a record of ~~civil lawsuit~~ official findings or admissions of liability based on related to the applicant's
deceit; or deceit, dishonesty, or intentional disclosure of confidential information to a person not
legally entitled to the information.

~~(2)(b)~~ The ~~Director~~ Department may deny an application ~~which that~~ contains misleading information; information.

(A) ~~The applicant's criminal record, including whether all charges were dismissed or consolidated~~
~~or whether all terms and conditions of a judgment have been completed~~

(B) ~~Misstatement or omission of a nonmaterial fact;~~

(C) ~~Whether a civil lawsuit included findings based on the applicant's deceit; or~~

(D) ~~Whether, in a civil lawsuit or settlement of a civil lawsuit, an applicant made admissions~~
~~of liability related to the applicant's deceit.~~

~~(d)(c)~~ Applicant notarization. The ~~Director~~ Department shall deny an application ~~if if:~~

(1) _____ the Department determines that the applicant is not qualified for the authorization issued pursuant
to the Constitution of the State of North Carolina, Chapter 10B of the General Statutes, [and] or the
[Rules] rules in this Chapter; or

(2) _____ the an applicant notarizes ~~his or her~~ the applicant's own signature.

~~(e)~~ The ~~Director~~ shall deny an application if the applicant:

~~(1) Leaves three or more sections of the application incomplete;~~

~~(2) Fails to submit an application for initial appointment within 90 days of class; or~~

~~(3) Fails to submit complete and correct information on an application for initial appointment or~~
~~reappointment after three submissions by the applicant.~~

History Note: Authority G.S. 10B-4; 10B-5; 10B-14(f); 10B-126; 10B-134.19; 10B-134.21;

Eff. April 1, 2007;

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

Transferred from 18 NCAC 07B .0902 Eff. June 1, ~~2023;~~ 2023;

Amended Eff. July 1, 2024.

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0603

DEADLINE FOR RECEIPT: February 22, 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:

On line 21, do you mean "shall" instead of "may"?

For items (1)(f) and (1)(g), lines 29-32, what is the Department's authority to order someone not to submit an application?

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

1 18 NCAC 07B .0603 is amended with changes as published in 38:09 NCR 560 as follows:

2
3 **18 NCAC 07B .0603 ~~EXECUTED DOCUMENT VIOLATIONS~~ LEVELS OF ENFORCEMENT**

4 ~~The Director shall revoke the commission of a notary who performs a notarial act knowing that the document or~~
5 ~~information contained in it is false or fraudulent, or that the intent of the executed document is dishonest. Acts of fraud~~
6 ~~or dishonesty include:~~

- 7 ~~(1) Notarizing a blank DMV vehicle title document;~~
8 ~~(2) Embezzlement;~~
9 ~~(3) Forgery;~~
10 ~~(4) Fraud;~~
11 ~~(5) Identity theft;~~
12 ~~(6) Impersonation of a law enforcement officer;~~
13 ~~(7) Receiving stolen goods or property; and~~
14 ~~(8) Theft.~~

15 Upon consideration of the evidence before it, the purposes and requirements of Chapter 10B of the General Statutes,
16 and the [Rules] rules in this Chapter, the Department may:

- 17 (1) upon a finding of a violation of Chapter 10B of the General Statutes or the [Rules] rules in this
18 Chapter:
19 (a) issue a letter of caution to a person along with:
20 (i) a request for compliance; and
21 (ii) a statement that future noncompliance may lead to disciplinary action by the
22 Department;
23 (b) issue a letter of warning to a person, with or without a corrective action plan. NOTE: A
24 requirement for additional education is an example of a corrective action plan;
25 (c) suspend a person's authorization and bar the grant of an authorization for a specific period
26 of time not to exceed 24 months, with or without a corrective action plan;
27 (d) issue a revocation of a person's authorization;
28 (e) issue a permanent revocation of a person's authorization;
29 (f) issue an order restricting an unauthorized person from submitting an application or from
30 becoming authorized for a specific period of time; or
31 (g) issue an order permanently restricting an unauthorized person from submitting an
32 application or from becoming authorized; and
33 (2) use the factors in Rule .0601 of this Section to take action to withdraw, stay, rescind, or expunge a
34 disciplinary action.

35
36 *History Note:* ~~Authority G.S. 40B-2; 40B-5(d); 40B-4; 40B-14(f); 40B-60; 40B-126; 40B-134.19; 40B-134.21;~~
37 ~~Eff. April 1, 2007;~~

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
2 *6, 2016;*
3 *Transferred from 18 NCAC 07B .0903 Eff. June 1, ~~2023~~, 2023;*
4 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0604

DEADLINE FOR RECEIPT: February 22, 2022

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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:

***Note:** The following two questions/comments apply to several discipline related rules (.0604, .0605, .0606, .0608). Rather than repeat them, I am only including them here. Feel free to respond specifically for each rule if necessary.*

It looks like 10B-60 is the Secretary's disciplinary authority over notaries. Why did you remove it from the history note?

G.S. 10B-60 appears to give the Secretary authority to discipline notaries for reasons that an application to become a notary could be denied. This rule allows for discipline for any violation of Chapter 10B or the rules in the Chapter. Are these the same? Put another way, are there violations of statute or rule which would not result in a denial of a notary's certification, and if so, why can the Secretary discipline those violations?

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 8, 2024

1 18 NCAC 07B .0604 is amended with changes as published in 38:09 NCR 560 as follows:

2
3 **18 NCAC 07B .0604 ~~COMPLETE AND LAWFUL NOTARIAL ACT VIOLATIONS~~ LETTER OF**
4 **CAUTION**

5 ~~(a) The Director~~ Department may issue a letter of caution to a person for a violation of the requirements of Chapter
6 10B of the General Statutes or the [Rules] rules in this Chapter in circumstances that do not merit take disciplinary
7 action action. against a notary for an offense relating to failure to meet the statutory requirements for a notarial act.

8 ~~(b) Offenses relating to failure to meet the statutory requirements for a complete and lawful notarial act include:~~

- 9 ~~(1) Incomplete attestation;~~
10 ~~(2) Improper acknowledgment language;~~
11 ~~(3) Incorrect signature;~~
12 ~~(4) Incorrect expiration date;~~
13 ~~(5) Failure to administer an oath or affirmation;~~
14 ~~(6) Failure to verify identification;~~
15 ~~(7) Failure to require personal appearance;~~
16 ~~(8) Notarization of a document in which the notary is a named, interested, or signed party;~~
17 ~~(9) Notarization of a "non-signature" or a copy of a signature;~~
18 ~~(10) Charging a fee in excess of that which is set by law, including fees for mileage or travel;~~
19 ~~(11) Acting as a notary when not commissioned;~~
20 ~~(12) Unauthorized use of a seal.~~

21
22 *History Note: Authority G.S. ~~10B-2; 10B-4; 10B-14(f); 10B-60; 10B-126; 10B-134.19; 10B-134.21;~~*

23 *Eff. April 1, 2007;*

24 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
25 *6, 2016;*

26 *Transferred from 18 NCAC 07B .0904 Eff. June 1, ~~2023~~ 2023;*

27 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0607

DEADLINE FOR RECEIPT: February 22, 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:

On line 12, where does the Department get authority to restrict applying for authorization?

What is line 16, "act as a depository", referring to?

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 8, 2024

1 18 NCAC 07B .0607 is amended as published in 38:09 NCR 561 as follows:

2
3 **18 NCAC 07B .0607 APPEAL PROCEDURES RESTRICTION**

4 ~~(a) Applicants for commissioning or recommissioning whose applications have been denied and notaries who have~~
5 ~~received disciplinary action by the Director have the right to file a petition for a contested case hearing pursuant to~~
6 ~~Article 3 of Chapter 150B of the General Statutes.~~

7 ~~(b) Petition forms may be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh,~~
8 ~~NC 27699-6700; 1711 New Hope Church Road, Raleigh, NC 27609; 984-236-1850; <https://www.oah.nc.gov>.~~

9 ~~(c) A copy of a Petition filed with the Office of Administrative Hearings must also be served on the process agent for~~
10 ~~the Department of the Secretary of State.~~

11 Upon a finding that the person has acted without being authorized by the Department, the Department may restrict
12 that person from applying for authorization or from becoming authorized to:

13 (1) perform a notarial act;

14 (2) teach a notarial course;

15 (3) offer an electronic notarization system to an electronic notary public; or

16 (4) act as a depository.

17
18 *History Note: Authority ~~G.S. 40B-2; 10B-4; 10B-14(f); 10B-126; 10B-134.19; 10B-134.21;~~*

19 *Eff. April 1, 2007;*

20 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
21 *6, 2016;*

22 *Amended Eff. October 1, 2019; Eff. February 1, 2021;*

23 *Transferred from 18 NCAC 07B .0907 Eff. June 1, ~~2023; 2023;~~*

24 *Amended Eff. July 1, 2024.*

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

AGENCY: Secretary of State

RULE CITATION: 18 NCAC 07B .0706

DEADLINE FOR RECEIPT: February 22, 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:

On line 4, what does it mean to resign “in lieu of disciplinary action”? For example, would a public official who reasoned after a news story accusing them of wrongdoing was published, but before any investigation, have resigned “in lieu of disciplinary action”?

Consider if it would work to delete “in lieu of disciplinary action” and require this information from anyone who resigned from public office.

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 8, 2024

1 18 NCAC 07B .0706 is adopted as published in 38:09 NCR 563 as follows:

2
3 **18 NCAC 07B .0706 RESIGNATIONS FROM PUBLIC OFFICES**

4 If an individual resigned from a public office in lieu of disciplinary action, the individual shall include:

5 (1) the name of the public office from which the individual resigned;

6 (2) the locality, state, federally recognized tribe, or nation where the public office is or was located;

7 (3) the date of the resignation;

8 (4) the name used when the resignation occurred;

9 (5) the reason for the resignation; and

10 (6) other information that the individual wishes to include in order to aid the Department in assessing
11 the individual's qualification for authorization.

12
13 History Note: Authority G.S. 10B-4;

14 Eff. July 1, 2024.