

## Burgos, Alexander N

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**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting  
**Attachments:** 14B NCAC 16 .0201 - 04.18.23 (00576204xBFA5E).DOCX; 14B NCAC 16 .0403 - 04.13.23 (00576206xBFA5E).DOCX; 14B NCAC 16 .0807 - 04.13.23 (00576208xBFA5E).DOCX; 14B NCAC 16 .1501 - 04.18.23 (00576215xBFA5E).DOCX; 14B NCAC 16 .1502 - 04.13.23 (00576218xBFA5E).DOCX; 14B NCAC 16 .1503 - 04.13.23 (00576219xBFA5E).DOCX; 14B NCAC 16 .1504 - 04.13.23 (00576221xBFA5E).DOCX; 14B NCAC 16 .1601 - 04.18.23 (00578866xBFA5E).DOCX; 14B NCAC 16 .1701 - 04.18.23 (00576289xBFA5E).docx; 14B NCAC 16 .1702 - 04.18.23 (00576290xBFA5E).DOCX; 14B NCAC 16 .1703 - 04.18.23 (00576291xBFA5E).DOCX; 14B NCAC 16 .1704 - 04.18.23 (00576292xBFA5E).DOCX; 14B NCAC 16 .1705 - 04.18.23 (00576293xBFA5E).DOCX; 14B NCAC 16 .1707 - 04.13.23 (00576296xBFA5E).DOCX; 14B NCAC 16 .1708 - 04.18.23 (00576297xBFA5E).DOCX

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**From:** Gray, Jeffrey <JGray@bdixon.com>

**Sent:** Wednesday, April 19, 2023 7:12 AM

**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>

**Subject:** Re: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

**CAUTION:** External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Brian:

This Board meets today and tomorrow so I am not in my office and having to view these on my phone. Thank you for correcting the formatting, etc.

If you are satisfied with these I am good with them as well, so please do forward to Dana and Alex so their deadline is met.

I will monitor my e-mail by phone today and in the morning if there is a last minute issue.

Jeff

Sent from my iPhone

ate official.

1 14B NCAC 16 .0201 is amended under temporary procedures with changes as follows:

2  
3 **14B NCAC 16 .0201 APPLICATION FOR LICENSE AND TRAINEE PERMITS**

4 (a) Each applicant for a license or trainee permit shall submit an online application on the website provided by the  
5 Board. The online application shall be accompanied by:

- 6 (1) electronic submission of fingerprints from a Live Scan or similar system approved by the State  
7 Bureau of Investigations or one set of classifiable fingerprints on an applicant fingerprint card that  
8 shall be mailed separately to the Board's office;
- 9 (2) one head and shoulders digital photograph of the applicant in JPG, JPEG, or PNG format of  
10 sufficient quality for identification, taken within six months prior to online application and  
11 submitted by uploading the photograph online with the application submission;
- 12 (3) ~~upload online~~ a statement of the results of a statewide criminal history records search by the  
13 reporting service designated by the Board pursuant to G.S. 74C-8.1(a) for each state where the  
14 applicant has resided within the preceding 60 months;
- 15 (4) the applicant's non-refundable application fee, along with a four dollar (\$4.00) convenience fee and  
16 credit card transaction fee;
- 17 (5) the actual cost charged to the Private Protective Services Board by the State Bureau of  
18 Investigation to cover the cost of criminal record checks performed by the State Bureau of  
19 Investigation, collected online by the Private Protective Services Board;
- 20 (6) an Equifax credit check run within 30 days of the license application submission date, which will  
21 be submitted to the Board's investigator during the application process; and
- 22 (7) five letters attesting to the good character and reputation of the applicant using the online character  
23 letter submission process.

24 (b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board  
25 and signed by the applicant and his or her prospective supervisor, stating that the trainee applicant shall at all times  
26 work with and under the direct supervision of that supervisor and the form shall be uploaded as part of the online  
27 application process.

28 (c) Private investigator and digital forensics examination trainees applying for a license shall make available for  
29 inspection a log of experience on a form provided by the ~~Board.~~ Board as required by Rule .0403 of this Chapter.

30 (d) Each applicant must upload evidence of high school graduation either by diploma, G.E.D. certificate, or other  
31 proof.

32 (e) Each applicant for a license shall meet personally with a Board investigator, the Screening Committee, the  
33 Director, or another Board representative designated by the Director prior to being issued a license. The applicant  
34 shall discuss the provisions of G.S. 74C and the administrative rules in this Chapter during the personal meeting. The  
35 applicant shall sign a form provided by the Board indicating that he or she has reviewed G.S. 74C and the  
36 administrative rules in this Chapter with the Board's representative. During a national or State declared state of

1 emergency that restricts or prohibits travel, the personal meeting requirement may be waived if requested by the  
2 applicant in favor of alternative means of communication.

3

4 *History Note: Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1; 74C-12;*

5 *Eff. June 1, 1984;*

6 *Amended Eff. May 1, 2012; July 1, 2011; August 1, 1998; December 1, 1995; July 1, 1987;*

7 *December 1, 1985;*

8 *Transferred and Recodified from 12 NCAC 07D .0201 Eff. July 1, 2015;*

9 *Amended Eff. November 1, 2017;*

10 *Readopted Eff. March 1, 2020;*

11 *Emergency Amendment Eff. May 6, 2020;*

12 *Temporary Amendment Eff. July 24, 2020;*

13 *Temporary Amendment Expired May 14, 2021;*

14 *Amended Eff. January 1, 2022; July 1, 2021;*

15 *Temporary Amendment Eff. April 28, 2023.*

1 14B NCAC 16 .0403 is amended under temporary procedures with changes as follows:

2

3 **14B NCAC 16 .0403 TRAINEE PERMIT REQUIREMENTS**

4 (a) In addition to the requirements of Section .0200 of this Chapter, applicants for a trainee permit in private  
5 ~~investigation or countermeasures~~ investigation, electronic countermeasures, or digital forensics examination shall be  
6 directly supervised by a licensee approved by the Board and that supervisor shall be responsible for the training and  
7 ~~investigations~~ other professional activities of the trainee.

8 (b) Trainees who wish to apply for a license must submit an application to the Board in accordance with Rule .0201  
9 of this Chapter.

10 (c) Private ~~investigator~~ investigator, electronic countermeasures, or digital forensics examination trainees shall  
11 maintain a log on a form provided by the Board on its website as evidence of experience. This log must be available  
12 for inspection by Board staff when applying for a license.

13 (d) Any request for renewal of a trainee permit or for issuance of a license shall be accompanied by an evaluation  
14 report of the trainee's performance on a form provided by the Board on its website and submitted by the trainee's  
15 supervisor.

16

17 *History Note: Authority G.S. 74C-2; 74C-5;*

18 *Eff. June 1, 1984;*

19 *Amended Eff. December 1, 1985;*

20 *Transferred and Recodified from 12 NCAC 07D .0403 Eff. July 1, 2015;*

21 *Readopted Eff. August 1, 2020;*

22 *Temporary Amendment Eff. April 28, 2023.*

1 14B NCAC 16 .0807 is amended under temporary procedures as follows:

2  
3 **14B NCAC 16 .0807 TRAINING REQUIREMENTS FOR ARMED LICENSEES AND REGISTRANTS**

4 (a) Applicants for an armed security guard firearm registration permit shall first complete the basic unarmed security  
5 guard training course set forth in Rule .0707 of this Chapter.

6 (b) Private ~~investigator~~ investigator, close personal protection, or any other **licensee licenses** applying for an armed  
7 ~~security guard firearm registration~~ permit shall first complete a ~~five-hour~~ training course consisting of the courses set  
8 forth in Rule .0707(a)(1) and (2) of this Chapter and all additional training requirements set forth in that Rule.

9 (c) Applicants for an armed security guard firearm registration permit shall complete a basic training course for armed  
10 security guards which consists of at least 20 hours of classroom instruction including:

- 11 (1) legal limitations on the use of handguns and on the powers and authority of an armed security guard,  
12 including familiarity with rules and regulations relating to armed security guards (minimum of four  
13 hours);  
14 (2) handgun safety, including range firing procedures (minimum of one hour);  
15 (3) handgun operation and maintenance (minimum of three hours);  
16 (4) handgun fundamentals (minimum of eight hours); and  
17 (5) night firing (minimum of four hours).

18 Subparagraph (c)(2), "operation" under Subparagraph (c)(3), and Subparagraph (c)(4) of this Rule shall be completed  
19 prior to the applicant's participation in range firing.

20 (d) Applicants for either an armed licensee permit or an armed security guard firearm registration permit shall attain  
21 a score of at least 80 percent accuracy on a firearms range qualification course established by the Board and the  
22 Secretary of Public Safety, a copy of which is on file in the Director's office, once in three consecutive attempts.  
23 Should a student fail to attain a score of 80 percent accuracy, the student may be given a second opportunity to qualify  
24 once in three consecutive attempts on the course of fire the student did not pass. Failure to qualify after the second  
25 series of attempts shall require the student to repeat the entire basic training course for armed security guards. All  
26 attempts must take place within 20 days of the completion of the initial 20 hour course. For rifle qualification all shots  
27 shall be located on the target.

28 (e) All ~~initial armed security guard~~ training required by this Chapter shall be administered by a certified trainer and  
29 shall be completed no more than 90 days prior to the date of ~~issuance of~~ application for the licensee permit or armed  
30 security guard firearm registration permit.

31 (f) All applicants for an armed security guard firearm registration permit shall obtain training under the provisions of  
32 this Section using their duty weapon and their duty ammunition or ballistic equivalent ammunition, to include lead-  
33 free ammunition that meets the same point of aim, point of impact, and felt recoil of the duty ammunition, for all  
34 ~~weapons.~~ firearms.

35 (g) No more than six new or renewal licensee permit or armed security guard applicants per one instructor shall be  
36 placed on the firing line at any one time during firearms range ~~training for armed security guards.~~ training.

1 (h) Applicants for re-certification of a licensee permit or an armed security guard firearm registration permit shall  
2 complete ~~a~~ the basic recertification training course for armed security guards that consists of at least four hours of  
3 classroom instruction and is a review of the requirements set forth in Subparagraphs (c)(1) through (c)(5) of this Rule.  
4 Subparagraphs Subparagraph (c)(2), operation under subparagraph (c)(3), and subparagraphs (c)(4) and (5) of this  
5 Rule shall be reviewed prior to range firing firing. and maintenance under Subparagraph (c)(3) may be reviewed  
6 after range firing. The recertification course is valid for 180 days after completion of the course. Applicants for  
7 recertification of a licensee permit or an armed security guard firearm registration permit shall also complete the  
8 requirements of Paragraph (d) of this Rule.

9 (i) An armed guard registered with one company may be registered with a second company. The registration shall be  
10 considered "dual." The registration with the second company shall expire at the same time that the registration expires  
11 with the first company. An updated application shall be required to be submitted by the applicant, along with the  
12 digital photograph, updated criminal records checks, and a forty dollar (\$40.00) registration fee. If the guard will be  
13 carrying a firearm of the same make, model, and caliber, then no additional firearms training shall be required. The  
14 licensee shall submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be  
15 carrying a firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make,  
16 model, and caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing  
17 range on both the day and night qualification course. The qualification score is valid for 180 days after completion of  
18 the course.

19 (j) To be authorized to carry a standard 12 gauge shotgun in the performance of his or her duties as an armed security  
20 guard, an applicant shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, six hours  
21 of classroom training that shall include the following:

- 22 (1) legal limitations on the use of shotgun (minimum of one hour);
- 23 (2) shotgun safety, including range firing procedures (minimum of one hour);
- 24 (3) shotgun operation and maintenance (minimum of one hour);
- 25 (4) shotgun fundamentals (minimum of two hours); and
- 26 (5) night firing (minimum of one hour).

27 Subparagraph (j)(2), "operation" under Subparagraph (j)(3), and Subparagraph (j)(4) of this Rule shall be completed  
28 prior to the applicant's participation in range firing.

29 (k) An armed security guard applicant may take the additional shotgun training at a time after the initial training in  
30 this Rule. If the shotgun training is completed at a later time, the shotgun certification shall run concurrent with the  
31 armed registration permit. In addition to the requirements set forth in Paragraph (j) of this Rule, applicants shall attain  
32 a score of at least 80 percent accuracy on a shotgun range qualification course established by the Board and the  
33 Secretary of Public Safety, a copy of which is on file in the Director's office.

34 (l) Applicants for shotgun recertification shall complete one hour of classroom training covering the topics set forth  
35 in Paragraph (j) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

1 (m) To be authorized to carry a rifle in the performance of his or her duties as an armed security guard, an applicant  
2 shall complete, in addition to the requirements of Paragraphs (a), (c), and (d) of this Rule, 16 hours of classroom  
3 training which shall include the following:

- 4 (1) legal limitations on the use of rifles (minimum of one hour);
- 5 (2) rifle safety, including range firing procedures (minimum of one hour);
- 6 (3) rifle operation and maintenance (minimum of two hours);
- 7 (4) rifle fundamentals (minimum of ten hours); and
- 8 (5) night firing (minimum two hours).

9 Subparagraph (m)(2), "operation" under Subparagraph (m)(3), and Subparagraph (m)(4) of this Rule shall be  
10 completed prior to the applicant's participation in range firing.

11 (n) The applicant shall pass a skills course that tests each basic rifle skill and the test of each skill shall be completed  
12 within three attempts.

13 (o) An applicant may take the additional rifle training at a time after the initial training in Subsection (c) of this Rule.  
14 If the rifle training is completed at a later time, the rifle certification shall run concurrent with the armed registration  
15 permit. In addition to the requirements set forth in Paragraphs (m) and (n) of this Rule, applicants shall attain a score  
16 of at least 80 percent accuracy on a rifle range qualification course established by the Board and the Secretary of  
17 Public Safety, a copy of which is on file in the Director's office.

18 (p) Applicants for rifle recertification shall complete an additional one hour of classroom training covering the topics  
19 set forth in Paragraph (m) of this Rule and shall also complete the requirements of Paragraph (d) of this Rule.

20 (q) Upon written request, an applicant for a licensee permit or an armed security guard firearm registration permit  
21 who possesses a current firearms trainer certificate shall be given a ~~firearms~~ licensee permit or registration permit that  
22 will run concurrent with the trainer certificate upon completion of an annual qualification with the applicant's duty  
23 firearms as set forth in Paragraph (d) of this Rule.

24 (r) An armed licensee or security guard is required to qualify annually both for day and night firing with his or her  
25 duty handgun, shotgun, and rifle, if applicable. If the licensee or security guard fails to qualify on any course of fire,  
26 the licensee or the security guard shall not carry the firearm until such time as he or she meets the qualification  
27 requirements. Upon failure to qualify, the firearm instructor shall notify the licensee or security guard that he or she  
28 is no longer authorized to carry the firearm and the firearm instructor shall notify the employer and the Private  
29 Protective Services Board staff on the next business day.

30 (s) A firearm training certificate of an armed security guard remains valid even if the guard leaves the employment  
31 of one company for the employment of another. The range qualifications shall remain valid if the guard will be carrying  
32 a firearm of the same make, model, and caliber and no additional firearms training shall be required. The licensee shall  
33 submit a letter stating the guard will be carrying the same make and model firearm. If the guard will be carrying a  
34 firearm of a different make and model, the licensee shall submit a letter to the Board advising of the make, model, and  
35 caliber of the firearm the guard will be carrying and the guard shall be required to qualify at the firing range on both  
36 the day and night qualification course. The qualification score is valid for 180 days after completion of the course.  
37 However, nothing herein shall extend the period of time the qualification is valid.

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*History Note: Authority G.S. 74C-5; 74C-9; 74C-13;*  
*Eff. June 1, 1984;*  
*Amended Eff. November 1, 1991; February 1, 1990; July 1, 1987;*  
*Temporary Amendment Eff. January 14, 2002;*  
*Amended Eff. October 1, 2013; October 1, 2010; June 1, 2009; February 1, 2006; August 1, 2002;*  
*Transferred and Recodified from 12 NCAC 07D .0807 Eff. July 1, 2015;*  
*Amended Eff. January 1, 2018; February 1, 2016; October 1, 2015;*  
*Readopted Eff. November 1, 2019;*  
*Amended Eff. January 1, 2023; February 1, 2022;*  
*Temporary Amendment Eff. April 28, 2023.*



1 14B NCAC 16 .1501 is adopted under temporary procedures with changes as follows:

2  
3 **SECTION .1500 - CLOSE PERSONAL PROTECTION**

4  
5 **14B NCAC 16 .1501 EXPERIENCE REQUIREMENTS FOR A CLOSE PERSONAL PROTECTION**  
6 **LICENSE**

7 (a) In addition to the requirements of G.S. 74C-8 and Section .0200 of this Chapter, applicants for a close personal  
8 protection license shall:

- 9 (1) establish to the Board's satisfaction three years of verifiable experience while conducting close  
10 personal protection services as set forth in G.S. 74C-3(a)(3a) with a private person, firm, association,  
11 or corporation within the last 10 years;
- 12 (2) establish to the Board's satisfaction three years of verifiable experience while conducting close  
13 personal protection services as set forth in G.S. 74C-3(a)(3a) with any federal, state, county or  
14 municipal law enforcement agency, or other governmental agency within the last 10 years;
- 15 (3) establish to the Board's satisfaction a military occupational specialty and two years of verifiable  
16 experience within the past five years in the U.S. Armed Forces while conducting close personal  
17 protection services as set forth in G.S. 74C-3(a)(3a) while serving in an official capacity; or
- 18 (4) have completed a course in close personal protection approved by the Board given by a school  
19 specializing in close personal protection (or "executive protection") that consists of a minimum of  
20 40 hours of actual classroom and practical instruction within the last 2 ~~years~~. years as required by  
21 Rule .1502 of this Chapter.

22 (b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a close personal protection license  
23 that is the spouse of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- 24 (1) the spouse holds a current license, certification, or registration from another jurisdiction and the  
25 other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements;  
26 and
- 27 (2) the spouse has two years verifiable experience within the past five years while conducting close  
28 personal protection as set forth in in G.S. 74C-3(a)(3a) while serving in an official capacity with  
29 any entity described in Paragraph (a) of this rule.

30  
31 *History Note: Authority G.S. 74C-5(2); 93B-15.1;*  
32 *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1502 is adopted under temporary procedures with changes as follows:

2

3 **14B NCAC 16 .1502 TRAINING REQUIREMENTS FOR CLOSE PERSONAL PROTECTION**  
4 **LICENSE**

5 (a) Applicants for a close personal protection license who do not have the experience set forth in Rule .1501(a)(1)  
6 through (3) or (b)(1) and (2) shall complete a basic close personal protection (or “executive protection”) training  
7 course approved by the Board within the previous 24 months. The course shall consist of a minimum of 40 hours of  
8 classroom and practical instruction ~~including:~~ including as a minimum:

- 9 (1) Fundamentals of personal protection, including as a minimum mission planning, performing site  
10 surveys, route selection (primary, secondary, etc.), medical evacuation, walking formations (single,  
11 multiple, etc.), communications with protectees, and transitional movements (arrivals, departures,  
12 plan changes, hasty movements, etc.) – (minimum of 26 hours);
- 13 (2) Practical exercises – (minimum of 12 hours); and
- 14 (3) Legal Issues, including the Rules ~~set forth in 14B NCAC 16 .1500, of this Section, G. S. 74C-13~~  
15 G.S. 74C-13, and 14B NCAC 16 .0807, North Carolina’s laws on use of force, and the federal and  
16 State firearms law– (minimum of 2 hours).

17 (b) In addition to the minimum classroom and practical instruction required by subsection (a) of this Rule, the  
18 applicant must possess a basic first aid certificate from the American Red Cross and a valid CPR and AED certification  
19 from the American Red Cross, American Heart Association, American Safety and Health Institute, or National Safety  
20 Council.

21 (c) Subsection (a)(3) of this Rule may be conducted remotely as provided for by 14B NCAC 16 .0707(c).

22

23 *History Note: Authority G.S. 74C-5;*  
24 *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1503 is adopted under temporary procedures as follows:

2

3 **14B NCAC 16 .1503 INVESTIGATIONS DIRECTLY RELATED TO PROVISION OF SERVICES**

4 A close personal protection licensee may engage in activities otherwise defined by G.S. 74C-3(a)(8) as an investigation  
5 which are directly related to the provision of services including but not limited to advance planning, intelligence, and  
6 risk assessment.

7

8 History Note: Authority G.S. 74C-5;

9 Temporary Adoption Eff. April 28, 2023.

1 14B NCAC 16 .1504 is adopted under temporary procedures as follows:

2

3 **14B NCAC 16 .1504 DISTINGUISHING SECURITY SERVICES**

4 (a) Prior to providing any service to a client, a close personal protection licensee shall enter into a written contract or  
5 agreement that lists by name the individual person or persons for whom service is to be provided, the specific function  
6 that constitutes the service, and the duration of the service.

7 (b) A close personal protection license does not entitle the licensee to provide services defined by G.S. 74C-3(a)(6)  
8 to any person or persons not listed in the contract or agreement.

9

10 History Note: Authority G.S. 74C-5;

11 Temporary Adoption Eff. April 28, 2023.

1 14B NCAC 16 .1601 is adopted under temporary procedures with changes as follows:

2  
3 **SECTION .1600 – DIGITAL FORENSICS EXAMINER**

4  
5 **14B NCAC 16 .1601 EXPERIENCE REQUIREMENTS FOR A DIGITAL FORENSICS EXAMINER**  
6 **LICENSE**

7 (a) In addition to the requirements of Section .0200 of this Chapter, applicants for a Digital Forensic Examiner  
8 (D.F.E.) license shall:

- 9 (1) establish to the Board's satisfaction three years of verifiable experience within the past five years  
10 conducting digital forensic examinations as defined by G.S. 74C-3(a)(5a) individually, or with any  
11 private company or federal, state, county or municipal agency;
- 12 (2) hold a North Carolina private investigator license, or private investigator license from a state  
13 reciprocal with North Carolina, ~~and~~ have completed a course of instruction consisting of not less  
14 than 40 hours of live classroom and practical instruction in digital ~~forensics~~ forensics, and obtained  
15 certification from a certifying entity approved by the Board within the previous two years;
- 16 (3) establish to the Board's satisfaction that the applicant has been qualified as an expert witness in an  
17 area of digital forensics in a court of law using the standard set forth by the United States Supreme  
18 Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and its progeny cases,  
19 within the previous three years; or
- 20 (4) establish to the Board's satisfaction a military occupational specialty and two years of verifiable  
21 experience conducting digital forensics examinations within the past five years in the U.S. Armed  
22 Forces.

23 (b) In addition to the requirements of Section .0200 of this Chapter, an applicant for a D.F.E. license that is the spouse  
24 of an active duty member of the U.S. Armed Forces shall establish to the Board's satisfaction:

- 25 (1) the spouse holds a current license, certification, or registration from another jurisdiction and the  
26 other jurisdiction's requirements are substantially equivalent to or exceed the Board's requirements;  
27 and
- 28 (2) the spouse has two years of verifiable experience conducting digital forensics examinations within  
29 the past five years.

30 (c) Using the formula in Rule .0204(d) of this Chapter, the ~~The~~ Board shall give credit toward the experience  
31 requirements set forth in Paragraphs (a) and (b) of this Rule as follows:

- 32 (1) An applicant shall receive 400 hours of experience credit for an associate's degree. The Board shall  
33 grant up to 100 additional hours if the applicant can demonstrate that further training or course-work  
34 related to digital forensics examination was received while obtaining the associate's degree.
- 35 (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall  
36 grant up to 200 additional hours if the applicant can demonstrate that further training or course-work  
37 related to digital forensics examination was received while obtaining the bachelor's degree.

1           (3)     An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall  
2                     grant an additional 300 additional hours if the applicant can demonstrate that further training or  
3                     course-work related to digital forensics examination was received while obtaining the graduate  
4                     degree.

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6     *History Note:*     *Authority G.S. 74C-5; 93B-15.1;*  
7                     *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1701 is adopted under temporary procedures with changes as follows:

2  
3 **SECTION .1700 – TRAINING AND SUPERVISION FOR DIGITAL FORENSICS**  
4 **EXAMINER (D.F.E.) ASSOCIATES**  
5

6 **14B NCAC 16 .1701 DEFINITIONS**

7 In addition to the definitions set forth in G.S. 74C, the following definitions shall apply to this Section:

- 8 (1) "Digital Forensics Examiner Associate" ~~refers to~~ means ~~to~~ an individual training to become a digital  
9 forensics examiner licensee. A Digital Forensics Examiner Associate may also be referred to as a  
10 "trainee" in these Rules. A Digital Forensics Examiner Associate must complete three training levels  
11 as set out in this Section.
- 12 (2) "One-on-one Supervision" means person-to-person contact whereby the licensee is personally and  
13 directly supervising or training the Associate. The training licensee must be the sponsoring digital  
14 forensics examiner licensee. The Digital Forensics Examiner Associate may not subcontract his or  
15 her employment to another licensee. However, the sponsoring digital forensics examiner licensee  
16 may subcontract the Digital Forensics Examiner Associate if the sponsor obtains prior written  
17 approval from the Board's Director by showing that the Digital Forensics Examiner Associate will  
18 receive an educational benefit from the subcontract employment and the Associate will receive one-  
19 on-one supervision from another licensee.
- 20 (3) "Training Checklist" ~~refers to~~ means the ~~document(s)~~ documents that shall state all areas of training  
21 and work that the Associate has performed. The ~~supervising licensee~~ sponsor is responsible for  
22 maintaining the training checklist and providing a copy of the checklist to the Associate. The  
23 Training Checklist must reflect the date the Associate advances from one level to another. The  
24 training checklist must be signed by the Associate and the ~~sponsoring licensee~~ sponsor at the end of  
25 each reporting period. In the event the Associate transfers employment to another licensee, the  
26 Associate must provide the new ~~supervising licensee~~ sponsor with the training checklist and the new  
27 ~~sponsoring licensee~~ sponsor will then be responsible for the maintenance of the checklist. The  
28 Training Checklist must be updated on a quarterly basis for Level One Associates and on a yearly  
29 basis for Level Two and Level Three Associates. The training checklist must be maintained pursuant  
30 to Rule .0108 of this Chapter. When an Associate completes Level Three, the Training Checklist  
31 must be made a part of the Associate's application for a digital forensics examiner license. The Board  
32 shall have immediate access to the training ~~checklist~~ checklist upon request.
- 33 (4) "Associate Log" ~~refers to~~ means the ~~document(s)~~ documents maintained by the Associate which  
34 shall list each case the Associate has worked, the number of hours spent on the case, and the type of  
35 work performed. Details of the one-on-one training must be documented within the Associate's log.  
36

37 *History Note: Authority G.S. 74C-2(c); 74C-5(2);*





1 14B NCAC 16 .1702 is adopted under temporary procedures with changes as follows:

2

3 **14B NCAC 16 .1702 TRAINING AND SUPERVISION REQUIRED IN LEVEL ONE**

4 (a) If upon sponsorship, the Associate has less than one year or 1,000 hours of verifiable training or experience, the  
5 Associate shall be classified as a Level One Associate and shall undergo 160 hours of one-on-one supervision training.

6 (b) The first 40 hours of employment shall be one-on-one supervision. The remaining 120 hours of one-on-one  
7 supervision shall be gathered over the first year of employment or the first 1,000 hours of work, whichever comes  
8 first.

9 (c) A Level One Associate cannot, independently of the sponsor, accept or contract employment. The Associate shall  
10 have direct face-to-face, ~~telephone~~ telephone, or virtual contact with the sponsor before accepting employment or  
11 before accepting a new case.

12 (d) The sponsor shall meet with the Level One Associate to review the Associate's activities. The ~~sponsor licensee's~~  
13 sponsor's review may be by telephone, virtually, or face-to-face and shall occur at least four times per month. The  
14 ~~licensee~~ sponsor shall review each assignment the Associate is working or has worked since the last review. Review  
15 sessions may encompass more than one assignment.

16

17 *History Note: Authority G.S. 74C-5(2);*

18 *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1703 is adopted under temporary procedures with changes as follows:  
2

3 **14B NCAC 16 .1703 TRAINING AND SUPERVISION REQUIRED IN LEVEL TWO**

4 (a) If upon initial application for an Associate permit, the applicant has at least one year or 1,000 hours of verifiable  
5 training or experience, the applicant will skip Level One and be classified as a Level Two Digital Forensics Examiner  
6 Associate. An applicant that skips Level One shall undergo 80 hours of one-on-one training. The first 40 hours of one-  
7 on-one supervision shall occur within the first 40 hours of employment. The remaining 40 hours shall be gathered  
8 over the first year of employment or the first 1,000 hours of work, whichever comes first.

9 (b) A Level Two Associate cannot, independently of the sponsor, accept or contract employment. The Associate shall  
10 have direct face-to-face, virtual, or telephone contact with the sponsor.

11 (c) The sponsor shall meet with the Level Two Associate to review the Associate's work product. The ~~licensee's~~  
12 sponsor's review may be by telephone, virtually, or face-to-face and shall occur at least four times per month. The  
13 ~~licensee~~ sponsor shall review each assignment the Associate is working or has worked since the last review. Review  
14 sessions may encompass more than one assignment.

15

16 *History Note: Authority G.S. 74C-5(2);*

17 *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1704 is adopted under temporary procedures with changes as follows:

2

3 **14B NCAC 16 .1704 TRAINING AND SUPERVISION REQUIRED IN LEVEL THREE**

4 (a) If upon sponsorship the Associate has at least two years or 2,000 hours of verifiable training or experience, the  
5 Associate will be classified as a Level Three Associate and shall undergo 40 hours of one-on-one training.

6 (b) The first 40 hours of employment for the Level Three Digital Forensics Examiner Associate shall be one-on-one  
7 supervision.

8 (c) When the Level Three Associate completes the requirements of Level Three by fulfilling the licensing  
9 requirements set forth in Rules .0204 and .0401 of this Chapter, the Associate may apply for a digital forensics  
10 examiner license.

11 (d) The sponsor shall meet with the Level Three Associate to review the Associate's activities. The ~~licensee~~ sponsor  
12 shall review each assignment the Associate is working or has worked since the last review. Review sessions may  
13 encompass more than one assignment.

14 (e) The ~~sponsoring licensee~~ sponsor shall ~~have contact with the Level Three Associate sufficient to ensure~~ ensure the  
15 Level Three Associate remains in compliance with G.S. Chapter 74C.

16

17 *History Note: Authority G.S. 74C-5(2);*

18 *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1705 is adopted under temporary procedures with changes as follows:

2  
3 **14B NCAC 16 .1705 EDUCATIONAL DEGREES AND NON-DEGREED TRAINING**

4 Using the formula in Rule .0204 of this Chapter, the Board shall give credit toward the educational and training  
5 requirements of this Section as follows:

6 (1) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree.  
7 The Board shall grant up to 100 additional hours if the applicant can demonstrate that further training  
8 or course-work related to digital forensics examination was received while obtaining the associate's  
9 degree.

10 (2) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall  
11 grant up to 200 additional hours if the applicant can demonstrate that further training or course-work  
12 related to digital forensics examination was received while obtaining the bachelor's degree.

13 (3) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall  
14 grant an additional 300 additional hours if the applicant can demonstrate that further training or  
15 course-work related to digital forensics examination was received while obtaining the graduate  
16 degree.

17 ~~(a) An applicant shall receive a minimum of 400 hours of experience credit for an associate's degree. The Board shall~~  
18 ~~grant up to 100 additional hours if the applicant can demonstrate that further training or course work related to digital~~  
19 ~~forensics examination was received while obtaining the associate's degree.~~

20 ~~(b) An applicant shall receive 800 hours of experience credit for a bachelor's degree. The Board shall grant up to 200~~  
21 ~~additional hours if the applicant can demonstrate that further training or course work related to digital forensics~~  
22 ~~examination was received while obtaining the bachelor's degree.~~

23 ~~(c) An applicant shall receive 1,200 hours of experience credit for a graduate degree. The Board shall grant an~~  
24 ~~additional 300 additional hours if the applicant can demonstrate that further training or course work related to digital~~  
25 ~~forensics examination was received while obtaining the graduate degree.~~

26  
27 *History Note: Authority G.S. 74C-5(2);*

28 *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1707 is adopted under temporary procedures with changes as follows:

2

3 **14B NCAC 16 .1707 ENFORCEMENT**

4 A violation by the Associate may be deemed by the Board to be a violation ~~of~~ by the sponsor if the violation is found  
5 to be the result of insufficient supervision and may subject the sponsor to any enforcement actions pursuant to G.S.  
6 74C-17.

7

8 *History Note: Authority G.S. 74C-2(e); 74C-5(2); 74C-12;*

9 *Temporary Adoption Eff. April 28, 2023.*

1 14B NCAC 16 .1708 is adopted under temporary procedures with changes as follows:

2

3 **14B NCAC 16 .1708 TRANSFERABILITY OF TRAINING HOURS**

4 If a Level One Associate transfers employment to another digital forensics examiner licensee sponsor, the one-on-one  
5 training shall not transfer and the Associate shall undergo new one-on-one supervised training hours with the new  
6 ~~sponsoring licensee~~ sponsor. If a Level Two or Level Three Associate transfers employment to another licensee, all  
7 training hours shall be transferred.

8

9 *History Note: Authority G.S. 74C-5(2);*

10 *Temporary Adoption Eff. April 28, 2023.*

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting  
**Attachments:** 14B NCAC 16 .0201 - 04.18.23 (00576204xBFA5E).DOCX; 14B NCAC 16 .0403 - 04.13.23 (00576206xBFA5E).DOCX; 14B NCAC 16 .0807 - 04.13.23 (00576208xBFA5E).DOCX; 14B NCAC 16 .1501 - 04.18.23 (00576215xBFA5E).DOCX; 14B NCAC 16 .1502 - 04.13.23 (00576218xBFA5E).DOCX; 14B NCAC 16 .1503 - 04.13.23 (00576219xBFA5E).DOCX; 14B NCAC 16 .1504 - 04.13.23 (00576221xBFA5E).DOCX; 14B NCAC 16 .1601 - 04.18.23 (00578866xBFA5E).DOCX; 14B NCAC 16 .1701 - 04.18.23 (00576289xBFA5E).docx; 14B NCAC 16 .1702 - 04.18.23 (00576290xBFA5E).DOCX; 14B NCAC 16 .1703 - 04.18.23 (00576291xBFA5E).DOCX; 14B NCAC 16 .1704 - 04.18.23 (00576292xBFA5E).DOCX; 14B NCAC 16 .1705 - 04.18.23 (00576293xBFA5E).DOCX; 14B NCAC 16 .1707 - 04.13.23 (00576296xBFA5E).DOCX; 14B NCAC 16 .1708 - 04.18.23 (00576297xBFA5E).DOCX

---

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Sent:** Tuesday, April 18, 2023 5:43 PM  
**To:** Gray, Jeffrey <jgray@bdixon.com>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>  
**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Jeff,

As I was making those formatting changes, I realized that changes to adoptions are supposed to be formatted differently than changes to amendments. Long story short, I ended up reformatting most of the rules, including the new version of .1701 you just sent me (and by the way, I did ask for those changes, in the original request for changes document). Also in Rule .1701, I found an extraneous "to" that should have been deleted in (1), so I took care of that. I've attached all the rules, with updated formatting for you, just so you can review.

So everything here should be good to go, I'm recommending approval of all of the rules, except for .1709, which you withdrew.

Let me know if these are good for you, and I'll send these on to Dana and Alex for filing as final rules.

Thanks,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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---

**From:** Gray, Jeffrey <JGray@bdixon.com>  
**Sent:** Tuesday, April 18, 2023 5:32 PM  
**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Amanda Barham <[abarham@bdixon.com](mailto:abarham@bdixon.com)>  
**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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Brian:

First, you did not request that changes be made to .1701(3). In actuality, this rules explains, and makes clear as a “definition,” was used in the rules as previously written (and as it appears in the mirror image rule for private investigator trainees.) Albeit, if you are going to object I have no choice but to change it. (This Board meets on Thursday and I cannot be at the RRC meeting to defend it.)

Also, I have properly reformatted .1705 and gone ahead and corrected .1703, .1703 & .1704 by striking through the bracketed language. Thank you for offering to do the latter.

Jeff

*Jeffrey P. Gray*

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: [jgray@bdixon.com](mailto:jgray@bdixon.com)

---

**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>

**Sent:** Tuesday, April 18, 2023 4:50 PM

**To:** Gray, Jeffrey <[JGray@bdixon.com](mailto:JGray@bdixon.com)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Amanda Barham <[abarham@bdixon.com](mailto:abarham@bdixon.com)>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Jeff,

Thanks for making the changes. Couple things to note. One, in Rule .1701(3), you’ve still got “supervising licensee” and “sponsoring licensee” being used interchangeably. I don’t know if that’s intentional, but given our discussions, seems like an omission to me. Either way, bringing it to your attention.

Second, I noticed a couple formatting issues that need fixing. In .1705, if you’re using an opening sentence (as you’ve added), you need to change (a)-(c) to (1)-(3) and tab them over accordingly. In .1702, .1703, .1704, and .1708 you bracketed text but didn’t strike through it. I’ll fix those for you, no worries.

In any event, I’ll recommend approval of all rules except .1701 at this point. I have no hangups on .1701 other than fixing the interchangeable language, so if that’s fixed I will recommend approval of that Rule as well.

Thanks,

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings



(984)236-1948

[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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---

**From:** Gray, Jeffrey <[JGray@bdixon.com](mailto:JGray@bdixon.com)>

**Sent:** Tuesday, April 18, 2023 4:29 PM

**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Amanda Barham <[abarham@bdixon.com](mailto:abarham@bdixon.com)>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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Brian:

Attached are the rule amendments and rule adoptions with the additional changes based on your initial Request for Changes and subsequent e-mails.

Jeff

*Jeffrey P. Gray*

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: [jgray@bdixon.com](mailto:jgray@bdixon.com)

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

---

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Sent:** Tuesday, April 18, 2023 2:56 PM

**To:** Gray, Jeffrey <jgray@bdixon.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Jeff,

First, I just want to make something clear for the record—I don't care how the Rule reads. I have no dog in the race as to the quality and efficacy of your rule. I care only that it unambiguously states PPSB's intent and is in compliance with G.S. 150B. What I said in my last email was merely to state what I *think* your intent is and the best way to unambiguously express it.

I can assure you that if the equivalent PI rule is assigned to me for review, my opinion will not change. I cannot assure you (a) that my client will agree with my opinion now or in the future or (b) that any of my colleagues will see eye to eye with me. I can't give assurances on behalf of others.

That said, it's my opinion that if you're just saying that the sponsoring licensee is responsible for ensuring that his or her associate is in compliance with Ch. 74C, there isn't any further ambiguity to resolve.

Hope that helps.

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984)236-1948

[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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## Burgos, Alexander N

---

**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

---

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Sent:** Tuesday, April 18, 2023 2:13 PM

**To:** Gray, Jeffrey <jgray@bdixon.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Getting back to you on .1704. Thanks for taking the time to dig that up for me. I have to assume that at some point, Mr. McDarris answered Amanda's questions to her satisfaction, but I don't see answers to the original questions of "what is 'contact' here?" and "who determines what is 'sufficient'?" in the PDF. While I think seeing that would have been helpful, ultimately those answers aren't binding on me or the Commission.

As I've said earlier, the issue I see is that you do not specify what level of "contact" is "sufficient" to ensure compliance with G.S. 74C. If the Rule were to just say that the licensee is responsible for ensuring compliance, I think that's fine. But to say a licensee must perform a specified action—contact—to a specified level—sufficient—without specifying what either of those terms mean, creates ambiguity in my opinion.

Thanks,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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---

**From:** Gray, Jeffrey <[JGray@bdixon.com](mailto:JGray@bdixon.com)>

**Sent:** Tuesday, April 18, 2023 12:30 PM

**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Amanda Barham <[abarham@bdixon.com](mailto:abarham@bdixon.com)>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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Sorry for the confusion. I was intentional with my use of "working with." The trainee can build hours under any licensee. But the sponsoring licensee is just that; the licensee that is responsible for making sure the trainee is doing what they are supposed to and is beholden to the Board. And yes, only a licensee can be a sponsor.

*Jeffrey P. Gray*  
Of Counsel  
Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500  
P.O. Box 1351  
Raleigh, NC 27601 (27602)  
Telephone: 919-828-0731  
Facsimile: 919-828-6592  
E-mail: [jgray@bdixon.com](mailto:jgray@bdixon.com)

---

**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Tuesday, April 18, 2023 12:24 PM  
**To:** Gray, Jeffrey <[JGray@bdixon.com](mailto:JGray@bdixon.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Amanda Barham <[abarham@bdixon.com](mailto:abarham@bdixon.com)>  
**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Jeff,

Now I'm confused on "sponsor/sponsor licensee/licensee" and "sponsor/licensee". You told me earlier quote :**"No one other than a licensee can be a sponsor so its one and the same here"** and referenced that answer each time I brought it up across Section .1700. Now you're telling me that they're different. To be clear, I do not care what you call your sponsors and licensees, but I do care that you call the same person the same thing throughout your Rules to avoid ambiguity.

As to .1502, please disregard. You're correct – you can't be more specific. I was thinking in terms of a discrete body of statutory law and wasn't thinking of case law, common law, etc. I will recommend approval of .1502.

On .1704, I will review and get back to you later this afternoon.

On .1705, I don't agree. From the rule: **"The Board shall grant up to 100 additional hours if the applicant can demonstrate that further training or course-work related to digital forensics examination was received while obtaining the associate's degree."** Similar language in (b), but not (c). Thus, you need to say on what basis you're deciding between giving 100 additional hours or 1 additional hour.

Thank you for letting me know about .1709. I'll inform the Commission of the withdrawal.

Again, thanks for getting back to me quickly on all this, and I appreciate your cooperation, as always.

Best,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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## Burgos, Alexander N

---

**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

---

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Sent:** Tuesday, April 18, 2023 1:18 PM

**To:** Gray, Jeffrey <jgray@bdixon.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

OK, but the rule specifically is instructing the sponsor, not any licensee the trainee is working with, correct? For instance, in .1702, when it says the sponsor shall meet with the associate and review, and then says "the licensee's review may be by telephone..." and then says that the "licensee shall review each assignment..." you're talking about the sponsoring licensee, not just the licensee the trainee may be working with? If so, you may want to say "sponsoring licensee" across the board.

Brian

Brian Liebman

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984)236-1948

[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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---

**From:** Gray, Jeffrey <[JGray@bdixon.com](mailto:JGray@bdixon.com)>

**Sent:** Tuesday, April 18, 2023 12:30 PM

**To:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>

**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>; Amanda Barham <[abarham@bdixon.com](mailto:abarham@bdixon.com)>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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Sorry for the confusion. I was intentional with my use of "working with." The trainee can build hours under any licensee. But the sponsoring licensee is just that; the licensee that is responsible for making sure the trainee is doing what they are supposed to and is beholden to the Board. And yes, only a licensee can be a sponsor.

*Jeffrey P. Gray*

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: [jgray@bdixon.com](mailto:jgray@bdixon.com)

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting  
**Attachments:** 20230418114920374.pdf

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**From:** Gray, Jeffrey <JGray@bdixon.com>  
**Sent:** Tuesday, April 18, 2023 11:50 AM  
**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>  
**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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Brian:

I have made all your requested changes below but a couple. I still do not think “sponsor/sponsor licensee/licensee” is confusing, especially since the PIA can work with a licensee that is not necessarily the sponsor licensee, but I have made the changes as you have insisted.

As to .1502, I am sorry I did not understand your initial request, but your clarification is now confusing. You ask that I specify which laws of the State of North Carolina the Board is requiring. In both instances it is specified: “North Carolina’s laws on **use of force**, and the federal and State **firearms** laws. Both “use of force” and “firearms” laws are a body of law; like saying “the motor vehicle laws,” “landlord and tenant law,” or “tort law.” Since much of it in both instances is case law – especially “use of force” -- it is not possible to cite to a statute or statutes. I have taught both for almost 25 years at the NC Justice Academy. It’s a body of law taught in Basic Law Enforcement Training, Armed Security Guard Training, the Concealed Handgun course for private citizens, and likely other places. I don’t know how to make it more specific.

As to .1704, I did not handle the Board’s rules back then, the Board’s former attorney, Charles McDarris, still did. I can find nothing in the file indicating that Amanda objected to “contact” or asked that it be clarified. Her e-mail to Charles, as well as the rule as changed based on her Request, is attached. If there was an objection, and he had a discussion with Amanda, it was likely by telephone and there is no record. The review of this rule was in conjunction with the Board’s Periodic Review and Charles has copious notes in the file.

As to .1705, this rule does not need the “decoder” or conversion via .0204(d). Merely having the degree gives the applicant the hours. This rule is the conversion rule for purposes of a degree.

Finally, since there will be discussion and changes based and Public comment, and you are requesting changes, I wish to formally withdraw .01709.

Reviewed rules forthcoming. (I estimate by 1:00 p.m. today.)

Jeff

*Jeffrey P. Gray*  
Of Counsel  
Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500  
P.O. Box 1351  
Raleigh, NC 27601 (27602)  
Telephone: 919-828-0731  
Facsimile: 919-828-6592  
E-mail: [jgray@bdixon.com](mailto:jgray@bdixon.com)



## Gray, Jeffrey

---

**From:** Reeder, Amanda J <amanda.reeder@oah.nc.gov>  
**Sent:** Sunday, June 14, 2020 2:25 PM  
**To:** sdev@nc.rr.com; Gray, Jeffrey; McDarris, Charles F.  
**Cc:** Reeder, Amanda J; Burgos, Alexander N  
**Subject:** RE: [External] PPSB Rules Email 1 of 3  
**Attachments:** PPSB Staff Opinion 6.14.20.doc; 14B NCAC 16 .1202.docx

Good afternoon, gentlemen!

Thank you for sending these revised rules and your responses to my Requests for Technical Changes. I appreciate your efforts on these.

Please find attached a Staff Opinion, recommending objection to Rule .1207 for lack of necessity. This brings the total number of rules with recommended objections to six.

The following 10 rules look good and I will forward them to oah.rules on your behalf: .1101, .1102, .1103, .1107, .1201, .1202, .1205, .1206, .1303, .1405. I will send that email in a few minutes.

The following 10 rules either received no requested changes, ended up having no changes made in response to my queries, or are recommended for objection, and therefore will have no technical changes: .0905, .1001, .1002, .1003, .1106, .1207, .1304, .1308, .1404, and .1408. These rules will not be forwarded to oah.rules, but will either be recommended to be approved as submitted or recommended for objection.

That leaves 11 rules that require a few very minor tweaks:

.0907 and .0908:

On line 4, thank you for making the change to be consistent, but you now have "A Certified Firearms Trainers" I think you likely just want to not insert "A" so it reads "Certified Firearms Trainers shall..." Since the "A" was added after publication, you won't strike it or show any change – simply delete it.

.1104:

In (d), line 13, I believe "Associate" after "Level Three" should be capitalized to be consistent with the changes you made elsewhere within the Rule.

.1105:

To be consistent with the changes you made elsewhere within the Rule:

Delete "actual" before "trial" on lines 24, 25, 27, 31, and 32.

Please make "can not" into "cannot" on lines 24 and 30.

.1108:

On lines 4 and 6, please capitalize "Associate"

And I recommend inserting "hours" after "one-on-one training" on line 4.

.1203:

In the introductory statement, please change "follow" to "follows" (Please note, I did this for Rule .1202 as well; it is attached. As you can see, that is the only change I made to the rule.)

In (b)(3), so that I'm clear - you do not want to say "objectives and goals" on line 21? I ask because you are now saying that everywhere else in the Rule.

In (d), again, I'm just asking - are you sure you want to require the update if the name changes? My thought is if someone gets married or divorce, their name can change but they are still the same person/instructor. I was under the impression that you want to know if a new instructor takes over. Do you want to just say here, "... unless the course instructor changes."?

.1204:

On line 8, please change "sanctioned" to "approved" to be consistent with the changes made elsewhere in this Section.

.1305:

I had asked in (c) about "within five business days notify the Board upon receipt" I'd pointed out this doesn't mirror language in .0705. You all said you want to keep "upon receipt" to show that the clock starts ticking at that point and they get five business days from that. I understand; however, I keep reading "five business days" to conflict with "upon receipt" (because I read it as "within five business days, notify the board" and "notify the board upon receipt.") To that end, consider replacing "upon" with "following"

.1307:

On line 15, please underline the new language "guard, including probationary,"

We had this exchange:

*In (d)(6), line 35, is this the correct name of the course? It's not the "unarmed armored car" security officer training course? Amanda, I think you are referring to (d)(2) as (d)(6) is about audio and video equipment. See notes above about the course name.*

Sorry for any misunderstanding, but I was referring to (d)(6), now line 36, which refers to the "unarmed security officer training course." I note that Paragraph (a), lines 5-6, refer to the "basic training course for unarmed armored care service guards." I was asking if in (d)(6) you intended to refer to a different training than the one named in (a). If you did, fine. If you didn't, and this was just a drafting error, then please go ahead and insert the correct name now.

.1403:

You formatted the change to the name correctly, but as I was recently reminded, the change of the name is not change to the text. As such, you are not going to say "with changes" in the Introductory Statement. Keep the name formatted as you have it now, but remove "with changes" from line 1.

And I know you are working on the form, but I want to put this reminder here for both you and me that there will be a new form needed for this Rule.

.1407:

In (a), line 12, since you are changing Rule .1307, you will need to change the name of the course from "Emergency Situations" to "Emergency Responses"

And that's it! Huzzah! (I told you the tweaks were minor)

Next Steps:

If you could please make the requested changes to the 11 rules addressed above by 12 p.m. on Tuesday, that would be great. As always, you will email those rules to me for review and then I can forward them to oah.rules on your behalf.

Thank you again for your work on these! Please let me know if you have any questions or concerns regarding this email.

Amanda

*Amanda J. Reeder*  
*Counsel to the Rules Review Commission*  
*NC Office of Administrative Hearings*  
**New Telephone Number Effective May 1, 2020: 984-236-1939**

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**From:** sedev@nc.rr.com <sedev@nc.rr.com>  
**Sent:** Thursday, June 11, 2020 9:12 AM  
**To:** Reeder, Amanda J <amanda.reeder@oah.nc.gov>  
**Subject:** [External] PPSB Rules Email 1 of 3

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Amanda,

I am going to send you our responses to your Requests for Technical Changes along with the 31 rules.

Please call me at your convenience.

Thanks.

Charles

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**Gray, Jeffrey**

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**From:** sedev@nc.rr.com  
**Sent:** Monday, June 15, 2020 5:55 PM  
**To:** 'Reeder, Amanda J'  
**Cc:** Gray, Jeffrey  
**Subject:** 11 Updated Rules for PPSB  
**Attachments:** 14B NCAC 16 .1407.docx; 14B NCAC 16 .1403.docx; 14B NCAC 16 .1307.docx; 14B NCAC 16 .1305.docx; 14B NCAC 16 .1204.docx; 14B NCAC 16 .1203.docx; 14B NCAC 16 .1108.docx; 14B NCAC 16 .1105.docx; 14B NCAC 16 .1104.docx; 14B NCAC 16 .0908.docx; 14B NCAC 16 .0907.docx

Amanda,

In response to your email review, I have attached the changes you suggested to the 11 rules. Please let me know if you need anything else. Also, I understand that Donna has sent the updated Submission Form to you for .1403.

Thank you very much for your help. I cannot believe we are at the end of the 90+ rules.

Charles

1 14B NCAC 16 .1104 is readopted with changes as published in 33:15 NCR 1544 as follows:

2  
3 **14B NCAC 16 .1104 TRAINING AND SUPERVISION REQUIRED IN LEVEL THREE**

4 (a) If upon sponsorship the Associate has at least two years or 2,000 hours of verifiable training or experience, the  
5 ~~associate~~ Associate will be classified as a Level Three Private Investigator Associate and ~~must~~ shall undergo 40 hours  
6 of one-on-one training.

7 (b) The first 40 hours of employment for the Level Three Private Investigator Associate ~~must~~ shall be one-on-one  
8 supervision.

9 (c) When the Level Three Associate completes the requirements of Level Three by fulfilling the licensing  
10 requirements set forth in Rules .0204 and .0401 ~~and .0204~~ of this Chapter, the ~~associate~~ Associate may apply for a  
11 private investigator's license.

12 (d) The sponsor or another licensed Private Investigator associated with the sponsor's firm, association, or corporation  
13 ~~must~~ shall meet with the Level Three ~~associate~~ Associate to review the ~~associate's~~ Associate's work product. The  
14 licensed Private Investigator ~~must~~ shall review each case on which the ~~associate~~ Associate is working or has worked  
15 since the last review. Review sessions may encompass more than one case.

16 (e) The sponsoring Private Investigator ~~must~~ shall have contact with the Level Three Associate sufficient to ensure  
17 compliance with G.S. 74C.

18  
19 *History Note: Authority G.S. 74C-5(2);*

20 *Eff. July 1, 1994;*

21 *Transferred and Recodified from 12 NCAC 07D .1104 Eff. July 1, 2015- 2015;*

22 *Readopted Eff. July 1, 2020.*

## **Burgos, Alexander N**

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**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

---

**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Sent:** Tuesday, April 18, 2023 11:31 AM

**To:** Gray, Jeffrey <jgray@bdixon.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Jeff,

Two things. First, upon further review of R. 1502, I have to admit that use of force law could also include case law, which is constantly changing, and so it would be impractical to ask you to specify what laws or cases you are requiring be taught as part of the course curriculum. That said, I'll recommend approval of Rule .1502.

Second, I'm curious if and when you intended to respond to the other issues raised yesterday. I know I didn't set a deadline, as I know you're well aware that at this stage everything is ASAP. Just wondering what your timeframe was looking like, as I will have to draft staff opinions for several rules if we can't iron out the issues in Sections .1600 and .1700.

Thanks,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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**From:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Sent:** Monday, April 17, 2023 1:05 PM

**To:** Gray, Jeffrey <jgray@bdixon.com>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>

**Subject:** RE: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Hi Jeff,

Thanks for sending these over a little early. Always appreciated. To be clear, I am recommending approval of .0201, .0403, .0807, .01501, and .1706 and .1707 contingent on making any changes recommended below.

### Rule .0201

I think the cross reference added is good, but I would say “Rule .0403” rather than “subsection .0403.” Otherwise looks good and will recommend approval.

### Rule .0403

Appreciate the changes and clarifications. Recommend approval.

### Rule .0807

I think I understand the distinction between here now in (a) and (b). Recommend approval.

### Rule .1501

Thanks for adding the cross reference, but I would say “Rule .1502”. Otherwise will recommend approval.

### Rule .1502

I read the Ruberto-Beachler decision, and I don’t think that case is on all fours with this issue. I’m asking you to specify which of the laws of the State of North Carolina—not which state’s laws—you’re requiring to be part of the curriculum.

### Rule .1601

If you’re using the formula in .0204(d) to calculate how many hours to grant credit for, I think you need a cross reference here. Particularly because you reference “Section .0200” in (a) and (b) and not in (c).

### Rule .1701

I understand that the regulated industry may understand the difference between sponsoring and supervising licensee, but that is merely because these terms have been used interchangeably for some time and people are used to the ambiguity. Doesn’t mean it isn’t unambiguous. I know you modeled this off Rule .1101, but I think the best course is to remedy the ambiguity here by using one term, and then fix .1101 when you come back with permanent rules.

Also, I apparently missed asking you to change “refers” to “means” for Item (3).

### Rule .1702

*In (d), lines 12-13, you use “sponsor”, “sponsor licensee”, and “licensee,” which I believe all refers to the same person. Unless I’m mistaken, please choose one term and use it consistently.*

I didn’t see any changes made with respect to this request.

Rule .1703

I didn't see any changes made to this Rule.

As for (c), I think as written it is confusing. You refer to sponsor consistently until the second sentence of (c), where you start using "licensee". If that isn't ambiguity, I don't know what is. Please just use either "licensee" or "sponsor" throughout. This applies to Rule .1704 as well.

Rule .1704

(e) This word has been in the mirror image rule for PI trainees for 17 years without any question from the regulated industry. I prefer not to change it. Making the two rules inconsistent raises the question of interpretation and causes it to lack clarity.

That doesn't really answer the question, and whether the industry hasn't asked about it before doesn't necessarily mean a term isn't ambiguous, it just means nobody has had occasion to raise the question yet. I see Amanda asked what "contact" means and who makes the determination that the contact is sufficient or not back in 2020 when R. 1104 came through last. These are good questions. I only have access to what she sent you, not your response—it's in storage and will take some time to get down here, so perhaps you could let me in on how you responded there? In the meantime, I still question what degree of contact you're requiring here, and think you need to clarify and revise accordingly.

Rule .1705

Same response as in .1601. Please add a cross reference to R .0204.

Rules .1706, .1707

Thanks for making the changes. Will recommend approval.

Rule .1708

Same response as above w/r/t "sponsor." Please clarify.

Rule .1709

I didn't see an answer about what a "potential" examiner is. I am assuming that a "potential" examiner would be an associate, but given that you refer to "associate" throughout Section .1700 and then switch here to "potential" examiner, I can't say that with any certainty. Please clarify and revise accordingly.

I'm glad you're rewriting the rule for the permanent submission, but I think my question remains about (b). This makes sense if "potential" examiner means "someone who has completed Levels 1-3 of the associate process" but if "potential" examiner means something different, then I have no idea what you're requiring with respect to "training requirements required by this Section."

Best,  
Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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## Burgos, Alexander N

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**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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**From:** Gray, Jeffrey <JGray@bdixon.com>

**Sent:** Thursday, April 13, 2023 8:40 PM

**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>

**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Amanda Barham <abarham@bdixon.com>

**Subject:** [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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Brian:

I am out of town tomorrow (Fri.) for a meeting so am going to respond to your questions from the Request for Changes, then my paralegal, Amanda, will send you the rules with changes tomorrow before the deadline.

14B NCAC 16 .0201

(c), line 28: There is no difference. The technical or correct term is “trainee,” but the industry does not like that word so years ago – long before I represented the Board – “Associate” became the preferred term, as in “Private Investigator Associate.” I always use “trainee” in any legal documents, etc.

All other requested changes made.

14B NCAC 16 .0403

(a), line 7: Once the person becomes a trainee, the trainee can do anything the license can under the licensee’s supervision so the “other” is any task or activity performed that would constitute digital forensics.

(c), line 12: Although this language has been applied to private investigator trainees for 39 years and no one has misunderstood, I’ve added “by Board staff” to the rule. Requested change made.

14B NCAC 16 .0807

Question re: (a) & (d): Up until we added the CPP licensee, all other licensees (namely PIs) did not have to take the **unarmed** guard training; only the firearms and legal blocks. We are just adding CPP licensees to the rule so they won’t have to either.

(o), p. 3, line 17: It is referencing the course.

All other requested changes made.

14B NCAC 16 .1501

Requested change made.

14B NCAC 16 .1502

I did not remove the parenthesis. These parentheticals have a specific meaning to the industry and they are the ones that wrote the rule.

(a)(3), lines 15-16: I did not make this change. "State" with a capital "S" means State of North Carolina. I just litigated this question in the OAH, and lost! See, *Nancy Ruberto-Beachler v. North Carolina Board of Dietetics and Nutrition*, 22 BDN 00343

All other requested changes made.

14B NCAC 16 .1601

Question re: (c)(1) & (2), lines 33 and 35: From the course hours themselves. This language mirrors .0401(c) and the "decoder" or conversion for hours is found in .0204(d).

Other requested change made.

14B NCAC 16 .1701

Question re: sponsor: No one other than a licensee can be a sponsor so its one and the same here. The PI trainee rule is a mirror image of this one. The regulated industry knows the difference.

(3), line 31: "Immediate" means right then, whenever the Board staff asks for it. This word is used intentionally to make sure that the checklist is kept current; no going back and filing it in after a request to inspect it is made.

All other requested changes made.

14B NCAC 16 .1702

(a), line 4: It means its common usage. The person must show physical proof, i.e. a diploma, certificate, transcript, DD-214 with a MOS, etc. -- something that says the person completed the training – and it must be something that the Board investigator can... verify.

All other changes made.

14B NCAC 16 .1703

(c) See, response above re: "sponsor."

Other requested change made.

14B NCAC 16 .1704

(d), line 11: The omission must be intentional since it appears that way in the mirror image rule for PI trainees.

(d), generally: See, response above re: "sponsor."

(e) This word has been in the mirror image rule for PI trainees for 17 years without any question from the regulated industry. I prefer not to change it. Making the two rules inconsistent raises the question of interpretation and causes it to lack clarity.

Other requested change made.

14B NCAC 16 .1705

(a)&(b), lines 5 and 7: Same as answer to .1601, above.

14B NCAC 16 .1706

Requested change made.

14B NCAC 16 .1707

Requested change made.

14B NCAC 16 .1708

See, response above re: "sponsor."

14B NCAC 16 .0709

(b), line 9. This subparagraph has already received public comment and will be corrected in the Permanent rules. In fact, this whole subsection will be substantially re-written it appears from the comments received.

All other requested changes (to (a)) made.

If you have questions, or need something further, I will return to my office on Monday.

Jeff

*Jeffrey P. Gray*

Of Counsel

Bailey & Dixon, LLP

434 Fayetteville Street, Suite 2500

P.O. Box 1351

Raleigh, NC 27601 (27602)

Telephone: 919-828-0731

Facsimile: 919-828-6592

E-mail: [jgray@bdixon.com](mailto:jgray@bdixon.com)

## Burgos, Alexander N

---

**Subject:** FW: [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

---

**From:** Gray, Jeffrey <JGray@bdixon.com>  
**Sent:** Monday, April 3, 2023 3:13 PM  
**To:** Liebman, Brian R <brian.liebman@oah.nc.gov>  
**Cc:** Burgos, Alexander N <alexander.burgos@oah.nc.gov>  
**Subject:** [External] RE: PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

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Brian:

RECEIVED. And I should have the changes and responses back to you well before the deadline.

Jeff

*Jeffrey P. Gray*

Of Counsel  
Bailey & Dixon, LLP  
434 Fayetteville Street, Suite 2500  
P.O. Box 1351  
Raleigh, NC 27601 (27602)  
Telephone: 919-828-0731  
Facsimile: 919-828-6592  
E-mail: [jgray@bdixon.com](mailto:jgray@bdixon.com)

---

**From:** Liebman, Brian R <[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)>  
**Sent:** Friday, March 31, 2023 10:13 AM  
**To:** Gray, Jeffrey <[JGray@bdixon.com](mailto:JGray@bdixon.com)>  
**Cc:** Burgos, Alexander N <[alexander.burgos@oah.nc.gov](mailto:alexander.burgos@oah.nc.gov)>  
**Subject:** PPSB Temp Rule Requests for Changes - April 2023 RRC Meeting

Good morning,

I'm the attorney who reviewed the temporary rules submitted by the Board for the April 2023 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, April 20, 2023, at 9:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get closer to the meeting. If there are any other representatives from your agency who will want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Please submit the revised Rules and forms to me via email, no later than 5 p.m. on Friday, April 14, 2023.

In the meantime, please do not hesitate to reach out via email with any questions or concerns.

Thanks,

Brian

Brian Liebman  
Counsel to the North Carolina Rules Review Commission  
Office of Administrative Hearings  
(984)236-1948  
[brian.liebman@oah.nc.gov](mailto:brian.liebman@oah.nc.gov)

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