

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

AGENCY: Department of Labor

RULE CITATION: 13 NCAC 19 .0101-.0702

**DEADLINE FOR RECEIPT: June 15, 2026**

***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:

*As you may be aware, using G.S. 150B-21.5(b)(3) to repeal rules without publication appears to be a novel application of the law. This raises a number of legal questions.*

*Are you aware of circumstances when this provision has been used to repeal rules without publication?*

*What is your position as to how the RRC should evaluate these repeals?*

*What is your interpretation of the term "declared" in this context?*

*Cards on the table, my initial legal research has led me to think that this refers to a "declaratory ruling" under G.S. 150B-4 or possibly G.S. 1-253. I am looking at the language cited below, and the general use of the term "declare" and the APA in statutes at large.*

*"The term "declare" is neither technical nor ambiguous; it is defined [\*\*\*6] in the American Heritage College Dictionary as: "1. To make known formally or officially. 2. To state emphatically or authoritatively; affirm. 3. To reveal or make manifest: show . . ." The American Heritage College Dictionary (Third Edition 1997). Each of these definitions requires an affirmative action on the part of the declarant."*

[\*Allstate Ins. Co. v. Chatterton, 135 N.C. App. 92, 95, 518 S.E.2d 814, 817 \(1999\)\*](#)

*Has there been a declaratory ruling or judgement on these rules?*

*If there is not, where has the agency declared these rules in excess of statutory authority and what is the agency's authority to do so?*

*Can you clarify how specifically these rules are not in compliance with statutorily mandated deadlines? Is there something in Article 21 (G.S. 95-240 through G.S. 95-245) that these rules contradict?*

Seth Ascher

Commission Counsel

Date submitted to agency: June 2, 2026

*Many of these rules don't deal with timelines and seem squarely within the agency's authority (i.e. 13 NCAC 19 .0101 is an address rule, 13 NCAC 19 .0201 is a definition rule, 13 NCAC 19 .0402 is a procedural rule that appears to afford rights to witnesses, etc.) Assuming, arguendo, that the rules which involve timelines exceed the agency's authority, how do the rest of these rules exceed the agency's authority?*

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: June 2, 2026

1 13 NCAC 19 .0101-.0702 are proposed for repeal pursuant to G.S. 150B-21.5(b)(3) as follows:

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3 **13 NCAC 19 .0101 RETALIATORY EMPLOYMENT DISCRIMINATION BUREAU**

4 **13 NCAC 19 .0102 FORMS**

5 **13 NCAC 19 .0201 DEFINITIONS**

6 **13 NCAC 19 .0301 CONTENTS OF COMPLAINT**

7 **13 NCAC 19 .0302 FILING OF COMPLAINTS**

8 **13 NCAC 19 .0401 INVESTIGATION**

9 **13 NCAC 19 .0402 INTERVIEWS**

10 **13 NCAC 19 .0501 RIGHT-TO-SUE LETTERS**

11 **13 NCAC 19 .0502 REQUESTS FOR RIGHT-TO-SUE LETTERS**

12 **13 NCAC 19 .0601 ADMINISTRATIVE CLOSINGS**

13 **13 NCAC 19 .0602 WITHDRAWALS**

14 **13 NCAC 19 .0603 RIGHT-TO-SUE DISMISSALS**

15 **13 NCAC 19 .0604 RIGHT-TO-SUE CLOSURE**

16 **13 NCAC 19 .0605 SETTLEMENTS**

17 **13 NCAC 19 .0701 SETTLEMENT**

18 **13 NCAC 19 .0702 LITIGATION**

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20 *History Note: Authority G.S. 95-245;*

21 *Eff. April 1, 1999;*

22 *Amended Eff. September 1, 1999;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22,*  
24 *2018;*

25 *Amended Eff. March 1, 2025; August 1, 2020;*

26 *Repealed eff. July 1, 2026.*

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