

NORTH CAROLINA REGISTER

VOLUME 34 • ISSUE 13 • Pages 1185 – 1283

January 2, 2020

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Contact List for Rulemaking Questions or Concerns

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

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NORTH CAROLINA REGISTER
Publication Schedule for January 2020 – December 2020

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
34:13	01/02/20	12/06/19	01/17/20	03/02/20	03/20/20	04/16/20	05/01/20	09/28/20
34:14	01/15/20	12/19/19	01/30/20	03/16/20	03/20/20	04/16/20	05/01/20	10/11/20
34:15	02/03/20	01/10/20	02/18/20	04/03/20	04/20/20	05/21/20	06/01/20	10/30/20
34:16	02/17/20	01/27/20	03/03/20	04/17/20	04/20/20	05/21/20	06/01/20	11/13/20
34:17	03/02/20	02/10/20	03/17/20	05/01/20	05/20/20	06/18/20	07/01/20	11/27/20
34:18	03/16/20	02/24/20	03/31/20	05/15/20	05/20/20	06/18/20	07/01/20	12/11/20
34:19	04/01/20	03/11/20	04/16/20	06/01/20	06/22/20	07/16/20	08/01/20	12/27/20
34:20	04/15/20	03/24/20	04/30/20	06/15/20	06/22/20	07/16/20	08/01/20	01/10/21
34:21	05/01/20	04/09/20	05/16/20	06/30/20	07/20/20	08/20/20	09/01/20	01/26/21
34:22	05/15/20	04/24/20	05/30/20	07/14/20	07/20/20	08/20/20	09/01/20	02/09/21
34:23	06/01/20	05/08/20	06/16/20	07/31/20	08/20/20	09/17/20	10/01/20	02/26/21
34:24	06/15/20	05/22/20	06/30/20	08/14/20	08/20/20	09/17/20	10/01/20	03/12/21
35:01	07/01/20	06/10/20	07/16/20	08/31/20	09/21/20	10/15/20	11/01/20	03/28/21
35:02	07/15/20	06/23/20	07/30/20	09/14/20	09/21/20	10/15/20	11/01/20	04/11/21
35:03	08/03/20	07/13/20	08/18/20	10/02/20	10/20/20	11/19/20	12/01/20	04/30/21
35:04	08/17/20	07/27/20	09/01/20	10/16/20	10/20/20	11/19/20	12/01/20	05/14/21
35:05	09/01/20	08/11/20	09/16/20	11/02/20	11/20/20	12/17/20	01/01/21	05/29/21
35:06	09/15/20	08/24/20	09/30/20	11/16/20	11/20/20	12/17/20	01/01/21	06/12/21
35:07	10/01/20	09/10/20	10/16/20	11/30/20	12/21/20	01/21/21	02/01/21	06/28/21
35:08	10/15/20	09/24/20	10/30/20	12/14/20	12/21/20	01/21/21	02/01/21	07/12/21
35:09	11/02/20	10/12/20	11/17/20	01/04/21	01/20/21	02/18/21	03/01/21	07/30/21
35:10	11/16/20	10/23/20	12/01/20	01/15/21	01/20/21	02/18/21	03/01/21	08/13/21
35:11	12/01/20	11/05/20	12/16/20	02/01/21	02/22/21	03/18/21	04/01/21	08/28/21
35:12	12/15/20	11/20/20	12/30/20	02/15/21	02/22/21	03/18/21	04/01/21	09/11/21

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.



State of North Carolina

ROY COOPER
GOVERNOR

November 26, 2019

EXECUTIVE ORDER NO. 112

DECLARATION OF STATE OF EMERGENCY

WHEREAS, a strong coastal storm brought high winds, heavy rain, and significant flooding of North Carolina Highway 12 in Dare and Hyde counties; and

WHEREAS, the storm caused severe damage to North Carolina Highway 12, a federal-aid highway, and required immediate repairs to preserve the well-being and health of North Carolinians; and

WHEREAS, the impacts of this storm constitute a state of emergency as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19); and

WHEREAS, N.C. Gen. Stat. §§ 166A-19.10 and 166A-19.20 authorize the Governor to declare a state of emergency and exercise the powers and duties set forth therein to direct and aid in response to, recovery from, and mitigation against emergencies; and

NOW, THEREFORE, by the authority vested in me as Governor by the Constitution and the laws of the state of North Carolina, **IT IS ORDERED**:

Section 1.

I hereby declare that a state of emergency, as defined in N.C. Gen. Stat. §§ 166A-19.3(6) and 166A-19.3(19), exists in Dare and Hyde counties, which comprise the emergency area as defined in N.C. Gen. Stat. §§ 166A-19.3(7) and 166A-19.20(b).

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this declaration and the provisions of the North Carolina Emergency Operations Plan ("the Plan").

Section 3.

I delegate to Erik A. Hooks, the Secretary of the North Carolina Department of Public Safety, or his designee, all power and authority granted to and required of me by Article 1A of Chapter 166A of the North Carolina General Statutes for the purpose of implementing the Plan and deploying the State Emergency Response Team to take the appropriate actions necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Further, Secretary Hooks, as Chief Coordinating Officer for the State of North Carolina, shall exercise the powers prescribed in N.C. Gen. Stat. § 143B-602.

Section 5.

I further direct Secretary Hooks or his designee to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency. Such assistance may include, but is not limited to 23 U.S.C. §§ 120(e) and 125 and 23 C.F.R. § 668.

Section 6.

I hereby order that this declaration be: (1) distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (2) promptly filed with the Secretary of the North Carolina Department of Public Safety, the Secretary of State, and the superior court clerks in the counties to which it applies, unless the circumstances of the state of emergency would prevent or impede this; and (3) distributed to others as necessary to ensure proper implementation of this declaration.

Section 7.

This declaration does not prohibit or restrict lawfully possessed firearms or ammunition or impose any limitation on the consumption, transportation, sale or purchase of alcoholic beverages as provided in N.C. Gen. Stat. § 166A-19.30(c).

Section 8.

This declaration will not trigger the prohibitions against excessive pricing in the emergency area, notwithstanding the provisions of N.C.G.S. § 166A-19.23.

Section 9.

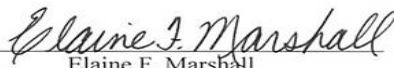
This declaration is effective immediately and shall remain in effect until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 26th day of November in the year of our Lord two thousand and nineteen.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State



NARROW THERAPEUTIC INDEX DRUGS DESIGNATED BY THE NORTH
CAROLINA SECRETARY OF HUMAN RESOURCES

Pursuant to N.C.G.S. §90-85.27(4a), this is a revised publication from the North Carolina Board of Pharmacy of narrow therapeutic index drugs designated by the North Carolina Secretary of Human Resources upon the advice of the State Health Director, North Carolina Board of Pharmacy, and North Carolina Medical Board.

Carbamazepine:	all oral dosage forms
Cyclosporine:	all oral dosage forms
Digoxin:	all oral dosage forms
Ethosuximide	
Levothyroxine sodium tablets	
Lithium (including all salts):	all oral dosage forms
Phenytoin (including all salts):	all oral dosage forms
Procainamide	
Theophylline (including all salts):	all oral dosage forms
Warfarin sodium tablets	
Tacrolimus:	all oral dosage forms

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 08 – STATE BOARD OF ELECTIONS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Elections intends to adopt the rules cited as 08 NCAC 21 .0101-.0106 and amend the rule cited as 08 NCAC 21 .0201.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncsbe.gov/index.html>

Proposed Effective Date: May 1, 2020

Public Hearing:

Date: January 23, 2020

Time: 1:00 p.m.

Location: Third Floor, Dobbs Building, 430 N. Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: The above rules are proposed for adoption and amendment in order to comply with existing directives to the State Board of Elections to engage in rulemaking related to campaign finance reporting requirements, to establish the reports and schedule for federal political committees required to register with the State of North Carolina pursuant to G.S. 163-278.7A, and to clarify that the agency's noncompliance process for late campaign finance reports applies to all reports filed under Article 22A, Chapter 163.

Comments may be submitted to: Kelly Tornow, Rulemaking Coordinator, PO Box 27255, Raleigh, NC 27611-7255; email rules@ncsbe.gov

Comment period ends: March 2, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 21 - DEPARTMENTAL RULES

SECTION .0100 – REPORTING

08 NCAC 21 .0101 BEST EFFORTS

The treasurer of a political committee or referendum committee will be deemed to have exercised best efforts to obtain, maintain, and report the information required by G.S. 163-278.11(a)(1) if all of the following efforts are made:

- (1) All written solicitations for contributions include a request for the contributor's full name, mailing address, and principal occupation as defined in G.S. 163-278.11(a)(1), and include an accurate statement of North Carolina law regarding the collection and reporting of individual contributor information. The following are examples of acceptable statements for a candidate committee, political committee, or referendum committee, but are not the only allowable statements: "State law requires us to use our best efforts to collect and report the full name, mailing address, job title or profession, and employer's name or employer's specified field of business activity of individuals whose contributions exceed fifty dollars (\$50.00) in an election;" and "To comply with State law, we must use best efforts to obtain, maintain, and submit the full name, mailing address, job title or profession, and employer's name or employer's specified field of business activity of individuals whose contributions exceed fifty dollars (\$50.00) in an election." The request and statement shall appear in a clear and conspicuous manner on any response material included in a solicitation. The request and statement are not clear and conspicuous if they are in small type in comparison to the solicitation and response materials, or if the printing is difficult to read or if the placement is easily overlooked;
- (2) For each contribution received aggregating in excess of fifty dollars (\$50.00) per election (as defined in G.S. 163-278.13(e)) which lacks required contributor information, such as the

contributor's full name, mailing address, job title or profession, or employer's name or employer's specified field of business activity, the treasurer makes at least one effort after the receipt of the contribution to obtain the missing information. That effort shall consist of either a written request sent to the contributor or an oral request to the contributor documented in writing. The written or oral request must be made no later than 30 days after receipt of the contribution. The written or oral request shall not include material on any other subject or any additional solicitation, except that it may include language solely thanking the contributor for the contribution. The request must clearly ask for the missing information and must include the statement set forth in Item (1) of this Rule. Written requests must include this statement in a clear and conspicuous manner. If the request is written, it shall be accompanied by a pre-addressed return post card or envelope for the response material;

- (3) The treasurer reports all contributor information not provided by the contributor, but in the political committee's or referendum committee's possession, including information in contributor records, fundraising records and previously filed reports, in the same election;
- (4) If, after complying with all provisions of this section, the treasurer is unable to identify the contributor's principal occupation the treasurer shall list all available information and report "unable to obtain" as to the missing occupational information; and
- (5) If any of the contributor information is received after the contribution has been disclosed on a regularly scheduled report, the candidate committee, political committee, or referendum committee shall file on or before its next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s), which include the contributor identifications together with the dates and amounts of the contribution(s). Amendments must be filed for all reports that cover the election in which the contribution was received that disclose itemizable contributions from the same contributor.

Authority G.S. 163-278.11; 163-278.22.

08 NCAC 21 .0102 REPORTING OF INDEPENDENT EXPENDITURES

(a) Once an individual as defined in G.S. 163-278.6(55), person as defined in G.S. 163-278.6(72) or other entity required to report independent expenditures under G.S. 163-278.12(a) has made independent expenditures with a present actual or market value in excess of one hundred dollars (\$100.00) during an election as defined in G.S. 163-278.6(30), the individual, person or entity

shall report all independent expenditures, and any donations made to further independent expenditures, with the following board of elections:

- (1) If the district of the candidate or ballot issue supported or opposed is within one county, and the candidate is not running for a legislative, judicial or district attorney office, the report shall be filed with the county board of elections;
or
- (2) If the district of the candidate or ballot issue supported or opposed extends to more than one county, or the candidate is running for a legislative, judicial or district attorney office, the report shall be filed with the State Board.

(b) An independent expenditure filer is the individual, person, or other entity making a reportable independent expenditure under G.S. 163-278.12(a).

(c) Independent expenditure reports filed with the county board of elections or the State Board shall include all of the following:

- (1) The independent expenditure filer's name and mailing address;
- (2) If the independent expenditure filer is an individual, the filer's principal occupation as defined in G.S. 163-278.11(a)(1);
- (3) If the independent expenditure filer is a person, the principal place of business of the person;
- (4) For each independent expenditure made:
 - (A) The name and mailing address of the payee;
 - (B) The amount paid;
 - (C) The date the expenditure was incurred;
 - (D) A description of the expenditure; and
 - (E) The name of the candidate, candidates of a clearly identified political party or referendum supported or opposed by the independent expenditure;
- (5) For each donation of more than one hundred dollars (\$100.00) that must be reported under G.S. 163-278.12(f):
 - (A) The donor's name and mailing address;
 - (B) If the donor is an individual, the donor's principal occupation as defined in G.S. 163-278.11(a)(1);
 - (C) If the donor is a person, the principal place of business of that person;
 - (D) The amount of the donation; and
 - (E) The date of the donation;
- (6) A certification as to whether all expenditures reported were made in concert or cooperation with, or at the request or suggestion of, a candidate, a candidate campaign committee as defined in G.S. 163-278.38Z(3), a referendum committee, the agent of a candidate, the agent of a candidate campaign committee, or an agent of a referendum committee.

(d) An independent expenditure filer that makes expenditures with a present actual or market value in excess of five thousand dollars (\$5,000) during an election shall file independent

expenditure reports electronically consistent with 08 NCAC 21 .0106. All other independent expenditure filers shall report independent expenditures, and any donation made to further independent expenditures, on forms available on the State Board's website, or electronically consistent with 08 NCAC 21 .0106. The independent expenditure filer shall use the following State Board forms available on the State Board's website:

- (1) Independent Expenditure Report Cover;
- (2) Donations to Further Independent Expenditures; and
- (3) Incurred Costs of Independent Expenditures.

(e) For each independent expenditure report filed electronically, the treasurer shall sign the Independent Expenditure Report Cover and mail or hand-deliver the signed original to the board of elections in (a).

(f) The independent expenditure filer shall complete and sign forms within the time period set forth in G.S. 163-278.12(d). After the initial report, the independent expenditure filer shall continue to file independent expenditure reports according to the reporting schedule in G.S. 163-278.9 until the end of the election. If the independent expenditure filer makes independent expenditures in support of or in opposition to municipal candidates or municipal ballot issues, the independent expenditure filer shall report all independent expenditures according to the reporting schedule in Part 2 of Article 22A. The due date of each report shall be published on the State Board of Elections website.

(g) A report is consider filed:

- (1) On the date it is received by hand-delivery during regular business hours at the county board of elections or State Board of Elections;
- (2) On the date it is postmarked by the United States Postal Services or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4;
- (3) For an independent expenditure report filed electronically pursuant to Paragraph (d) of this Rule, on the date the completed report is emailed to the State Board of Elections at campaign.reporting@ncsbe.gov.

(h) A report that is missing any of the information in Paragraph (c) of this Rule shall not be considered filed in accordance with G.S. 163-278.12(d).

(i) An independent expenditure filer that makes an expenditure of five thousand dollars (\$5,000) or more or receives a donation of one thousand dollars (\$1,000) or more before an election but after the period covered by the last report due before that election, shall file a 48-hour report with the State Board or county board of elections using forms available on the State Board's website.

Authority G.S. 163-278.12; 163-278.22.

08 NCAC 21 .0103 SPECIAL REPORTING OF CONTRIBUTIONS

(a) Once a person as defined in G.S. 163-278.6(72) or other entity required to report contributions under G.S. 163-278.12(b) has made contributions with a present actual or market value in excess of one hundred dollars (\$100.00) during an election as defined in G.S. 163-278.6(30), the person or entity shall report all

contributions made, and any donations made to further contributions, with the following board of elections:

- (1) If the district of the candidate or ballot issue supported or opposed is within one county, and the candidate is not running for a legislative, judicial or district attorney office, the report shall be filed with the county board of elections;
or
- (2) If the district of the candidate or ballot issue supported or opposed extends to more than one county, or the candidate is running for a legislative, judicial or district attorney office, the report shall be filed with the State Board.

(b) A special contributor is the person or other entity making a reportable contribution under G.S. 163-278.12(b).

(c) Special contributor reports filed with the county board of elections or the State Board of Elections shall include all of the following:

- (1) The special contributor's name and mailing address;
- (2) The special contributor's principal place of business;
- (3) For each contribution made:
 - (A) The name and mailing address of the recipient committee;
 - (B) The amount of the contribution;
 - (C) The date of the contribution; and
 - (D) For any in-kind contribution, a description of the expenditure;
- (4) For each donation of more than one hundred dollars (\$100.00) that must be reported under G.S. 163-278.12(f):
 - (A) The donor's name and mailing address;
 - (B) If the donor is an individual, the donor's principal occupation as defined in G.S. 163-278.11(a)(1);
 - (D) If the donor is a person, the principal place of business of that person;
 - (E) The amount of the donation; and
 - (F) The date of the donation;

(d) When reporting contributions, the special contributor shall use the following State Board forms available on the State Board's website:

- (1) Special Contributor Report Cover;
- (2) Donations to Further Contributions; and
- (3) Contributions to Registered Committees.

(e) The special contributor shall complete and sign forms within the time period set forth in G.S. 163-278.12(d). After the initial report, the special contributor shall continue to file special contributor reports according to the reporting schedule in G.S. 163-278.9 until the end of the election. If the special contributor makes contributions in support of or in opposition to municipal candidates or municipal ballot issues, the special contributor shall report all contributions according to the reporting schedule in Part 2 of Article 22A. The due date of each report shall be published in the State Board of Elections website.

(f) A report is consider filed:

- (1) On the date it is received by hand-delivery during regular business hours at the county board of elections or State Board of Elections;
- (2) On the date it is postmarked by the United States Postal Services or marked with an equivalent marking.

(g) A report that is missing any of the information in Paragraph (c) of this Rule shall not be considered filed in accordance with G.S. 163-278.12(d).

(h) A special contributor that makes a contribution of five thousand dollars (\$5,000) or more or receives a donation of one thousand dollars (\$1,000.00) or more before an election but after the period covered by the last report due before that election, shall file a 48-hour report with the State Board or county board of elections using forms available on the State Board's website.

Authority G.S. 163-278.12; 163-278.22.

08 NCAC 21 .0104 ELECTIONEERING COMMUNICATIONS

(a) Once an individual as defined in G.S. 163-278.6(55), or person as defined in G.S. 163-278.6(72) required to report electioneering communications under G.S. 163-278.12C has incurred an expense for the direct cost of producing or airing electioneering communications with a present actual or market value aggregating in excess of five thousand dollars (\$5,000) during an election as defined in G.S. 163-278.6(8j), the individual or person shall report all electioneering communications, and any donations made to further electioneering communications, with the following board of elections:

- (1) If the district of the candidate supported or opposed is within one county, and the candidate is not running for a legislative, judicial or district attorney office, the report shall be filed with the county board of elections; or
- (2) If the district of the candidate supported or opposed extends to more than one county, or the candidate is running for a legislative, judicial or district attorney office, the report shall be filed with the State Board.

(b) The direct cost of producing or airing electioneering communications includes but is not limited to the cost of studio rental time; video or audio recording media; staff salaries; talent; airtime on broadcast, cable or satellite radio and television stations; and the charges for a broker to purchase the airtime.

(c) Electioneering Communication reports filed with the county board of elections or the State Board of Elections shall include all of the following:

- (1) The name and mailing address of the individual or person incurring the expense;
- (2) The name and mailing address of the custodian of the books and accounts of the individual or person incurring the expense;
- (3) If the expense is incurred by an individual, the individual's principal occupation as defined in G.S. 163-278.11(a)(1);
- (4) If the expense is incurred by a person, the principal place of business of the person;

- (5) If an individual or person is sharing or exercising direction or control over the activities of the individual or person incurring the expense with regards to the electioneering communication;

- (A) The name and mailing address of the individual or person sharing or exercising direction or control;
- (B) If an individual, the individual's principal occupation as defined in G.S. 163-278.11(a)(1);
- (C) If a person, the principal place of business of the person.

- (6) For each electioneering communication reported:

- (A) The name and mailing address of each individual or person paid to produce the electioneering communication;
- (B) The amount paid to each individual or person to produce the electioneering communication;
- (C) The date of the electioneering communication;
- (D) A description of the electioneering communication, including any title;
- (E) The name of the candidate or candidates referred to in the electioneering communication.

- (8) For each donation of more than one thousand dollars (\$1,000) during the reporting period made to further the electioneering communication;

- (A) The donor's name and mailing address;
- (B) If the donor is an individual, the individual's principal occupation as defined in G.S. 163-278.11(a)(1);
- (C) If the donor is a person, the principal place of business of the person;
- (D) The amount of the donation; and
- (E) The date of the donation.

(d) When reporting electioneering communications, the individual or person shall use the following State Board forms available on the State Board's website:

- (1) Electioneering Communications Report Cover;
- (2) Controlling/Directing Entity List;
- (3) Receipts for Electioneering Communications; and
- (4) Incurred Costs for Electioneering Communications.

(e) The individual or person required to report electioneering communications shall complete and sign forms within the time period set forth in G.S. 163-278.12C(b). After the initial report, the individual or person incurring the expense shall continue to file electioneering communications reports according to the reporting schedule in G.S. 163-278.9 until the end of the election. The due date of each report shall be published in the State Board of Elections website.

(f) A report is considered filed:

- (1) On the date it is received by hand-delivery during regular business hours at the county board of elections or State Board of Elections;
- (2) On the date it is postmarked by the United States Postal Services or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4;

(g) A report that is missing any of the information in Paragraph (c) of this Rule shall not be considered filed in accordance with G.S. 163-278.12C.

(h) An individual person or entity that makes an expenditure of five thousand dollars (\$5,000) or more or receives a donation of one thousand dollars (\$1,000) or more before an election but after the period covered by the last report due before that election, shall file a 48-hour report with the State Board of Elections or county board of elections using forms provided by the State Board.

Authority G.S. 163-278.12C; 163-278.22.

08 NCAC 21 .0105 FEDERAL POLITICAL COMMITTEE REPORTING

(a) A federal political committee that makes a contribution to a North Carolina political committee pursuant to G.S. 163-278.7A shall register with the State Board of Elections by filing the following forms available on the State Board's website no later than the 10th day following a federal political committee's transfer of anything of value to a North Carolina political committee:

- (1) A Federal Committee Statement of Organization;
- (2) Certification of Financial Account Information;
- (3) An Organizational Disclosure Report to include the following:
 - (A) A Federal Committee North Carolina Disclosure Report Cover;
 - (B) A Federal Committee Report of Contributions to NC Political Committees, which shall list all contributions to North Carolina political committees made prior to the filing of the Organizational Disclosure Report.

(b) The treasurer of a federal political committee registered with the State of North Carolina pursuant to G.S. 163-278.7A shall file reports according to the reporting schedule in G.S. 163-278.9. If the federal political committee makes contributions to municipal candidates, the federal political committee must report contributions to municipal candidates according to the reporting schedule in Part 2 of Article 22A. The due date of each report shall be published on the State Board of Elections website.

(c) A federal political committee that shows a cumulative total of more than five thousand dollars (\$5,000) in contributions to statewide candidates for an election cycle, or more than ten thousand dollars (\$10,000) in contributions to nonstatewide candidates for an election cycle, shall file reports electronically consistent with 08 NCAC 21 .0106. For each report filed electronically, the treasurer shall sign the Federal Committee North Carolina Disclosure Report Cover and mail or hand-deliver the signed original to the State Board of Elections. All other federal political committees shall report on forms provided by the

State Board, or may choose to file reports electronically consistent with 08 NCAC 21 .0106. A federal political committee shall use the following State Board forms available on the State Board's website to file a disclosure report:

- (1) A Federal Committee North Carolina Disclosure Report Cover; and
- (2) A Federal Committee Report of Contributions to NC Political Committees, which shall list all contributions to North Carolina political committees made between the period start date and period end date.

(e) A report, certification, or other form is considered filed:

- (1) On the date it is received by hand-delivery during regular business hours at State Board of Elections;
- (2) On the date it is postmarked by the United States Postal Service or marked with an equivalent marking by a delivery service authorized by G.S. 1A-1, Rule 4; or
- (3) For a disclosure report that is filed electronically pursuant to Paragraph (d) of this Rule, on the date the completed report is emailed to the State Board of Elections at campaign.reporting@ncsbe.gov.

(f) If no contribution is made during a period described in G.S. 163-278.9, the treasurer may file concurrently with a quarterly or semiannual report a certification to have the committee deemed inactive. The certification shall be made on forms provided by the State Board and available on the State Board's website. An inactive committee shall not be required to file reports so long as the federal political committee makes no contributions. Once a contribution is made, the federal political committee shall resume reporting according to the reporting schedule in G.S. 163-278.9.
(g) A federal political committee may close at any time. In order to close, the federal political committee shall file the following forms available on the State Board's website:

- (1) A Certification to Close Federal Committee; and
- (2) A Final Disclosure Report to include the following:
 - (A) A Federal Committee North Carolina Disclosure Report Cover;
 - (B) A Federal Committee Report of Contributions to NC Political Committees, which shall list all contributions to North Carolina political committees made since the period end date of the last report.

(h) Organizational, quarterly, semiannual and final disclosure reports shall be filed even if no contributions are made by the federal political committee during the period of time covered by the report.

Authority G.S. 163-278.7A; 163-278.22.

08 NCAC 21 .0106 ELECTRONIC FILING

(a) All political committees required to file electronically pursuant to G.S. 163-278.9(i) shall prepare disclosure reports using the following:

- (1) the current version of the campaign finance software made available by the North Carolina State Board of Elections and available for download on the State Board website; or
- (2) third party software only if that software can generate reports that are capable of import into the State Board's central database. The import file formats and validation tool shall be available on the State Board's website.

(b) Reports generated by the State Board software or third-party software shall be filed by e-mailing the exported .cfd file to campaign.reporting@ncsbe.gov. State Board staff will process the .cfd file and send an e-mail to the treasurer confirming receipt.

(c) Reports received until 11:59 pm shall be deemed to have been filed that business day.

(d) For each disclosure report filed electronically, the treasurer shall sign the Disclosure Report Cover and mail or hand-deliver to the board of elections office where the political committee filed its Statement of Organization.

(e) A committee that exceeds the reporting threshold and is required to start filing electronically during an election cycle shall ensure that each contributor's sum-to-date is reported accurately on all subsequent disclosure reports.

(f) A committee that is required to file electronically pursuant to G.S. 163A-1418(i) and files a paper report shall have failed to file and shall receive a Notice of Noncompliance pursuant to 08 NCAC 21 .0201.

Authority G.S. 163-278.9.

SECTION .0200 - NONCOMPLIANCE

08 NCAC ~~01-0104~~21 .0201 PROCEDURES FOR POLITICAL COMMITTEES

(a) All bank accounts, safety deposit boxes, and other depositories utilized by political committees and listed on the statement of organization as required by ~~G.S. 163A-1412(b)(8)~~ G.S. 163-278.7(b)(8) or ~~G.S. 163A-1414(b)~~ G.S. 163-278.8(b) must be maintained in North Carolina.

(b) Whenever a political committee or referendum committee fails to file with the State Board any report required to be filed under the provisions of ~~G.S. 163A-1418~~ or ~~G.S. 163A-1419~~, G.S. 163, Article 22A, the Board, by certified mail, shall issue a formal Notice of Noncompliance to the political treasurer of the committee and shall order that the report be filed within ~~20~~ 30 days of issuance. In the event the committee does not file its report within ~~20~~ 30 days of the issuance of the Notice of Noncompliance, the Board by certified mail shall issue a Notice of Termination of Active Status, which shall render the committee ineligible to receive or make contributions until such time as it has filed the delinquent report and has satisfied any statutory penalty incurred pursuant to ~~G.S. 163A-1451~~, G.S. 163-278.34.

Authority ~~G.S. 163A-1412; 163A-1414; 163A-1439; 163A-1440; 163A-1441; 163A-1445; 163A-1451~~, G.S. 163-278.7; 163-278.8; 163A-278.21; 163-278.22; 163-278.23; 163-278.27; 163-278.34.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 09A .0205; 09B .0101, .0202, .0203, .0303; 09E .0104; 09G .0309; and 09H .0102.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>

Proposed Effective Date: July 1, 2020

Public Hearing:

Date: May 13, 2020

Time: 10:00 a.m.

Location: Wake Technical Community College Public Safety Training Center 321 Chapanoke Rd. NC 27603

Reason for Proposed Action:

12 NCAC 09A .0205 - Period of Suspension: Revocation: Or Denial-to issue a lesser sanction for or more unlawful acts defined as Class B misdemeanors.

12 NCAC 09B .0101 - Minimum Standards for Criminal Justice Officers- to require officers to report to the Standards Division whenever they are notified in writing by a judge, prosecutor, or their agency head, or in open court by a judge, that because of their lack of honesty, they may not testify in court as a law enforcement officer.

12 NCAC 09B .0202 - Responsibilities of the School Director-to obtain consistency and a realistic time period required for School Directors to submit pre-delivery documentation for Commission courses.

12 NCAC 09B .0203 - Admission of Trainees- allows BLET Applicants to use the "right to review" record check conducted by the SBI.

12 NCAC 09B .0303 - Terms and Conditions of General Instructors Certification-to allow probationary General Instructors the opportunity to earn their certification without waiting a year.

12 NCAC 09E .0104 - Instructors: Annual In-Service Training-to provide in-service training credit to participants attending an In-Service Instructor Update conducted by the NC Justice Academy.

12 NCAC 09G .0309 - Terms and Conditions of General Instructors Certification-to allow probationary General Instructors the opportunity to earn their certification without waiting a year.

12 NCAC 09H .0102 - Minimum Training Specifications-to clarify the requirements for qualified retired law enforcement officers to carry concealed.

Comments may be submitted to: Charminique Williams, PO Drawer 149, Raleigh, NC 27602; email cdwilliams@ncdoj.gov

Comment period ends: May 13, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the

rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ **State funds affected**
☐ **Local funds affected**
☐ **Substantial economic impact (\geq \$1,000,000)**
☐ **Approved by OSBM**
☒ **No fiscal note required**

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09A - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0200 - ENFORCEMENT OF RULES

12 NCAC 09A .0205 PERIOD OF SUSPENSION: REVOCATION: OR DENIAL

(a) When the Commission revokes or denies the certification of a criminal justice officer, the period of the sanction shall be permanent where the cause of sanction is:

- (1) commission or conviction of a felony offense; or
- (2) commission or conviction of a criminal offense for which authorized punishment included imprisonment for more than two years; or
- (3) the second suspension of an officer's certification for any of the causes requiring a five-year period of suspension.

(b) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction shall be not less than five years; however, the Commission may either reduce or suspend the period of sanction under Paragraph (b) of this Rule or substitute a period of probation in lieu of suspension of certification following an administrative hearing, where the cause of sanction is:

- (1) commission or conviction of a criminal offense other than those listed in Paragraph (a) of this Rule; or
- (2) refusal to submit to the applicant or lateral transferee drug screen required by these Rules; or
- (3) production of a positive result on a drug screen reported to the Commission under 12 NCAC

- (4) 09C .0310, where the positive result cannot be explained to the Commission's satisfaction; or
- (5) material misrepresentation of any information required for certification or accreditation; or
- (6) obtaining, attempting to obtain, aiding another person to obtain, or aiding another person to attempt to obtain credit, training or certification by any means of false pretense, deception, defraudation, misrepresentation or cheating; or
- (7) failure to make either of the notifications as required by 12 NCAC 09B .0101(8); or
- (8) removal from office under the provisions of G.S. 128-16 or the provisions of G.S. 14-230; or
- (9) performing activities or duties for which certification by the Commission is required without having first obtained the appropriate ~~certification~~ certification; or
- (9) commission or conviction of offenses as specified in 12 NCAC 09B .0111(1)(d).

(c) When the Commission suspends or denies the certification of a criminal justice officer, the period of sanction shall be for an indefinite period, but continuing so long as the stated deficiency, infraction, or impairment continues to exist, where the cause of sanction is:

- (1) failure to meet or satisfy relevant basic training requirements; or
- (2) failure to meet or maintain the minimum standards of employment; or
- (3) discharge from a criminal justice agency for impairment of physical or mental capabilities; or
- (4) failure to meet or satisfy the in-service training requirements as prescribed in 12 NCAC 9E.

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING

SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT

12 NCAC 09B .0101 MINIMUM STANDARDS FOR CRIMINAL JUSTICE OFFICERS

Every criminal justice officer employed by an agency in North Carolina shall:

- (1) be a citizen of the United States;
- (2) be at least 20 years of age;
- (3) be of good moral character pursuant to G.S. 17C-10 and as evidenced by the following:
 - (a) not having been convicted of a felony;
 - (b) not having been convicted of a misdemeanor as defined in 12 NCAC 09B .0111(1) for five years or the completion of any corrections supervision imposed by the courts, whichever is later;

- (c) not having been convicted of an offense that, under 18 U.S.C. 922, incorporated by reference with subsequent amendments and editions (found at no cost at (<http://www.gpo.gov/fdsys/pkg/USC-ODE-2011-title18-part1-chap44-sec922.pdf>), would prohibit the possession of a firearm or ammunition;
 - (d) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the appointing agency that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at (<https://www.samhsa.gov/programs-campaigns/drug-free-workplace/guidelines-resources/drug-testing/certified-lab-list>);
 - (e) submitting to a background investigation consisting of the verification of age and education and a criminal history check of local, state, and national files;
 - (f) being truthful in providing information to the appointing agency and to the Standards Division for the purpose of obtaining probationary or general certification;
 - (g) not having pending or outstanding felony charges that, if convicted of such charges, would disqualify the applicant from holding such certification, pursuant to North Carolina General Statute 17C-13; and
 - (h) not engage in any conduct that brings into question the truthfulness or credibility of the officer, or involves "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality, including conduct as defined in: *re Willis*, 299 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); in *re State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); in *re Legg*, 325 N.C. 658, 386 S.E. 2d 174(1989); in *re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); in *re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and later court decisions that cite these cases as authority.
- (4) have been fingerprinted and a search made of local, state, and national files to disclose any criminal record;
 - (5) have been examined and certified by a licensed surgeon, physician, physician assistant, or nurse practitioner to meet physical requirements necessary to properly fulfill the officer's particular responsibilities and shall have produced a negative result on a drug screen administered according to the following specifications:
 - (a) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other reliable initial and confirmatory tests as may, from time to time, be authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;
 - (b) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen;
 - (c) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites;
 - (d) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions (found at no cost at <https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs>);
 - (e) the test conducted shall be not more than 60 days old, calculated from the time when the laboratory reports the results to the date of employment;
 - (f) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples;
 - (6) have been administered a psychological screening examination by a clinical psychologist or psychiatrist licensed to practice

- in North Carolina or by a clinical psychologist or psychiatrist authorized to practice in accordance with the rules and regulations of the United States Armed Forces within one year prior to employment by the employing agency to determine the officer's mental and emotional suitability to properly fulfill the responsibilities of the position;
- (7) have been interviewed personally by the Department head or his representative or representatives to determine such things as the applicant's appearance, demeanor, attitude, and ability to communicate;
 - (8) notify the Standards Division of all criminal offenses that the officer is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of as well as Domestic Violence Orders (50B) that are issued by a judicial official. This shall include all criminal offenses except minor traffic offenses and shall specifically include any offense of Driving Under The Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for purposes of this Subparagraph, as an offense for which the maximum punishment allowable by law is 60 days or less. Other offenses under Chapter 20 (Motor Vehicles) of the General Statutes of North Carolina or similar laws of other jurisdictions which shall be reported to the Standards Division expressly include G.S. 20-139 (persons under influence of drugs), G.S. 20-28(b)(driving while license permanently revoked or permanently suspended), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Subparagraph shall be in writing and shall specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the final disposition, and the date thereof. The notifications required under this Subparagraph shall be received by the Standards Division within 30 days of the date of arrest or charge and of case disposition. The requirements of this Subparagraph shall be applicable at all times during which the officer is certified by the Commission and shall also apply to all applicants for certification. Officers required to notify the Standards Division under this Subparagraph shall also make the same notification to their employing or appointing executive officer within 20 days of the date the case was disposed of in court. The executive officer, provided he has knowledge of the officer's arrests or criminal charges and final dispositions, shall also notify the Standards Division of all arrests or criminal charges and final dispositions within 30 days of the date the case was disposed of in court. Receipt by the Standards Division of a single notification,

from either the officer or the executive officer, shall be sufficient notice for compliance with this Subparagraph.

- (9) notify the Standards Division within five days of being notified that because of the officer's lack of honesty, truthfulness, or credibility, the officer may not testify in court as a law enforcement officer. This provision shall apply only to notifications:

- (a) made in writing by a superior court judge, district court judge, federal judge, district attorney, assistant district attorney, United States Attorney, Assistant United States Attorney, or the officer's department head, or
- (b) made in open court by a superior court judge, district court judge, or federal judge. The officer's notification to the Standards Division shall be in writing and shall state who notified the officer that the officer may not testify in court as a law enforcement officer and when the officer was so notified. An officer required to notify the Standards Division under this subparagraph shall make the same notification to his or her department head within five days of being notified that he or she may not testify in court as a law enforcement officer. A department head who is notified that an officer in his or her agency has been notified that the officer may not testify in court as a law enforcement officer shall also notify the Standards Division within five days of the department head's receipt of such notice. Receipt by the Standards Division of a single notification, from either the officer or the department head, shall be sufficient notice for compliance with this Item.

Authority G.S. 17C-6; 17C-10.

SECTION .0200 – MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION

12 NCAC 09B .0202 RESPONSIBILITIES OF THE SCHOOL DIRECTOR

(a) In planning, developing, coordinating, and delivering each Commission-certified criminal justice training course, the School Director shall:

- (1) Formalize and schedule the course curriculum in accordance with the curriculum standards established in this Subchapter;

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| <ul style="list-style-type: none"> (2) Select and schedule instructors who are certified by the Commission; (3) Provide each instructor with a current Commission course outline and all necessary additional information concerning the instructor's duties and responsibilities; (4) Notify each instructor that he or she shall comply with the Basic Law Enforcement Training Course Management Guide and provide him or her access to the most current version of the Course Management Guide; (5) Review each instructor's lesson plans and other instructional materials for conformance to Commission standards and to minimize repetition and duplication of subject matter; (6) Arrange for the availability of appropriate audiovisual aids and materials, publications, facilities, and equipment for training in all topic areas; (7) Develop, adopt, reproduce, and distribute any supplemental rules and requirements determined by the school to be necessary or appropriate for: <ul style="list-style-type: none"> (A) effective course delivery; (B) establishing responsibilities and obligations of agencies or departments employing or sponsoring course trainees; and (C) regulating trainee participation and demeanor, ensuring trainee attendance, and maintaining performance records; (8) If appropriate, recommend housing and dining facilities for trainees; (9) Administer the course delivery in accordance with Commission procedures and standards, give consideration to advisory guidelines issued by the Commission, and ensure that the training offered is safe and effective; (10) Maintain direct supervision, direction, and control over the performance of all persons to whom any portion of the planning, development, presentation, or administration of a course has been delegated. The comprehensive final examination shall be administered by the Criminal Justice Education and Training Standards Commission; and (11) Report the completion of each presentation of a Commission-certified criminal justice training course to the Commission. (12) All forms required for submission to the Commission are located on the Agency's website: http://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx. <p>(b) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-</p> | <p>certified Basic Law Enforcement Training Course, the School Director shall:</p> <ul style="list-style-type: none"> (1) Deliver training in accordance with the most current version of the Basic Law Enforcement Training Course Management Guide as published by the North Carolina Justice Academy; (2) Schedule course presentation to include 12 hours of instruction each week during consecutive calendar weeks, except that there may be as many as three one-week breaks until course requirements are completed; (3) Schedule only specialized instructors certified by the Commission to teach those high-liability areas as specified in Rule .0304(a) of this Subchapter as either the lead instructor or as assistant instructors or role players; (4) With the exception of the First Responder, Physical Fitness, Explosives and Hazardous Materials, and topical areas outlined in Rule .0304(a) of this Subchapter, schedule one specialized instructor certified by the Commission for each <u>every</u> six trainees while actively engaged in a practical performance exercise; (5) Schedule one specialized instructor certified by the Commission for each <u>every</u> eight trainees while actively engaged in a practical performance exercise in the topical area "Subject Control Arrest Techniques;" (6) Schedule no single individual to instruct more than 35 percent of the total hours of the curriculum during any one delivery of the Basic Law Enforcement Training Course presentation; (7) Not less than 45 <u>30</u> days before commencing delivery of the Basic Law Enforcement Training Course, submit to the Commission a Pre-Delivery Report of Training Course Presentation as set out in <u>pursuant to</u> 12 NCAC 09C .0211. The Pre-Delivery Report (Form F-10A) shall indicate a requested date and location for the administration of the state comprehensive exam, and include the following attachments: <ul style="list-style-type: none"> (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments; and (B) a copy of any rules and requirements for the school. A copy of such rules shall also be given to each trainee and to the executive officer of each trainee's employing or sponsoring agency or department at the time the trainee enrolls in the course; (8) Monitor, or designate an instructor certified by the Commission to monitor, a presentation of each instructor once during each three year |
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- certification period in each topic taught by the instructor and prepare a written evaluation on the instructor's performance and suitability for subsequent instructional assignments. The observations shall be of sufficient duration to ensure that the instructor is using the Instructional System Design model, and that the delivery is ~~objective-based~~, objective-based, documented by, and consistent with a Commission-approved lesson plan. For each topic area, the School Director's evaluation shall be based upon the course delivery observations, the instructor's use of the approved lesson plan, and the results of the student evaluations of the instructor. For probationary instructors, the evaluations conducted by another instructor shall be prepared on the Criminal Justice Instructor Evaluation ~~(Form F-16)~~, (Form F-16) and forwarded to the Commission. Based on this evaluation, the School Director shall recommend approval or denial of requests for General Instructor Certification. For all other instructors, these evaluations shall be prepared on the Criminal Justice Instructor Evaluation (Form F-16), be kept on file by the school for a period of three years, and shall be made available for inspection by a representative of the Commission upon request. In the event the evaluation of an instructor indicates that his or her performance was less than acceptable, the School Director shall forward a copy of the evaluation to the Commission. Any instructor who is evaluating the instructional presentation of another instructor shall hold certification in the same instructional topic area as that for which the instructor is being evaluated;
- (9) Administer or designate a staff person to administer appropriate tests during course delivery:
- (A) to determine and record the level of trainee comprehension and retention of instructional subject- matter;
 - (B) to provide a basis for a final determination or recommendation regarding the minimum degree of knowledge and skill of each trainee to function as an inexperienced law enforcement officer; and
 - (C) to determine subject or topic areas of deficiency for the application of Rule .0405(a)(3) of this Subchapter; and
- (10) Not more than 10 days after the conclusion of a school's offering of Basic Law Enforcement Training, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form F-10B) that shall include:
- (A) a "Student Course Completion" form for each individual enrolled on the day of orientation; and
 - (B) a "Certification and Test Score Release" form.
- (c) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified "Criminal Justice Instructor Training Course," the School Director shall:
- (1) Schedule course presentation to include a minimum of 40 78 hours of instruction during the time period the class is taught until course requirements are completed, ~~each week during consecutive calendar weeks until course requirements are completed;~~
 - (2) Schedule at least one evaluator for each six trainees, as follows:
 - (A) no evaluator shall be assigned more than six trainees during a course delivery;
 - (B) each evaluator, as well as the instructors, shall have completed a Commission-certified instructor training course or an equivalent instructor training course utilizing the Instructional Systems Design model, an international model with applications in education, military training, and private enterprise; and
 - (C) each instructor and evaluator shall document successful participation in a program presented by the North Carolina Justice Academy for purposes of familiarization and supplementation relevant to delivery of the instructor training course and trainee ~~evaluation~~; evaluation.
 - (3) Not fewer than 30 days before commencing delivery of the course, submit to the Commission a Pre-Delivery Report of Training Course Presentation [Form F-10A(ITC)] with the following attachments:
 - (A) a course schedule showing the arrangement of topical presentations and proposed instructional assignments;
 - (B) the names and last four digits of the social security numbers of all instructors and evaluators; and
 - (C) a copy of any rules, and requirements for the school; and
 - (4) Not more than 10 days after course completion, submit to the Commission a Post-Delivery Report [Form F-10B(ITC)] containing the following:
 - (A) class enrollment roster;
 - (B) a course schedule with the designation of instructors and evaluators utilized in delivery;

- (C) scores recorded for each trainee on the ~~80~~ 70 minute skill presentation; and
- (D) designation of trainees who completed the course in its entirety and whom the School Director finds to be competent to instruct.

(d) In addition to Paragraph (a) of this Rule, in planning, developing, coordinating, and delivering each Commission-certified ~~radar, radar and time distance, time distance, or lidar~~ RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall:

- (1) select and schedule speed measurement instrument instructors who are certified by the Commission as instructors for the specific speed measurement instruments in which the trainees are to receive instruction as follows:
 - (A) provide to the instructor the Commission form(s) for motor skill examination on each trainee;
 - (B) require the instructor to complete the motor skill examination form on each trainee indicating the level of proficiency obtained on each specific instrument; and
 - (C) require each instructor to sign each individual form and submit the original to the School Director;
- (2) not fewer than 30 days before the scheduled starting date, submit to the Director of the Standards Division a Pre-Delivery Report of Speed Measuring Instrument Course Presentation [Form F-10A (SMI)] that shall contain a period of course delivery including the proposed starting date, course location, requested date and location for the administration of the state exam, and the number of trainees to be trained on each type of approved speed measurement instrument. The Director of the Standards Division shall review the request and notify the School Director within thirty business days if the request is approved or denied; and
- (3) upon completing delivery of the Commission-certified course, and not more than 10 days after the conclusion of a school's offering of a certified ~~radar, radar and time distance, time distance, or lidar~~ RADAR, RADAR and Time-Distance, Time-Distance, or LIDAR speed measurement operator training course or re-certification course, the School Director shall notify the Commission regarding the progress and achievements of each trainee by submitting a Post-Delivery Report of Training Course Presentation [Form F-10B (SMI)]. This report shall include the original motor-skill examination form(s) completed and signed by the certified instructor responsible for

administering the motor-skill examination to the respective trainee.

Authority G.S. 17C-6.

12 NCAC 09B .0203 ADMISSION OF TRAINEES

(a) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who is not a citizen of the United States.

(b) The school shall not admit any individual younger than 20 years of age as a trainee in any non-academic basic criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the Basic Law Enforcement Training Course with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment if the individual will be 20 years of age prior to the date of the State Comprehensive Examination for the course.

(c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.

(d) The school shall not admit any individual as a trainee in a presentation of the "Criminal Justice Instructor Training Course" who does not meet the education and experience requirements for instructor certification under Rule .0302 of this Subchapter within 60 days of successful completion of the Instructor Training State Comprehensive Examination.

(e) The school shall not admit an individual, including partial or limited enrollees, as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual, within one year prior to admission to the Basic Law Enforcement Training Course, scores at or above mastery level on the NROC Edready™ Skills Inventory for English or places into course DRE 098 or above at a North Carolina Community College as a result of taking the Reading and English component of the North Carolina Diagnostic Assessment and Placement test as approved by the State Board of Community Colleges on October 17, 2014, (<http://www.nccommunitycolleges.edu/state-board-community-colleges/meetings/october-17-2014>), or has taken the reading component of a nationally standardized test and has scored at or above the tenth grade level or the equivalent. For the purposes of this Rule:

- (1) Partial or limited enrollee does not include enrollees who ~~hold, hold~~ or have held within 12 months prior to the date of enrollment, general certification pursuant to 12 NCAC 09C .0304.
- (2) A "nationally standardized test" means a test that:
 - (A) reports scores as national percentiles, stanines, or grade equivalents; and
 - (B) compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director a medical examination report, completed by a physician licensed to practice medicine in North Carolina, a physician's assistant, or a nurse practitioner, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The

Director of the Standards Division shall grant an exception to this standard for a period of time not to exceed the commencement of the physical fitness topical area when failure to receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual is a high school, college, or university graduate or has received a high school equivalency credential recognized by the issuing state. High school diplomas earned through correspondence enrollment in an entity that charges a fee and requires the individual to complete little or no education or coursework to obtain a high diploma shall not be recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has provided the School Director one of the following types of record checks in the manner set forth in Paragraph (i) of this Rule: a certified criminal record check for local and state records for the time period since the trainee has become an adult and from all locations where the trainee has resided since becoming an adult. An Administrative Office of the Courts criminal record check or a comparable out of state criminal record check shall satisfy this requirement.

- (1) a written notification, known as a "Criminal Record Conviction History for B.L.E.T. Enrollment," Form F-25, located at <https://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>, from a department head stating that a criminal record check for local and state records has been conducted and no criminal convictions as listed in Paragraph (j) of this Rule were found that prohibit the individual trainee's enrollment in a presentation of the Basic Law Enforcement Training Course. The hiring agency or the individual trainee shall also provide certified court documentation for each criminal conviction; or
- (2) a certified criminal record check for local and state records, and certified court documentation for each criminal conviction; or
- (3) if the individual trainee has only resided in North Carolina since obtaining the age of majority, provide a fingerprint-based criminal history background check known as a "Right to Review" performed by the North Carolina State Bureau of Investigation. The individual shall also provide certified court documentation for each criminal conviction; or
- (4) a fingerprint-based criminal history background check known as a "Right to Review" performed by a federal agency including all locations where the trainee has lived since obtaining the age of majority. The individual shall also provide certified court documentation for each criminal conviction; or

(5) trainees who have served in the United States Armed Forces, in addition to one of the types of criminal records checks listed in paragraphs one through four above, shall provide a copy of their Certificate of Discharge, DD Form 214, that shows their "Character of Service" and "Narrative Reason for Separation." Individuals showing a "Character of Service" as "Bad Conduct" or "Dishonorable" shall provide certified copies of their court-martial proceedings to include the final disposition. Trainees shall also provide documentation to show that they have requested their official military personnel file, which shall be provided upon receipt.

(6) a trainee who has been naturalized as a United States Citizen is exempt from providing the criminal record checks for locations where they resided outside of the United States prior to naturalization.

(7) a trainee who has resided outside the United States, other than those described in Subparagraphs (5) and (6) of this Paragraph, who cannot obtain a criminal record check from any location outside the United States shall document the following, to be forwarded to the Standards Division for review on a case by case basis:

- (A) the name of the agencies contacted,
- (B) the date the agencies were contacted,
- (C) the contact information for the agencies contacted, and
- (D) the reason the information cannot be provided.

(i) Documents obtained in accordance with Paragraph (h) of this Rule shall meet the following requirements:

- (1) Any records provided shall fall within the time period beginning when the trainee obtains the age of majority and continuing through the date of application.
- (2) Any records provided shall include all locations where the trainee has resided since obtaining the age of majority.
- (3) "Resided in" means any place the trainee has lived, worked, attended school, or participated in an internship.
- (4) "Certified court documentation" and "record check" mean a document with either a raised seal or other visible verification that the document is authentic as a copy of the court's official record as authorized by law.
- (5) Any records provided shall include all legal names utilized by the trainee since obtaining the age of majority.

(j) ~~(i)~~ The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who has been convicted of the following:

- (1) a felony;

- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a Class B Misdemeanor within the five year period prior to the date of application for employment, unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) four or more crimes or unlawful acts defined as Class B Misdemeanors, regardless of the date of conviction;
- (5) four or more crimes or unlawful acts defined as Class A Misdemeanors, except the trainee may be enrolled if the last conviction date occurred more than two years prior to the date of enrollment; or
- (6) a combination of four or more Class A Misdemeanors or Class B Misdemeanors regardless of the date of conviction, unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission.

~~(k)(j)~~ Individuals charged with crimes specified in Paragraph ~~(k)(j)~~ of this Rule may be admitted into the Basic Law Enforcement Training Course if such offenses were dismissed or the person was found not guilty, but completion of the Basic Law Enforcement Training Course does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses the trainee is arrested for or charged with, pleads no contest to, pleads guilty to, or is found guilty of, and of all Domestic Violence Protective Orders (G.S. 50B) that are issued by a judicial official after a hearing that provides an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A "minor traffic offense" is defined, for the purposes of this Paragraph, as an offense where the maximum punishment allowable by law is 60 days or fewer. Other offenses under G.S. 20 (Motor Vehicles) or similar laws of other jurisdictions that shall be reported to the School Director are G.S. 20-138.1 (driving while under the influence), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5)(fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S. 20-111(5)(fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph shall be in writing and specify the nature of the offense, the court where the case was handled, the date of the arrest or criminal charge, the date of

issuance of the Domestic Violence Protective Order (50B), and the final disposition and the date thereof. The notifications required under this Paragraph shall be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

(l) The school shall not admit any individual as a trainee in the presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director copies of all active Domestic Violence Orders of Protection and Civil Non-Contact Orders issued to the individual.

(m) The school shall not admit any individual as a trainee in the presentation of the Basic Law Enforcement Training Course unless the individual has provided to the School Director a copy of their valid driver's license.

Authority G.S. 17C-6; 17C-10.

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, ~~for~~ within the first 12 months of certification, be in a probationary ~~status~~ status until satisfying the requirements of Paragraph (b) of this Rule. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for General Instructor ~~general instructor~~ status if the instructor, ~~through application at the end of the probationary period~~, submits to the Commission a favorable recommendation from a certified School Director or In-Service Training Coordinator, located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor>. Form-F-12A shall be accompanied by a certification on a Commission Instructor Evaluation Form F-16 that the instructor taught a minimum of eight hours of Commission-accredited basic training, ~~course~~, Commission-recognized in-service training ~~course~~, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005 during the probationary period. The instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website: ~~<http://www.ncdoj.gov/getdoc/c2eba6aa-12be-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>~~ <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor>.

(c) Probationary Instructors for just cause, may be granted an extension of the one-year period to teach the eight hour minimum requirement. The Director may grant such extensions on a one-time basis only not to exceed 12 months. For purposes of this Rule, "just cause" includes an accident, illness, emergency, or course cancellation that precluded the instructor from fulfilling the teaching requirement.

(d) The term of certification as a general instructor is indefinite, provided the instructor completes during each calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy. The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met this requirement during the previous calendar year.

(e) If the instructor fails to meet the instructor refresher training specified in Paragraph (c) of this Rule, he or she shall deliver eight hours of evaluated instruction in a Commission-accredited basic training, Commission-recognized in-service training course, or training course pursuant to 12 NCAC 10B .0601, .1302, or .2005, and complete the instructor refresher training specified in Paragraph (d) of this Rule within 60 days from the last day of the previous calendar year.

(f) If an instructor fails to meet the requirements of Paragraph (d) or (e) of this Rule, the certification period for the instructor shall cease, and the instructor shall be required to complete the requirements of Rule 09B .0302 of this Section in order to obtain probationary instructor status.

(g) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants shall be supervised on-site by a Commission-certified instructor and must be authorized by the School Director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall not replace the primary instructor.

(h) "Commission-recognized in-service training" shall mean training meeting the following requirements:

- (1) training is taught by an instructor certified by the Commission;
- (2) training utilizes a lesson plan in the Instructional Systems Design format; and
- (3) completion of training shall be demonstrated by a passing score on a written test as follows:
 - (A) a written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length are required to have a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course is exempt from this written test requirement;
 - (B) a student shall pass each test by achieving at least 70 percent correct answers; and
 - (C) a student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional

classroom setting before taking the exam a third time.

- (D) Topics delivered pursuant to 12 NCAC 09E .0104(1) and 12 NCAC 09E .0105(a)(1) shall not require written testing.

Authority G.S. 17C-6.

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

12 NCAC 09E .0104 INSTRUCTORS: ANNUAL IN-SERVICE TRAINING

The following requirements and responsibilities are hereby established for instructors who conduct the law enforcement officers' annual in-service training program:

- (1) The instructor shall hold Instructor Certification issued by the Commission as outlined in 12 NCAC 09B .0302, 09B .0304, and 09B .0306, except for instructors:
 - (A) delivering CPR certifications that include cognitive and skills testing;
 - (B) delivering use of equipment training conducted by a manufacturer, manufacturer's representative or a service provider and documented through a certificate of completion; or
 - (C) delivering Incident Command System training for NIMS (National Incident Management System) compliance who are certified through FEMA (Federal Emergency Management Agency) as Incident Command Instructors.

In addition, each instructor certified by the Commission to teach in a Commission-accredited basic training, Speed Measuring Instrument Operator or Instructor training, Instructor or Specialized Instructor training, or Commission-recognized in-service training course shall remain competent in his or her specific or specialty areas. Such competence includes remaining current in the instructor's area of expertise, which may be demonstrated by completing all instructor updates issued by the Commission.

- (2) Instructors who teach a required in-service training topic, other than a topic taught pursuant to Paragraph (1) of this Rule, or a Firearms Training and Qualification course pursuant to Rule .0105(a)(1) of this Section, shall achieve a passing grade on a topic specific test developed by the North Carolina Justice Academy or by the agency delivering the training. Instructors who teach a required in-service training topic online shall also complete the in-service training for the topic he or she will be teaching.

Instructors who teach an in-service training topic in a traditional classroom format will receive credit toward their own in-service training requirements, provided that they pass all required tests and have their instruction documented by the Department Head or In-Service Training Coordinator once completed.

- (3) Instructors completing mandated in-service topics in their entirety pursuant to 12 NCAC 09E .0105 as presented by the North Carolina Justice Academy as part of the Instructor Training Update program no more than 60 days prior to the calendar year, shall have satisfied the requirements of 12 NCAC 09E .0105.
- (4)(3) The instructor shall deliver the training consistent with the specifications established in Rules 09E .0105 and .0106.
- (5)(4) The instructor shall report the successful or unsuccessful completion of training for each officer to the Department Head.
- (6)(5) When the officer fails to qualify with a weapon, the instructor shall inform the officer that the officer did not qualify and the instructor shall deliver a Commission form F-9A (Firearms Qualification and Record) to the officer that shall be signed by the officer. This form shall instruct the officer not to use the weapon and shall require the officer to notify the Department Head or designated representative within 24 hours of the failure to qualify. The instructor shall personally deliver this form or send the form by certified mail to the Department head or designated representative within 72 hours of the failure to qualify.

All Commission forms are available for download on the Criminal Justice Standards Division website: <http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>. <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>.

Authority G.S. 17C-6; 17C-10.

SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS EMPLOYMENT, TRAINING, AND CERTIFICATION

SECTION .0300 - CERTIFICATION OF CORRECTIONAL OFFICERS, PROBATION/PAROLE OFFICERS, AND INSTRUCTORS

12 NCAC 09G .0309 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, ~~for within~~ within the first 12 months of certification, be in a probationary ~~status~~ status until satisfying the requirements of Paragraph (b) of this Rule. The General Instructor Certification, Probationary Status shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for General Instructor ~~general instructor~~ status if the instructor, ~~through application at the end of the probationary period~~, submits to the Commission a favorable recommendation from a certified School Director or In-Service Training Coordinator, located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor>. Form F-12A shall be accompanied by a certification on a Commission Instructor Evaluation Form F-16 that the instructor taught a minimum of eight hours of Commission-accredited basic training, ~~course~~, Commission-recognized in-service training ~~course~~, or training course pursuant to 12 NCAC 10B .0601, 10B .1302, or 10B .2005 during the probationary period. The instructor shall achieve a minimum of 64 points on all instruction evaluations submitted to the Commission. The Commission Instructor Evaluation Form F-16 is located on the agency's website: ~~<http://www.ncdoj.gov/getdoc/c2eba6aa-12be-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx>~~ <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/#102-wpfd-instructor>.

(c) The term of certification as a general instructor is indefinite, provided the instructor completes during each calendar year a minimum of one hour of instructor refresher training provided by North Carolina Justice Academy. The Standards Division shall post on its website on January 1 of the current year the list of instructors who have met this requirement during the previous calendar year.

(d) If the instructor fails to complete the instructor refresher training specified in Paragraph (c) of this Rule, he or she shall deliver eight hours of evaluated instruction in a Commission-accredited basic or Commission-recognized training course and complete the instructor refresher training specified in Paragraph (c) of this Rule within 60 days.

(e) If an instructor fails to meet the requirements of Paragraph (c) and (d) of this Rule, the certification period for the instructor shall cease, and the instructor shall be required to complete the requirements of Rule .0308 of this Section in order to obtain probationary instructor status.

(f) "Commission-recognized in-service training" shall mean training meeting the following requirements:

- (1) training is taught by an instructor certified by the Commission;
- (2) training utilizes a lesson plan in the Instructional Systems Design format; and
- (3) completion of training shall be demonstrated by a passing score on a written test as follows:
 - (A) a written test comprised of at least five questions per credit shall be developed by the agency or the North Carolina Justice Academy for each in-service training topic requiring testing. Written courses that are more than four credits in length are required to have a written test comprising of a minimum of 20 questions. The Firearms Training and Qualifications in-service course is exempt from this written test requirement;

- (B) a student shall pass each test by achieving 70 percent correct answers; and
- (C) a student who completes a topic of in-service training in a traditional classroom setting or online and fails the end of topic exam shall be given one attempt to re-test. If the student fails the exam a second time, the student shall complete the in-service training topic in a traditional classroom setting before taking the exam a third time.

Authority G.S. 17C-6.

SUBCHAPTER 09H - QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS

SECTION .0100 - FIREARMS QUALIFICATION CERTIFICATION PROGRAM

12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS

(a) Firearms Training and Qualification-four hours.

~~(b)(a)~~ Each qualified retired law enforcement officer shall qualify with each handgun he or she carries in accordance to the guidelines as published in the In-Service Firearms Qualification Manual as published by the North Carolina Justice Academy relating to rounds fired, distances, the ratio of shots fired from each yard line and positions of fire, with the standards outlined in 12 NCAC 09E .0105(a)(1) and 12 NCAC 09E .0106(a), (c), (e), (f) and (g), which shall incorporate in classroom instruction and firearms qualification on the firing range utilizing the course of fire from the "Specialized Firearms Instructor Training Manual."

~~(c)(b)~~ Qualification shall include a day and night qualification course with each handgun he or she carries, and a single day and night combat course with one handgun that he or she carries. In addition to the standards set out 12 NCAC 09E .0105 and .0106, each qualified retired law enforcement officer shall also receive a minimum of two hours of instruction on the North Carolina laws of self defense and the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by private persons

~~(d)(e)~~ Each qualified retired law enforcement officers shall receive a minimum of two hours of instruction on the North Carolina laws of self-defense, the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by private citizens. Qualified retired law enforcement officers meeting the requirements of Paragraphs (a) and (b) of this Rule, and have met the requirements of Rule .0105 of this Subchapter, shall be certified for a period of 12 months from the date the application is approved by the Commission. Upon application for renewal, the certification may be renewed by the Commission for 12-month periods, provided the qualified retired law enforcement officer meets the rules specified in this Subchapter.

~~(e)(d)~~ Instruction shall include a review of firearms safety and basic marksmanship fundamentals. Qualified retired law

~~enforcement officers shall qualify each certification period with each handgun that will be carried concealed.~~

(f) The qualification requirements shall be achieved at least once in a single day in no more than three attempts in a single day for each course of fire and for each weapon for which qualification is required. Officers not qualifying in a single day for each course of fire shall be deemed as a failure and the retired qualified law enforcement officers shall not be allowed to carry that weapon.

(g) Qualified retired law enforcement officers shall be certified for a period of 12 months from the date the application is approved by the Commission. Upon application for renewal, the certification shall be renewed by the Commission for 12-month periods provided the qualified retired law enforcement officer meets the rules specified in this Subchapter.

(h) Qualified retired law enforcement officers shall qualify each certification period with each handgun that he or she carries.

Authority G.S. 14-415.10; 14-415.25; 14.415.26; 17C-6.

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to amend the rule cited as 12 NCAC 10B .0407.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://ncdoj.gov/law-enforcement-training/sheriffs/all-commission-forms-publications/>

Proposed Effective Date: June 1, 2020

Public Hearing:

Date: February 6, 2020

Time: 10:00 a.m.

Location: 1700 Tryon Park Drive, Raleigh, NC 27610

Reason for Proposed Action: *This amendment will further clarify the requirements and process for a former elected or appointed Sheriff to obtain justice officer certification upon leaving office.*

Comments may be submitted to: Diane Konopka, Post Office Box 629, Raleigh, NC 27602-0629; email dkonopka@ncdoj.gov

Comment period ends: March 2, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any

further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ($\geq \$1,000,000$)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0400 - CERTIFICATION OF JUSTICE OFFICERS

12 NCAC 10B .0407 CERTIFICATION OF FORMER SHERIFF

(a) The Division shall issue a General Certification to any person as either a deputy sheriff, a detention officer, or telecommunicator who has previously served as an elected or appointed sheriff, if the person:

- (1) applies to the Commission within one year of ceasing to serve as an elected or appointed sheriff; and
- (2) has served as an elected or appointed sheriff for a minimum of eight years; and
- (3) left the office of sheriff in good standing.

(b) The Division shall issue a General Certification to any person as either a deputy sheriff, a detention officer, or telecommunicator who has previously served as an elected or appointed sheriff, if the person:

- (1) applies to the Commission within one year of ceasing to serve as an elected or appointed sheriff; and
- (2) has served as an elected or appointed sheriff for a minimum of four years and has held a General Certification as deputy sheriff, detention officer, or telecommunicator with the North Carolina Sheriffs' Education and Training Standards Commission or has held a General Certification as a sworn officer with the North Carolina Criminal Justice Commission, with a break in service not to exceed one year prior to serving as an elected or appointed sheriff; and
- (3) left the office of sheriff in good standing.

~~(b)(c)~~ In order for an officer to be certified under this Rule .0407, there must be:

- (1) compliance with the Report of Appointment form requirement of Rule .0403 of this Section;
- (2) submitted to the Division, a copy of the Oath of Office for applicants requesting certification as a deputy sheriff; and

- (3) submitted to the Division verification that the applicant meets the requirement of this Rule .0407(a)(2).

Authority G.S. 17E-4; 17E-7.

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Public Safety intends to adopt the rules cited as 14B NCAC 19A .0101-.0104; 19B .0101-.0107; and 19C .0101.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdps.gov>

Proposed Effective Date: May 1, 2020

Instructions on How to Demand a Public Hearing: *(must be requested in writing within 15 days of notice): A request for a public hearing must be made within 15 days of notice. Email Rulemaking Coordinator Margaret McDonald at Margaret.mcdonald@ncdps.gov to request a public hearing.*

Reason for Proposed Action: *The Department of Public Safety (DPS) is promulgating permanent rules as required pursuant to N.C. Sess. Law 2018-70. Sections 1 and 2 established a statewide Sexual Assault Evidence Collection Kits (SAECK) tracking system (beginning October 1, 2018) to be administered according to protocols developed by the Director of the State Crime Laboratory. The Secretary of Public Safety is required to adopt rules, guidelines, and sanctions for agencies required to participate in the tracking system. In addition, pursuant to S.L. 2018-70, the Secretary convened a working group of diverse stakeholders and tasked them with making recommendations to both the Secretary and the State Crime Lab concerning SAECK tracking rules and protocols. The proposed rules reflect both those recommendations and the protocols currently being followed by agencies in possession of untested SAECK.*

Comments may be submitted to: Margaret McDonald, NC Department of Public Safety, 4201 Mail Service Center, Raleigh, NC 27699-4201

Comment period ends: March 2, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any

further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ State funds affected
- ☒ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 19 – STATEWIDE SEXUAL ASSAULT EVIDENCE COLLECTION KIT TRACKING SYSTEM

SUBCHAPTER 19A – GENERAL PROVISIONS

14B NCAC 19A .0101 SCOPE

The rules in this Chapter are applicable to persons or entities in the State that have custody of any sexual assault evidence collection kits, including medical service providers, law enforcement agencies, forensic laboratories, and the Department of Public Safety Law Enforcement Support Services.

Authority G.S. 114-65.

14B NCAC 19A .0102 DEFINITIONS

As used in this Chapter:

- (1) "Covered entity" means an agency, medical facility, or medical professional, person, or entity subject to the System tracking requirements.
- (2) "Director" means the Director of the North Carolina State Crime Laboratory.
- (3) "Forensic laboratory" means a person, agency, or department that takes custody of a sexual assault evidence collection kit for purposes of conducting forensic testing.
- (4) "Forensic medical examination" means an examination provided to a sexual assault victim by medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law and includes collection and evaluation of physical evidence.
- (5) "Kit" or "sexual assault evidence collection kit" means a prepared kit used to conduct a forensic medical examination.
- (6) "Law enforcement agency" means any police department, sheriff's office, campus police department, or any other person, agency, or department investigating a reported sexual assault for which a sexual assault evidence collection kit has been utilized by a medical service provider or that is taking possession of or storing an unreported or anonymous sexual assault evidence collection kit.
- (7) "Medical service provider" means a medical facility or medical professional in the State who

administers a forensic medical examination using a sexual assault evidence collection kit.

- (8) "Previously untested kit" means a sexual assault evidence collection kit used in a forensic medical examination which has not undergone forensic testing and was identified and included in the 2017 statewide inventory.
- (9) "System guidelines" means the guidelines published by the Director of the North Carolina State Crime Laboratory for use by covered entities.
- (10) "Statewide System Administrator" means an employee of the North Carolina State Crime Laboratory who has responsibility for the overall administrative functions of the System, including providing assistance to covered entities, training all covered entities, making corrections in the system, and generating data reports for the Director's annual tracking report to the Joint Legislative Oversight Committee on Justice and Public Safety.
- (11) "System" means Sexual Assault Evidence Collection Kit Tracking and Inventory Management System (STIMS).

Authority G.S. 114-65; G.S. 143B-1200.

14B NCAC 19A .0103 SYSTEM ADMINISTRATOR DESIGNATION

- (a) The System shall be administered by the Statewide Administrator.
- (b) The Statewide Administrator shall grant System access to each covered entity.
- (c) The Statewide Administrator shall provide training and technical assistance to all local administrators.
- (d) The Statewide Administrator shall keep a log of all notifications for entities out of compliance with the rules of this Chapter as covered in 14B NCAC 19C .0101 Compliance and Sanctions.
- (e) The Statewide Administrator contact information is NCSTIMS@ncdoj.gov.

Authority G.S. 114-65.

14B NCAC 19A .0104 COVERED ENTITY SYSTEM ACCESS; LOCAL ADMINISTRATORS

- (a) Each covered entity shall access the System and require that its users are trained to enter kit information data in the System.
- (b) Each covered entity shall designate a local administrator, who shall provide his or her contact information to the Statewide Administrator in writing, by mail, hand delivery, or email. If a covered entity changes its local administrator or contact information for its local administrator, the covered entity shall update the System administrative information and provide written notice of the change to the Statewide Administrator within 10 business days.
- (c) The local administrator shall report any issues requiring technical support to the Statewide Administrator within two business days at NCSTIMS@ncdoj.gov.

Authority G.S. 114-65.

SUBCHAPTER 19B – COVERED ENTITY TRACKING REQUIREMENTS

14B NCAC 19B .0101 SYSTEM COMPATIBILITY FOR KITS

Any State or local government agency responsible for the production of kits to be used in this State shall produce kits that are compatible with the System. A government agency that contracts for kit production by a vendor shall ensure that the vendor is contractually obligated to meet this requirement.

Authority G.S. 114-65; 143B-1201.

14B NCAC 19B .0102 MEDICAL SERVICE PROVIDERS

(a) Medical service providers shall:

- (1) In the System, receive all kits used for the collection of physical evidence during forensic medical examinations from the kit vendor;
- (2) make all required data entries in accordance with System guidelines; and
- (3) track all kit transfers from the provider to a law enforcement agency or to Law Enforcement Support Services (LESS) in the System.

(b) Prior to using any kit that does not already have a tracking number, the medical service provider shall affix a tracking label received from the statewide System administrator.

(c) The medical service provider shall inform the victim of the North Carolina Department of Justice Sexual Assault Kit Tracking Web Portal found at <https://www.sexualassaultkittracking.ncdoj.gov/SexualAssaultKitTracking/> and provide the victim with the kit tracking number to view kit tracking and testing information.

Authority G.S. 114-65.

14B NCAC 19B .0103 LAW ENFORCEMENT AGENCIES

(a) Each law enforcement agency in the State shall comply with System guidelines to track the:

- (1) receipt of kits by the law enforcement agency from medical service providers or Law Enforcement Support Services (LESS);
- (2) the transfer of kits from the law enforcement agency to forensic laboratories; and
- (3) the transfer of kits from forensic laboratories back to the law enforcement agency.

Each law enforcement agency shall enter all data in accordance with System guidelines and keep the data updated as the investigation of the incident evolves.

(b) When a law enforcement agency submits a kit to any private vendor laboratory or any public laboratory outside of North Carolina for forensic testing, the law enforcement agency shall coordinate with that forensic laboratory to ensure that entries for the tracking of the kit are made in the System, in accordance with System guidelines.

(c) Each law enforcement agency that receives into its custody a kit that does not already have an assigned tracking number shall affix a tracking label received from the Statewide System Administrator.

(d) Each law enforcement agency shall enter all data from each previously untested kit in their custody into the North Carolina SAKI online data collection tool. Kits entered in the collection tool will be placed into STIMS by the system administrator to make them trackable. Each law enforcement agency shall send an e-mail to NCSAKI@ncdoj.gov to gain access to the online data collection tool.

Authority G.S. 114-65.

14B NCAC 19B .0104 LAW ENFORCEMENT SUPPORT SERVICES

Law Enforcement Support Services shall:

- (1) confirm all kits held or received into its custody have tracking labels or are otherwise System compatible;
- (2) enter tracking data in accordance with System guidelines; and
- (3) track the subsequent transfer of any kit to a law enforcement agency in the System.

Authority G.S. 114-65.

14B NCAC 19B .0105 FORENSIC LABORATORIES

(a) Any forensic laboratory in this State that takes custody of a kit for purposes of conducting forensic testing shall:

- (1) Enter the transfer and receipt of the kit in the tracking System in accordance with System guidelines;
- (2) Enter all data on the examination in accordance with System guidelines and keep the data updated if a CODIS hit occurs; and
- (3) Enter the transfer of the kit back to the submitting law enforcement agency in the tracking System in accordance with System guidelines.

(b) Any forensic laboratory in this State that receives into its custody a kit that does not already have tracking label shall affix a tracking label to the kit received from the Statewide System Administrator or otherwise make the kit System-compatible.

(c) North Carolina law enforcement agencies that submit kits to private vendor laboratories or public laboratories outside of this State for purposes of conducting forensic testing shall coordinate with those laboratories to ensure that entries for the tracking of the kit are made in the System in accordance with System guidelines.

Authority G.S. 114-65.

14B NCAC 19B .0106 PREVIOUSLY UNTESTED KITS

(a) Each covered entity's local administrator shall contact the Statewide Administrator to obtain tracking labels designated for previously untested kits.

(b) Covered entities shall comply with System guidelines for submitting data to be used by the Statewide System Administrator

to enter previously untested kits in their custody in the tracking System.

Authority G.S. 114-65.

14B NCAC 19B .0107 VICTIM NOTIFICATION FOR KITS COLLECTED PRIOR TO OCTOBER 1, 2018

Law enforcement agencies shall take reasonable measures to provide victims with kit tracking numbers and information about the System after a previously untested kit is assigned a tracking number and entered into the System.

Authority G.S. 114-65.

SUBCHAPTER 19C – COMPLIANCE AND SANCTIONS

SECTION .0100 - PROVISIONS

14B NCAC 19C .0101 COMPLIANCE AND SANCTIONS

(a) The Statewide Administrator shall give written or oral notice to any covered entity out of compliance with the rules of this Chapter and such notice shall include:

- (1) identification of the deficiency or failure to comply; and
- (2) notice that the deficiency must be corrected within 10 business days following notification.

(b) If a covered entity fails to correct the deficiency within 10 business days following notification, the Statewide Administrator shall give written notice by mail, hand delivery, or email to the covered entity and such notice shall include:

- (1) identification of the deficiency or failure to comply; and
- (2) notice that the failure to resolve the identified deficiency within 10 business days following notification may result in the covered entity being listed in the Director's annual tracking report to the Joint Legislative Oversight Committee on Justice and Public Safety.

(c) The Statewide Administrator shall keep a log of all notifications for entities out of compliance with the rules of this Chapter.

Authority G.S. 114-65.

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Education intends to adopt the rules cited as 16 NCAC 06B .0111-.0114; 06C .0334-.0397, .0701; 06D .0211, .0212, .0307-.0311, .0313; 06E .0106, .0107, .0204-.0206; 06G .0314-.0316, .0503-.0524; 06H .0113-.0117; 06K .0101, and .0103-.0105.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://stateboard.ncpublicschools.gov/rules-apa/public-comments>

Proposed Effective Date: May 30, 2020

Public Hearing:

Date: January 30, 2020

Time: 9:00 a.m.

Location: Education Building, 301 N. Wilmington Street, 7th Floor Board Room, Raleigh, NC 27601

Date: February 13, 2020

Time: 9:00 a.m.

Location: Education Building, 301 N. Wilmington Street, 7th Floor Board Room, Raleigh, NC 27601

Reason for Proposed Action: Section 27.(b) of Session Law 2019-154 became law on July 22, 2019, and conferred "interim rule" status on certain existing State Board of Education (SBE) policies. Pursuant to that law the SBE adopted emergency rules and submitted them for codification. The SBE submits this notice for publication of text in order to adopt previously-adopted emergency rules as permanent rules. The SBE takes these steps in order "to ensure that administration of the free public schools shall continue without interruption." See S.L. 2019-154, Sec. 27.(b).

For purposes of clarity and brevity, the SBE proposes separating elements of the emergency rules identified below into multiple proposed rules; these proposed changes will not result in substantive changes to the requirements of the emergency rules or change the manner by which they have been implemented.

16 NCAC 06C .0316 - (SBE Policy LICN-001) is being recodified as 16 NCAC 06C .0334-.0360

16 NCAC 06C .0319 - (SBE Policy LICN-005) is being recodified as 16 NCAC 06C .0361-.0363

16 NCAC 06C .0320 - (SBE Policy LICN-006) is being recodified as 16 NCAC 06C .0364-.0370

16 NCAC 06C .0321 - (SBE Policy LICN-007) is being recodified as 16 NCAC 06C .0372-.0377

16 NCAC 06C .0322 - (SBE Policy LICN-008) is being recodified as 16 NCAC 06C .0371

16 NCAC 06C .0323 - (SBE Policy LICN-021) is being recodified as 16 NCAC 06C .0378-.0380

16 NCAC 06C .0327 - (SBE Policy TCED-009) is being recodified as 16 NCAC 06C .0391-.0392

16 NCAC 06C .0328 - (SBE Policy TCED-012) is being recodified as 16 NCAC 06C .0395-.0396

16 NCAC 06C .0331 - (SBE Policy TCED-015) is being recodified as 16 NCAC 06C .0386-.0390

16 NCAC 06C .0332 - (SBE Policy TCED-016) is being recodified as 16 NCAC 06C .0381-.0385

Comments may be submitted to: Lou Martin, 301 N. Wilmington Street, Raleigh, NC 27601; phone (919) 807-3402; fax (919) 807-3198; email lou.martin@dpi.nc.gov

Comment period ends: March 2, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules

Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ **State funds affected**
- ☐ **Local funds affected**
- ☐ **Substantial economic impact (>= \$1,000,000)**
- ☐ **Approved by OSBM**
- ☒ **No fiscal note required** *These proposed rules will codify emergency rules, which are comprised of SBE policies that (i) existed before May 29, 2019, and (ii) were given "interim rule" status under S.L. 2019-154. The proposed rules do not make substantive changes to the requirements of the emergency rules/existing policies. Nor will the proposed rules change the manner by which the SBE has implemented the emergency rule/existing policies. Rather, the permanent rules are being proposed in order to preserve the status quo; accordingly, the SBE has determined the proposed rules will have no new economic impact.*

**North Carolina State Board of Education
Rulemaking
December 6, 2019**

Citation for Proposed Rule	Title of Proposed Rule	Existing SBE Interim Code*
16 NCAC 06B .0111	School Bus Passengers	TRAN-006
16 NCAC 06B .0112	Purchase of School Bus Equipment	TRAN-008
16 NCAC 06B .0113	Activity Bus Drivers	TRAN-010
16 NCAC 06B .0114	School Bus and Activity Bus Inspections	TRAN-011
16 NCAC 06C .0334	Definitions	LICN-001
16 NCAC 06C .0335	NC Educator License for Area of Assignment	LICN 001
16 NCAC 06C .0336	License Levels for a NC Educator License	LICN 001
16 NCAC 06C .0337	Basic Entity Data to Apply for a NC Educator License	LICN 001
16 NCAC 06C .0338	Licensure Transaction Checklist to Apply for a NC Educator License	LICN 001
16 NCAC 06C .0339	Requirements to be Issued a Continuing Professional License for an Educator	LICN 001
16 NCAC 06C .0340	Requirements to be Issued an Initial Professional License for an Educator	LICN 001
16 NCAC 06C .0341	Requirements to be Issued a Residency License	LICN 001
16 NCAC 06C .0342	Requirements to Add a Provisional Teaching Area to a North Carolina Educator License	LICN 001
16 NCAC 06C .0343	Degree Level Requirement to be Issued a Provisional License for Student Services Personnel	LICN 001
16 NCAC 06C .0344	Requirements to be Issued a Provisional Student Services License	LICN 001
16 NCAC 06C .0345	Requirements to be Issued a Provisional License for Principals and Assistant Principals	LICN 001
16 NCAC 06C .0346	Requirements to be Issued a Permit to Teach	LICN 001
16 NCAC 06C .0347	Recommendation to be Issued an Initial Professional License	LICN 001
16 NCAC 06C .0348	Enrollment and Employment Requirements for a Residency License	LICN 001
16 NCAC 06C .0349	Comparability for Out-of-State Licensure Exams	LICN 001
16 NCAC 06C .0350	Duration of an Initial Professional License	LICN 001
16 NCAC 06C .0351	Testing Requirements to Convert an Expired License	LICN 001
16 NCAC 06C .0352	Testing Requirements to Convert a Lateral Entry License	LICN 001
16 NCAC 06C .0353	Deadline for Licensure Testing Requirements	LICN 001
16 NCAC 06C .0354	Effectiveness Data Requirement to Qualify for a Continuing Professional License for an Out-of-State Applicant	LICN 001
16 NCAC 06C .0355	Teaching Experience Requirements to be Issued a North Carolina Educator License for Out-of-State Applicants	LICN 001
16 NCAC 06C .0356	Content Area Examination and Coursework Requirements to be Issued a Residency License	LICN 001
16 NCAC 06C .0357	Requirements to be Issued an International Faculty License	LICN 001
16 NCAC 06C .0358	Restrictions to be Issued an Alternative License	LICN 001
16 NCAC 06C .0359	Restrictions for an Emergency License	LICN 001
16 NCAC 06C .0360	Applicant Eligibility to be Issued a Lifetime License	LICN 001

PROPOSED RULES

16 NCAC 06C .0361	Requirements for an Educator to be Placed on a Mandatory Improvement Plan	LICN 005
16 NCAC 06C .0362	Renewal Credit Requirements to Renew a Continuing Professional License for Teachers and Support Service Personnel	LICN 005
16 NCAC 06C .0363	Renewal Credit Requirements to Renew a Continuing Professional License for School Administrators	LICN 005
16 NCAC 06C .0364	Experience/Degree Credit for Salary Purposes	LICN 006
16 NCAC 06C .0365	Non-Teaching Work Experience Credit Requirements for North Carolina Educators	LICN 006
16 NCAC 06C .0366	Experience Credit Requirements for Career and Technical Education Teachers	LICN 006
16 NCAC 06C .0367	Experience Credit Requirements for Junior Reserve Officers' Training Corps Instructors	LICN 006
16 NCAC 06C .0368	Requirements to be Awarded the Corporal Pruitt Rainey Brass to Class Act	LICN 006
16 NCAC 06C .0369	Requirements for an Educator to be Granted Master's Degree Level Pay	LICN 006
16 NCAC 06C .0370	Experience Credit Restrictions Enforced by the Appeals Panel	LICN 006
16 NCAC 06C .0371	Licensure Fees for North Carolina Educators	LICN 008
16 NCAC 06C .0372	Denying a License Application or Suspension or Revocation of a License Issued by the North Carolina Department of Public Instruction	LICN 007
16 NCAC 06C .0373	Reporting Requirements for Suspected Child Abuse by a Local Education Agency Administrator to the Superintendent of Public Instruction	LICN 007
16 NCAC 06C .0374	Investigation Requirements to Determine Reasonable Cause to Suspend or Revoke an Educator License	LICN 007
16 NCAC 06C .0375	Voluntary Surrender of an Educator License	LICN 007
16 NCAC 06C .0376	Reinstatement or Issuance for an Educator with a Suspended or Revoked by the State Board of Education	LICN 007
16 NCAC 06C .0377	Notification to Other States Involving Denial, Suspension, Revocation, Surrender, or Reinstatement of a Professional Educator's License	LICN 007
16 NCAC 06C .0378	Procedure for Seeking Exception from Licensure Requirements	LICN 021
16 NCAC 06C .0379	One-Year Extension Process for Coursework Requirements to Fulfill Licensure Requirements	LICN 021
16 NCAC 06C .0380	Decision of the State Board of Education for a Requested Extension for an Educator's License	LICN 021
16 NCAC 06C .0381	Beginning Teacher Support Program Requirements	TCED-016
16 NCAC 06C .0382	Beginning Teacher Support Requirements	TCED-016
16 NCAC 06C .0383	Beginning Teacher Professional Development Plan	TCED-016
16 NCAC 06C .0384	Mentor Program Requirements	TCED-016
16 NCAC 06C .0385	Standards that Determine Teacher Ratings	TCED-016
16 NCAC 06C .0386	School Administrator Preparation Program Coursework Requirements	TCED-015
16 NCAC 06C .0387	School Administrator Preparation Program Curriculum Requirements	TCED-015
16 NCAC 06C .0388	School Administrator Preparation Program Internship Requirements	TCED-015
16 NCAC 06C .0389	School Administrator Preparation Program Internship Site Requirements	TCED-015
16 NCAC 06C .0390	School Administrator Preparation Program Requirements	TCED-015
16 NCAC 06C .0391	Testing Exemptions for Admission into an Educator Preparation Program	TCED-009
16 NCAC 06C .0392	Testing Requirements for Admission into an Educator Preparation Program	TCED-009
16 NCAC 06C .0393	Mathematics Instructional Requirements for Educator Preparation Programs Training Elementary and Exceptional Children General Curriculum Teachers	TCED-011
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**Provided for Reference Purposes Only*

**CHAPTER 06 - ELEMENTARY AND SECONDARY
EDUCATION**

**SUBCHAPTER 06B - STUDENT TRANSPORTATION
SYSTEM**

**SECTION .0100 - STUDENT TRANSPORTATION
SYSTEM**

16 NCAC 06B .0111 SCHOOL BUS PASSENGERS

(a) Local education agencies (LEAs) shall provide instruction in school bus safety to all children (regardless of whether they regularly ride a school bus to and from school) during the first five days of school and at least once during each semester thereafter. LEAs shall document the date on which training was provided to each student. This instruction shall include but not be limited to:

- (1) basic skills and knowledge vital to safety in school bus transportation;
- (2) proper loading techniques, including street crossing at the bus stop and the North Carolina crossing signal; and
- (3) instruction as needed to ensure that passengers are familiar with location and operation of emergency exits for the vehicle on which they are riding for any specific trip.

(b) LEAs shall adhere to the following when assigning pupils to school buses, activity buses, commercial buses, or other contracted vehicles.

- (1) LEAs shall not allow the number of passengers being transported to exceed the official rated capacity for the specific vehicle being used.
- (2) LEAs shall ensure that all riders are seated completely within the seating compartment, when any bus or other vehicle is in motion.
- (3) LEAs shall ensure that no person is standing or sitting in the aisle or stepwell when any bus or other vehicle is in motion.

(c) LEAs shall require school bus drivers to utilize the North Carolina crossing signal to communicate to students when it is safe to cross the street to board the bus and when it is safe to cross the street after exiting the bus. The Department of Public Instruction shall develop and make available training materials describing the crossing signal for students and school bus drivers.

(d) LEAs shall also provide safety instruction to students taking trips on activity buses or commercial buses as needed, including but not limited to instruction and demonstration of emergency exit operation for the vehicle on which they are riding for any specific trip.

Authority G.S. 115C-12; 115C-240.

**16 NCAC 06B. 0112 PURCHASE OF SCHOOL BUS
EQUIPMENT**

Local education agencies shall purchase school buses, school bus tires, brake pads, brake shoes, brake hardware, and other related

equipment that meet the safety specifications listed in the request for bids for the statewide term contracts for these items.

Authority G.S. 115C-12; 115C-249; 115C-249.1; 115C-522.

16 NCAC 06B .0113 ACTIVITY BUS DRIVERS

(a) Definitions:

- (1) "CDL" means a Commercial Drivers License, which is a license issued by the state that authorizes an individual to drive a commercial motor vehicle (G.S. 20-4.01).
- (2) "CDL Activity Bus" means a school activity bus (G.S. 20-4.01) built to transport 16 or more passengers including the driver. A CDL is required to drive a "CDL Activity Bus" (G.S. 20-4.01).
- (3) "School bus driver's certificate" means a certificate issued by a duly designated representative of the Commissioner of Motor Vehicles and the Director of Transportation, or a designee of the Director in charge of school buses in the county which shows that he or she has been examined and has been certified fit and competent to drive a school bus over the highways and public vehicular areas of the State. (G.S. 20-218)

(b) Local education agencies shall require individuals who transport students to or from a school-related activity in a CDL Activity Bus to hold a valid Commercial Drivers License with a Passenger (P) and School Bus (S) endorsement (CDL-P/S) as required by the Division of Motor Vehicles.

(c) LEAs shall require individuals being initially licensed with a CDL-P/S, who transport students to or from a school-related activity in a CDL Activity Bus, also to hold a school bus driver's certificate.

(d) LEAs shall not permit any individual to transport students in a CDL Activity Bus unless he or she holds both a CDL-P/S license and valid school bus driver's certificate.

Authority G.S. 115C-12; 115C-240; 115C-245(a).

**16 NCAC 06B .0114 SCHOOL BUS AND ACTIVITY
BUS INSPECTIONS**

Local education agencies shall require each 30-day inspection required under G.S. 115C-248 to be conducted by an individual who has completed the vehicle inspection training and certification requirements administered by the Department of Public Instruction.

Authority G.S. 115C-12; 115C-240; 115C-248.

SUBCHAPTER 06C - PERSONNEL

**SECTION.0300 – LICENSURE AND EDUCATOR
PREPARATION PROGRAMS (EPPS)**

16 NCAC 06C .0334 DEFINITIONS

The following definitions apply throughout this Section unless the context indicates otherwise:

- (1) "Accomplished" means a teacher has received ratings of accomplished or higher on three of the five standards to include Standard 4 on the most recent summative evaluation, or on Standard 4 for teachers on an Abbreviated Evaluation.
- (2) "Beginning Teacher Support Program" means a program that provides ongoing support for teachers entering the profession.
- (3) "Beginning teacher" means a teacher who is within their first three years of teaching.
- (4) "Career and Technical Education (CTE) Restricted License" means a three year license that requires educators to have related work experience for the CTE program area as well as a related degree from a regionally accredited college or university unless it is a high school diploma level license. CTE Restricted License holders are restricted to teaching only in the area of licensure and additional non-CTE license areas may not be added to the license.
- (5) "CPL" means a Continuing Professional License.
- (6) "Distinguished" means a teacher has received ratings of distinguished on three of the five standards to include Standard 4 on the most recent summative evaluation, or on Standard 4 for teachers on an Abbreviated Evaluation.
- (7) "ECGC" means Exceptional Children General Curriculum.
- (8) "ELED" means Elementary Education.
- (9) "EPP" means an Educator Preparation Program.
- (10) "In-State Applicant" means an applicant for licensure who received training and a recommendation from a North Carolina approved Educator Preparation Program (EPP).
- (11) "IPL" means an Initial Professional License.
- (12) "Junior Reserve Officer Training Corps (JROTC) License" means a license that is issued to a former military serviceperson to teach the federally sponsored school program which is designed to instill in students the values of citizenship, service to the United States, personal responsibility and a sense of accomplishment.
- (13) "NCDPI" or "DPI" means the North Carolina Department of Public Instruction.
- (14) "NCEES" means the North Carolina Educator Evaluation System.
- (15) "NCSBE" or "SBE" means the North Carolina State Board of Education.
- (16) "Out-of-State Applicant" means an applicant for licensure who receives training and a recommendation from an approved Educator Preparation Program (EPP) in another state or country regardless of residency.

- (17) "PEPSC" means the Professional Educator Preparation and Standards Commission.
- (18) "Permit to Teach License" means a one-year nonrenewable license issued to individuals who do not qualify for any other type of license.
- (19) "Praxis" means the Praxis Core Academic Skills for Educators assessment.
- (20) "Proficient" means a teacher has received ratings of proficient or higher on three of the five standards on the most recent summative evaluation, or on Standards 1 and 4 for teachers on an Abbreviated Evaluation.
- (21) "Provisional License" means an educator license that is valid only for the remainder of the fiscal year following the effective date of the license.
- (22) "Regional Assistance Licensing Center" or "RALC" is a State Board of Education authorized educational entity that serves as an extension of the Department of Public Instruction licensure section to review transcripts and prescribe plans of study leading to licensure for lateral entry, CTE restricted, and provisional license holders.
- (23) "Student Services" means any non-instructional personnel providing specialized assistance to students, teachers, administrators, or the education program in general. Student services personnel include individuals employed in school counseling, school social work, school psychology, audiology, speech-language pathology, and media coordination.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5.

16 NCAC 06C .0335 NORTH CAROLINA EDUCATOR LICENSE FOR AREA OF ASSIGNMENT

An individual employed as an educator in a North Carolina public school shall hold an educator's license appropriate for the area of assignment.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-295.

16 NCAC 06C .0336 LICENSE LEVELS FOR A NORTH CAROLINA EDUCATOR LICENSE

- (a) In order to qualify for a North Carolina educator license, an applicant must meet all educational requirements appropriate for the license level issued, as prescribed by a North Carolina State Board of Education-approved Educator Preparation Program, and must hold a diploma or degree at the designated level or higher.
- (b) The five levels of professional educator licenses available in North Carolina are as follows:

- (1) "V" which requires a High School Diploma or Associates Degree and is only appropriate for Career and Technical Education (CTE) and Junior Reserve Officer Training Corps (JROTC) licenses;
- (2) "A" which requires a Bachelor's Degree;

- (3) "M" which requires a Master's Degree;
- (4) "S" which requires a Specialist or Advanced Degree; and
- (5) "D" which requires a Doctorate Degree.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-295.

16 NCAC 06C .0337 BASIC ENTITY DATA TO APPLY FOR A NORTH CAROLINA EDUCATOR LICENSE

Every applicant for a North Carolina educator license shall provide the following basic entity data:

- (1) Social Security Number;
- (2) Full legal name;
- (3) Date of birth;
- (4) Mailing address;
- (5) Telephone number; and
- (6) Email address.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0338 LICENSURE TRANSACTION CHECKLIST TO APPLY FOR A NORTH CAROLINA EDUCATOR LICENSE

Any applicant applying for a North Carolina educator license must provide documentation to complete the licensure transaction checklist, which includes the following:

- (1) Statement of applicant, which is an attestation of applicant regarding previous criminal conviction or adverse action taken against a professional license, and supporting documents if applicable;
- (2) Education as provided by rule;
- (3) File attachments to support statements made on the licensure application;
- (4) All official degree dated transcripts;
- (5) Verification by institution form and any applicable valid and current out-of-state educator license;
- (6) Work Authorization, if applicable;
- (7) National Board Certification, if applicable;
- (8) Effectiveness data, if applicable;
- (9) Experience forms, if applicable;
- (10) Test scores, if applicable; and
- (11) Licensure Fees as provided for by rule.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.10; 115C-270.15; 115C-270.20; 115C-270.25.

16 NCAC 06C .0339 REQUIREMENTS TO BE ISSUED A CONTINUING PROFESSIONAL LICENSE FOR AN EDUCATOR

To be issued a Continuing Professional License (CPL), an applicant shall satisfy the requirements of G.S. 115C-270.20 and complete all State Board of Education (SBE) requirements appropriate for the license as follows:

- (1) Submit official degree dated transcripts;

- (2) Submit passing test scores;
- (3) Complete three years of teaching experience, if applicable;
- (4) Submit recommendation by the Educator Preparation Program and any applicable valid and current out-of-state educator license; and
- (5) Submit effectiveness data.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.25.

16 NCAC 06C .0340 REQUIREMENTS TO BE ISSUED AN INITIAL PROFESSIONAL LICENSE FOR AN EDUCATOR

To be issued an Initial Professional License (IPL) pursuant to G.S. 115C-270.20, an applicant must complete all State Board of Education (SBE) requirements appropriate for the license as follows:

- (1) Submit official degree dated transcripts; and
- (2) Submit recommendation by the Educator Preparation Program and any applicable valid and current out-of-state educator license.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.15; 115C-270.20.

16 NCAC 06C .0341 REQUIREMENTS TO BE ISSUED A RESIDENCY LICENSE

To be issued a Residency License pursuant to G.S. 115C-270.20(a)(5), an applicant must complete all State Board of Education (SBE) requirements appropriate for the license as follows:

- (1) Official degree dated transcripts;
- (2) Completed Residency License form;
- (3) Employed by a local education agency (LEA)
- (4) Has either completed coursework relevant to the requested licensure area or passed the content area examination relevant to the requested licensure area that has been approved by the State Board.
- (5) Enrolled in a State Board of Education approved educator preparation program.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0342 REQUIREMENTS TO ADD A PROVISIONAL TEACHING AREA TO A NORTH CAROLINA EDUCATOR LICENSE

(a) A provisional teaching area may be added to a Continuing Professional License (CPL), Initial Professional License (IPL), and Career and Technical Education (CTE) Restricted license issued at the bachelor's level or higher.

(b) Requirements to clear the provisional teaching license may be met by testing when added to the CPL and IPL

(c) CTE Restricted licensees must clear other provisionally added CTE license area(s) by meeting State Board of Education requirements.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0343 DEGREE LEVEL
REQUIREMENT TO BE ISSUED A PROVISIONAL
LICENSE FOR STUDENT SERVICES PERSONNEL**

A Provisional Student Services license may be issued at a degree level other than that required for the Educator Preparation Program (EPP) recommendation.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0344 REQUIREMENTS TO BE
ISSUED A PROVISIONAL STUDENT SERVICES
LICENSE**

To be issued a Provisional Student Services License, an applicant shall complete all State Board of Education (SBE) requirements for the license areas as follows:

- (1) School Counselor Licensee shall:
 - (a) Be enrolled in an accredited school counselor preparation program and have completed a minimum of 24 graduate semester hours of that program with completion of remaining requirements within three years; or have completed a master's degree in addiction; career; clinical mental health; clinical rehabilitation; college counseling and student affairs; marriage, couple, and family counseling; or rehabilitation counseling from a regionally accredited college or university and be enrolled in an accredited school counselor preparation program to complete additional master's level courses needed to add school counseling specialization with completion of remaining requirements within three years;
 - (c) Submit official degree dated transcripts to document verification of a bachelor's degree; and
 - (d) Be employed by an LEA.
- (2) School Social Work Licensee shall:
 - (a) Be employed by an LEA;
 - (b) Have completed a bachelor's, master's, specialist, or doctoral degree in social work; and
 - (c) Submit official degree dated transcripts.
- (3) Media Coordinator Licensee shall:
 - (a) Be employed by an LEA;
 - (b) Obtain an "A" level teaching license or bachelor's degree in media or have completed 18 graduate semester hours applicable toward a school media coordinator program; and

- (c) Submit official degree dated transcripts.
- (4) School Psychology Licensee shall:
 - (a) Be employed by an LEA;
 - (b) Have completed all program requirements at the advanced level except for the thesis or internship and submit written confirmation from the college or university at which the individual has matriculated concurring with the individual's employment; and
 - (c) Submit official degree dated transcripts.
- (5) Curriculum and Instructional Specialist Licensee shall:
 - (a) Be employed by an LEA;
 - (b) Submit official degree dated transcripts; and
 - (c) Obtain a Master's level teaching license and have a minimum of five years of successful teaching experience in that license area
- (6) Exceptional Children Program Administrator Licensee shall:
 - (a) Be employed by an LEA;
 - (b) Submit official degree dated transcripts;
 - (c) Obtain a Master's level license in an exceptional children's area, curriculum instruction, or school administration, or advanced level license in school psychology.
- (7) Teaching Area Licensee shall:
 - (a) Be employed by an LEA.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0345 REQUIREMENTS TO BE
ISSUED A PROVISIONAL LICENSE FOR PRINCIPALS
AND ASSISTANT PRINCIPALS**

(a) A one-year provisional principal's license may be issued to individuals selected by local boards of education for employment as assistant principals if:

- (1) The local board has determined there is a shortage of persons who hold or are qualified to hold a principal's license and the employee enrolls in an approved program leading to a master's degree in school administration before the provisional license expires; or
 - (2) The employee is enrolled in an approved masters in school administration program and is participating in the required internship under the Masters program.
- (b) The Department may renew the provisional license on an annual basis for a total of no more than two additional years while the employee is completing the program.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-284.

16 NCAC 06C .0346 REQUIREMENTS TO BE ISSUED A PERMIT TO TEACH

To be issued a Permit to Teach, which is a one-year nonrenewable license, an applicant must complete all requirements as follows:

- (1) Be employed by a local education agency (LEA);
- (2) Submit documentation from the LEA that no appropriately licensed professionals or persons who are eligible for a residency or lateral entry license are available to accept the position; and
- (3) Hold a bachelor's degree and do not qualify for a license under any other pathway.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0347 RECOMMENDATION TO BE ISSUED AN INITIAL PROFESSIONAL LICENSE

Applicants for the Initial Professional License must be recommended by a state approved Educator Preparation Program (EPP) or be approved directly by the State Board of Education to be issued the license.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0348 ENROLLMENT AND EMPLOYMENT REQUIREMENTS FOR A RESIDENCY LICENSE

Applicants for a Residency License must be enrolled in a state approved Educator Preparation Program and be employed in a North Carolina public school system to be eligible to be issued the license.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0349 COMPARABILITY FOR OUT-OF-STATE LICENSURE EXAMS

(a) An out-of-state licensure exam shall be considered comparable to the North Carolina State Board of Education (SBE) approved licensure exam if:

- (1) The out-of-state licensure exam satisfied one component of the licensure process in that state at the time the exam was taken; and
- (2) The out-of-state applicant demonstrates a score on the exam that meets or exceeds the passing score, or range of scores, established by the test developer.

(b) An out-of-state applicant for the initial professional license (IPL) or continuing professional license (CPL) shall meet the SBE required exam score when comparable testing is the same test code and produced by the same test developer.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.15; 115C-270.20.

16 NCAC 06C .0350 DURATION OF AN INITIAL PROFESSIONAL LICENSE

(a) An Initial Professional License (IPL) covers three fiscal years, as measured beginning July 1 and ending June 30.

(b) All IPLs shall expire on June 30 of the third fiscal year following the issuance of the license.

(c) An IPL may be extended to allow an individual to accrue sufficient teaching experience to convert to a Continuing Professional License (CPL), provided that all testing requirements have been met.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0351 TESTING REQUIREMENTS TO CONVERT AN EXPIRED LICENSE

If a license expires due to failure to pass SBE required licensure exams, an individual may still convert the license after testing requirements are met.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0352 TESTING REQUIREMENTS TO CONVERT A LATERAL ENTRY LICENSE

If a current Lateral Entry License expires due to the holder's failure to pass a State Board of Education required licensure exam, an individual may still convert the license until June 30, 2022 once testing requirements are met, and upon recommendation by a state-approved Educator Preparation Program or the Regional Assistance Licensing Center (RALC).

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0353 DEADLINE FOR LICENSURE TESTING REQUIREMENTS

The deadline for an individual to complete State Board of Education licensure testing requirements is June 30 of the third fiscal year of the license.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0354 EFFECTIVENESS DATA REQUIREMENT TO QUALIFY FOR A CONTINUING PROFESSIONAL LICENSE FOR AN OUT-OF-STATE APPLICANT

An out-of-state applicant for a continuing professional license (CPL) shall submit evidence of effectiveness in order to qualify for the continuing license. The applicant shall provide documentation of the model used to generate the effectiveness data.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.25.

**16 NCAC 06C .0355 TEACHING EXPERIENCE
REQUIREMENTS TO BE ISSUED A NORTH CAROLINA
EDUCATOR LICENSE FOR OUT-OF-STATE
APPLICANTS**

(a) Out-of-state applicants with fewer than three years of teaching experience seeking an initial professional license (IPL) in Elementary Education (ELED) or Exceptional Children: General Curriculum (ECGC) must take the North Carolina State Board of Education approved licensure examinations.

(b) Out-of-state applicants with fewer than three years of experience seeking an IPL in a teaching area other than ELED or ECGC may submit licensure examination scores for a comparable teaching area from another state for the purpose of meeting SBE testing requirements provided the passing score of the out-of-state examination meets or exceeds the test developer's recommended cut score.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0356 CONTENT AREA
EXAMINATION AND COURSEWORK REQUIREMENTS
TO BE ISSUED A RESIDENCY LICENSE**

An applicant for a Residency License must have either completed 24 hours of coursework or passed the North Carolina State Board of Education approved content area examination in order to be granted the license.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0357 REQUIREMENTS TO BE
ISSUED AN INTERNATIONAL FACULTY LICENSE**

(a) An applicant for an International Faculty License must complete all requirements as follows:

- (1) Hold a cultural exchange visa;
- (2) Hold a baccalaureate degree from a regionally accredited institution;
- (3) Meet their country's requirements for qualified teachers; and
- (4) Have two years of classroom teaching experience.

(b) The applicant may extend the license for an additional two years by submitting documentation of an extension of the visa from the U.S. Department of State at the request of the employing LEA or charter school.

(c) The International Faculty license holder may qualify for the standard Initial Professional License (IPL), Continuing Professional License (CPL), Residency License, and Career Technical Education (CTE) Restricted License upon meeting all license requirements and providing U.S. Department of State work authorization.

(d) International Faculty License holders must provide an evaluation of an international transcript for education equivalency from a professional evaluation agency.

(e) An International Faculty License is issued at the A Level with zero years of experience and remains at that level for the duration of that license.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0358 RESTRICTIONS TO BE ISSUED
AN ALTERNATIVE LICENSE**

Once an individual holds a Residency License the individual may not hold a Permit to Teach or Emergency License. A Permit to Teach shall only be issued once to an individual and is not eligible for an extension.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0359 RESTRICTIONS FOR AN
EMERGENCY LICENSE**

The issuance of an Emergency License to an individual does not guarantee that the license holder will qualify for any other type of licensure. The Emergency License shall be issued only at the A-level but may qualify for experience credit. An Emergency License shall not be granted an extension.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0360 APPLICANT ELIGIBILITY TO
BE ISSUED A LIFETIME LICENSE**

Administrator and student-support licenses are not eligible for the Lifetime License; however, administrators and other student-support professionals are eligible for a Lifetime License in an approved teaching area provided they have met the 30-year requirement and have maintained an active license in the teaching area during the 30-years.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

**16 NCAC 06C .0361 REQUIREMENTS FOR AN
EDUCATOR TO BE PLACED ON A MANDATORY
IMPROVEMENT PLAN**

(a) An educator may be placed on a mandatory improvement plan by their hiring Local Education Agency (LEA) if they do not meet the following renewal requirements:

- (1) The educator is not employed by a local board of education;
- (2) The educator does not possess a Continuing Professional License;
- (3) The educator is in the final year of the 5-year renewal cycle; or
- (4) The educator is not deemed proficient on their most recent final summative evaluation.

(b) An educator who meets the above criteria and who is placed on a mandatory improvement plan may be eligible to receive an Initial Professional License (IPL) provided all other licensure requirements are met.

(c) An educator who meets the above criteria and who is not placed on a mandatory improvement plan shall be deemed to have an "expired" teaching license.

(d) An educator whose license has expired pursuant to the provision in this Rule shall be eligible to apply for an IPL after a 30-day waiting period.

(e) The term of the mandatory improvement plan shall be 90 instructional days for teachers in schools identified as low performing and 60 instructional days for teachers in schools not identified as low performing.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.30; 115C-333; 115C-333.1.

**16 NCAC 06C .0362 RENEWAL CREDIT
REQUIREMENTS TO RENEW A CONTINUING
PROFESSIONAL LICENSE FOR TEACHERS AND
SUPPORT SERVICE PERSONNEL**

(a) A teacher with a K-12 license must meet the licensure renewal requirements for the grade-span corresponding to their teaching assignment.

(b) Teachers of grades kindergarten through five with licenses expiring on or after June 30, 2019 must complete 8.0 renewal credits during each five-year renewal cycle that meet the following requirements:

- (1) three renewal credits in their academic subject area;
- (2) three renewal credits addressing literacy pursuant to G.S. 115C-270.30(b)(2); and
- (3) two renewal credits addressing the Digital Learning Competencies.

(c) Teachers of grades 6 through 12 with licenses expiring on or after June 30, 2019 must complete 8.0 renewal credits during each five-year renewal cycle that meet the following requirements:

- (1) three renewal credits in their academic subject areas;
- (2) two renewal credits addressing the Digital Learning Competencies; and
- (3) three general credits, which does not include years of teaching experience, at the discretion of the employing LEA.

(d) Student services personnel with licenses expiring on or after June 30, 2019 must complete 8.0 renewal credits during each five-year renewal cycle that meet the following requirements:

- (1) three renewal credits that align with the expectations of the North Carolina standards for their professional discipline area;
- (2) two renewal credits addressing the Digital Learning Competencies; and
- (3) three general credits, which does not include years of work experience, at the discretion of the employing LEA.

(e) Educators completing the National Board for Professional Teaching Standards certification process may earn all 8.0 renewal credits for completion of the process and certification. Educators who are in the national board renewal cycle may earn two credits.

(f) LEAs may assign literacy requirements for any educator.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.30.

**16 NCAC 06C .0363 RENEWAL CREDIT
REQUIREMENTS TO RENEW A CONTINUING
PROFESSIONAL LICENSE FOR SCHOOL
ADMINISTRATORS**

(a) School administrators with licenses expiring between June 30, 2016 and June 30, 2018 must complete 8.0 renewal credits during each five-year renewal cycle that meet the following requirements:

- (1) three renewal credits that align with the expectations of the North Carolina School Executive Standards 2, 4, and 5, focused on the school executive's role as instructional, human resources, and managerial leader; and
- (2) five general credits, which does not include years of work experience, at the discretion of the employing local education agency.

(b) School administrators with licenses expiring on or after June 30, 2019 must complete 8.0 renewal credits during each five-year renewal cycle that meet the following requirements:

- (1) three renewal credits that align with the expectations of the North Carolina School Executive Standards 2, 4, and 5, focused on the school executive's role as instructional, human resources, and managerial leader;
- (2) two renewal credits addressing the Digital Learning Competencies; and
- (3) three general credits, which does not include years of work experience, at the discretion of the employing LEA.

(c) LEAs may assign literacy requirements for any educator.

(d) LEAs may assign literacy requirements for any educator.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.30; 115C-284.

**16 NCAC 06C .0364 EXPERIENCE OR DEGREE
CREDIT FOR SALARY PURPOSES**

(a) Teaching Experience Credit Requirements as a North Carolina Educator

An educator must be employed for at least 15 hours per week to receive teaching experience on an educator license in a local education agency (LEA).

(b) An educator in an LEA or college may combine full-time experience of less than six calendar months in one fiscal year with another fiscal year of part-time or full-time experience to equal one year of experience credit to receive teaching experience.

(c) An educator may receive teaching experience on their license for college teaching based on the number of clock hours spent in the classroom teaching per week. Six class hours per week shall be considered half-time teaching and 12 class hours per week shall be considered full-time teaching.

(d) With a recommendation by the LEA, an educator may use service as a tutor, clerical paraprofessional, or substitute teacher as non-teaching experience provided, they are a current employee of the LEA.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-302.1.

16 NCAC 06C .0365 NON-TEACHING WORK EXPERIENCE CREDIT REQUIREMENTS FOR NORTH CAROLINA EDUCATORS

(a) An educator may receive credit for non-teaching work experience earned while self-employed if it is verified by a tax attorney or an accountant who prepared the educator's tax returns or by a company co-owner.

(b) An educator may receive credit for non-teaching work experience when it is determined to be relevant and directly related to the educator's work assignment and license held.

(c) An educator may combine full-time non-teaching work experience of less than six calendar months in one fiscal year with another fiscal year of part-time or full-time non-teaching work experience to equal one year of experience credit.

(d) An educator may receive credit for one year of work experience for every two years of full-time relevant work experience completed prior to earning a bachelor's degree.

(e) An educator may receive credit for one year of experience for each year of full-time relevant non-teaching work experience completed after earning a bachelor's degree.

(f) For the purposes of this Rule, relevant non-teaching work experience shall be defined as professional work experience in public or private sectors that is directly related to an individual's area of licensure and work assignment. Credit for non-teaching work experience is not transferable to other licensure areas for which the experience is not relevant. To be eligible for credit, the experience must meet the following criteria:

- (1) was at least half-time, which is defined as 20 hours or more per week;
- (2) was completed after age 18;
- (3) did not include on-the-job training; and
- (4) was paid and documented.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-302.1; 115C-302.3.

16 NCAC 06C .0366 EXPERIENCE CREDIT REQUIREMENTS FOR CAREER AND TECHNICAL EDUCATION TEACHERS

Career and Technical Education license holders may receive credit for one year of relevant CTE Trade and Industry experience for each year of experience earned prior to earning a bachelor's degree.

Authority G.S. 115C-12; 115C-151; 115C-153; 115C-154; 115C-156; 115C-268.1; 115C-268.5; 115C-270.5; 115C-302.1; 115C-302.3.

16 NCAC 06C .0367 EXPERIENCE CREDIT REQUIREMENTS FOR JUNIOR RESERVE OFFICERS' TRAINING CORPS INSTRUCTORS

Junior Reserve Officers' Training Corps (JROTC) instructors who completed partial service in both active duty and the Military Reserve that totals at least 20 years may receive credit for 10 years of experience, provided the service member retired honorably.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-302.1; 115C-302.3.

16 NCAC 06C .0368 REQUIREMENTS TO BE AWARDED THE CORPORAL PRUITT RAINEY BRASS TO CLASS ACT

The Corporal Pruitt Rainey Brass to Class Act may be awarded to veterans initially employed by a North Carolina Local Education Agency (LEA) or Charter School on or after July 1, 2014. Junior Reserve Officers' Training Corps (JROTC) instructors covered by Rule III(a) do not qualify for the Corporal Pruitt Rainey Brass to Class Act.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-302.1; 115C-302.3; S.L. 2013-268.

16 NCAC 06C .0369 REQUIREMENTS FOR AN EDUCATOR TO BE GRANTED MASTER'S DEGREE LEVEL PAY

(a) The North Carolina Department of Public Instruction (NCDPI) may authorize salary on the master's degree level salary schedule for professional educators who hold master's degrees or advanced degrees that do not lead to a professional educator license if the following criteria are met:

- (1) The master's or higher-level degree is from a regionally accredited Educator Preparation Program (EPP);
- (2) The master's or higher-level degree is in an education or subject area directly related to an existing area of licensure and current teaching assignment or instructional support responsibilities; and
- (3) The educator's assignment for 50 percent or more of the school day is in the area for which the master's or higher-level degree applies.

(b) Teachers and student services personnel who complete a degree at the master's, six-year, or doctoral degree level must have:

- (1) Completed at least one course toward that degree prior to August 1, 2013; or
- (2) Qualified for the salary supplement on or before June 30, 2013.

(c) The recognized regional accreditation bodies include the Middle States Association of Colleges and Schools, the New England Association of Schools and Colleges, the North Central Association of Colleges and Schools, the Northwest Commission on Colleges and Universities, the Southern Association of Colleges and Schools, and the Western Association of Schools and Colleges.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-302.1.

16 NCAC 06C .0370 EXPERIENCE CREDIT RESTRICTIONS ENFORCED BY THE APPEALS PANEL

An educator shall not be awarded experience credit if the Appeals Panel deems the experience or degree not to be directly related to the areas of work assignment. An educator shall not be awarded graduate pay if the Appeals Panel deems the master's or higher level degree to be not directly related to the areas of work assignment for 50 percent or more of the school day.

Authority G.S. 115C-12; 115C-45(c); 115C-268.1; 115C-268.5; 115C-270.5; 115C-302.1.

16 NCAC 06C .0371 LICENSURE FEES FOR NORTH CAROLINA EDUCATORS

(a) For applications opened on or after January 1, 2017, an educator must pay the required fee to apply for the following application types pursuant to G.S. 115C-270.10:

- (1) In-State Initial Professional License - \$70.00
- (2) Out-of-State Initial Professional License - \$100.00
- (3) Extend Provisional License Area - \$60.00
- (4) Delete License Area - \$60.00
- (5) Change Work Authorization - \$60.00
- (6) Add Area by Program Completion - \$60.00
- (7) Add Experience - \$60.00
- (8) Add Area by Test or 24 Semester Hours - \$60.00
- (9) Add National Board Certification - \$60.00
- (10) Clear Validation - \$60.00
- (11) Upgrade or Clear License Area - \$60.00
- (12) Late Renewal - \$35.00
- (13) Name Change - \$60.00
- (14) Update Contact Information – No fee
- (15) Education Record Correction – No fee
- (16) Verification of NC License - \$30.00
- (17) Request Copy of Files or Test Scores - \$30.00
- (18) Research Experience - \$30.00
- (19) Initial Alternative License - \$100.00
- (20) Validate an Expired Continuing Professional License - \$60.00
- (21) Extend Initial Professional License - \$60.00
- (22) Recommend Initial to Continuing Professional License - \$60.00
- (23) Upgrade or Clear License Area - \$60.00
- (24) Clear Validation - \$60.00
- (25) Convert to LAT - \$60.00
- (26) Convert to CTE - \$60.00
- (27) Add Alternative Area - \$60.00
- (28) Authorize Graduate Pay - \$60.00
- (29) Renew License - \$35.00
- (30) Recommend Initial to Continuing Professional License – No fee
- (31) Extend Provisional License Area – No fee
- (32) Upgrade of Clear License Area - \$60.00
- (33) Convert to Initial Professional License - \$60.00
- (34) Convert to Continuing Professional License - \$60.00

(b) All licensure fees are non-refundable and non-transferrable.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.10.

16 NCAC 06C .0372 DENYING A LICENSE APPLICATION OR SUSPENSION OR REVOCATION OF A LICENSE ISSUED BY THE NORTH CAROLINA DEPARTMENT OF PUBLIC INSTRUCTION

The State Board of Education (SBE) may deny an application for a license or may suspend or revoke a license issued by the North

Carolina Department of Public Instruction (DPI) only for the following reasons:

- (1) Fraud, material misrepresentation, or concealment in the application for the license;
- (2) Changes in or corrections of the license documentation that make the individual ineligible to hold a license;
- (3) Conviction or entry of a plea of no contest, as an adult, to a crime if there is reasonable and adverse relationship between the underlying crime and the continuing ability of the person to perform any of their professional functions in an effective manner;
- (4) Final dismissal of a person by a local board pursuant to G.S. 115C-325(e)(1)b if there is a reasonable and adverse relationship between the underlying misconduct and the continuing ability of the person to perform any of their professional functions effectively;
- (5) Final dismissal of a person by a Local Education Agency (LEA) due to physical or mental incapacity under G.S.115C-325(e)(1)e;
- (6) Resignation from employment with an LEA without thirty calendar days' notice, except with the prior consent of the local superintendent;
- (7) Revocation of a license by another state;
- (8) Any other illegal, unethical or lascivious conduct by a person if there is a reasonable and adverse relationship between the underlying conduct and the continuing ability of the person to perform any of their professional functions in an effective manner; and
- (9) Failure to report revocable conduct as required by law.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.35; 115C-325.

16 NCAC 06C .0373 REPORTING REQUIREMENTS FOR SUSPECTED CHILD ABUSE BY A LOCAL EDUCATION AGENCY ADMINISTRATOR TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION

(a) In addition to any duty to report suspected child abuse, any superintendent, assistant superintendent, associate superintendent, personnel administrator or principal who knows or has reason to believe that a licensed employee of the LEA has engaged in behavior that would justify revocation of the employee's license or involves physical or sexual abuse of a child, shall report that information to the Superintendent of Public Instruction promptly or at least no later than five working days after the date of a dismissal or other disciplinary action or the acceptance of a resignation based upon that conduct.

(b) For purposes of this section, the term "physical abuse" shall mean the infliction of physical injury other than by accidental means and other than in self-defense. The term "sexual abuse" shall mean the commission of any sexual act upon a student or causing a student to commit a sexual act, regardless of age of the student and regardless of the presence or absence of consent.

(c) This Rule shall apply to acts that occur on or after October 1, 1993.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.35.

16 NCAC 06C .0374 INVESTIGATION REQUIREMENTS TO DETERMINE REASONABLE CAUSE TO SUSPEND OR REVOKE AN EDUCATOR LICENSE

(a) Upon the receipt of a written request and substantiating information from any LEA, local superintendent or other person in a position to present information as a basis for the suspension or revocation of a person's license, the Superintendent of Public Instruction will conduct an investigation sufficient to determine whether reasonable cause exists to believe that the person's license should be suspended or revoked.

(b) If the Superintendent determines that reasonable cause exists to believe that the person's license should be suspended or revoked on one or more of the grounds specified in Rule .0372 of this Section, the Superintendent shall prepare and file written charges with the SBE.

(c) The SBE will review the written charges and determine whether the person's license should be suspended or revoked based on the information contained in the written charges. If the SBE determines that the written charges constitute grounds for suspension or revocation, it shall provide the person with a copy of the written charges, and notify the person that it will revoke the person's license unless the person, within 60 days of receipt of notice, initiates administrative proceedings under G.S. 150B, Article 3. The notice will be sent certified mail, return receipt requested.

(d) If the person initiates administrative proceedings, the SBE will defer final action on the matter until receipt of a proposed decision as provided for in G.S. 150B-34. If the person does not initiate administrative proceedings within 60 days of receipt of notice, the SBE may suspend or revoke the person's license at its next meeting.

(e) The SBE may suspend an individual's license for a stated period of time or may permanently revoke the license, except as limited by G.S. 115C-325(o).

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.35; 115C-325.

16 NCAC 06C .0375 VOLUNTARY SURRENDER OF AN EDUCATOR LICENSE

The State Board of Education (SBE) may accept the voluntary surrender of a license in lieu of seeking revocation of the license. Before it accepts a voluntary surrender, the SBE shall make findings of fact regarding the circumstances surrounding the voluntary surrender to demonstrate that grounds existed under which the SBE could have initiated license revocation proceedings. The SBE shall treat a voluntary surrender the same as a revocation.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.35; 115C-325.9; Interim Rule status

conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b).

16 NCAC 06C .0376 REINSTATEMENT OR ISSUANCE FOR AN EDUCATOR WITH A SUSPENDED OR REVOKED LICENSE BY THE STATE BOARD OF EDUCATION

(a) The SBE may reinstate a suspended or revoked license or may grant a new license after denial of a license upon an individual's application submitted no sooner than six months after the suspension, revocation, or denial and a showing that:

(b) The action that resulted in suspension, revocation or denial of the license did not involve abuse of minors; moral turpitude or grounds listed in G.S.115C-325(e)(1)(b);

(c) The person has no record of subsequent behavior that could have resulted in license revocation; and

(d) There is no court order or judicial determination that would prohibit the person from returning to or holding a licensed position.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.35; 115C-325.

16 NCAC 06C .0377 NOTIFICATION TO OTHER STATES INVOLVING DENIAL, SUSPENSION, REVOCATION, SURRENDER, OR REINSTATEMENT OF A PROFESSIONAL EDUCATOR'S LICENSE

The State Board of Education (SBE) will notify all other states of all actions which involve the denial, suspension, revocation, surrender, or reinstatement of a license for a professional educator.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20; 115C-270.35; 115C-321; 115C-325.

16 NCAC 06C .0378 PROCEDURE FOR SEEKING EXCEPTION FROM LICENSURE REQUIREMENTS

(a) The State Board of Education may grant one-year extensions of time to satisfy licensure requirements due to extenuating circumstances for individuals who:

(1) Following initial licensure, have not completed the course work required to maintain a license; or

(2) Have not met other licensure requirements.

(b) Extenuating circumstances shall be defined as the illness or physical disability of the teacher, the death or catastrophic illness of a member of the teacher's immediate family, or other unforeseeable emergencies beyond the reasonable control of the teacher that have a direct and immediate impact on the teacher's ability to complete the licensure requirements.

Authority G.S. 115-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0379 ONE-YEAR EXTENSION PROCESS FOR COURSEWORK REQUIREMENTS TO FULFILL LICENSURE REQUIREMENTS

(a) A Local Education Agency (LEA) may apply to the State Board of Education for a one-year extension of time to satisfy

state licensure requirements for an individual who, due to extenuating circumstances, has not completed the course work required to maintain a license. The application for this extenuating circumstance must include the following:

- (1) A document, signed by the individual, which includes;
- (2) A description of the extenuating circumstances that the teacher claims prevented him or her from satisfying the requirements for licensure;
- (3) A request for an extension of his or her license for one additional year to complete the course work required to maintain a license; and
- (4) An acknowledgment that the teacher understands that the materials submitted to the State Board of Education in support of his or her request are public records subject to disclosure G.S. 132.

(b) Copies of medical or other documentation to support the individual's claim of extenuating circumstances

(c) A document, signed by the North Carolina principal who most recently supervised the individual, which includes:

- (1) The dates the principal supervised the teacher;
- (2) Sufficient evidence of the individual's academic and professional preparation showing that the individual is competent to teach the standard course of study and has demonstrated the ability to implement effective educational methods that provide differentiated, individualized instruction, assessment and remediation to all his or her students;
- (3) A statement that in the principal's opinion the teacher is competent to teach the standard course of study and has demonstrated the ability to implement effective educational methods that provide differentiated, individualized instruction, assessment and remediation to the students in his or her classroom; and
- (4) A copy of any of the individual's summative annual evaluations for the past three years.

(d) A document, signed by the superintendent of the local school system, which includes:

- (1) A statement certifying that, based upon a review of the individual's and the principal's documentation and evidence, the superintendent believes the individual is competent to teach the standard course of study and has demonstrated the ability to implement effective educational methods that provide differentiated, individualized instruction, assessment and remediation to the students in his or her classroom;
- (2) A list of the required course work that the applicant has completed;
- (3) A description of the efforts that the local school administrative unit has made to assist the teacher to complete the required course work;
- (4) A list of the required course work that the applicant must complete to qualify for a license;

- (5) A description of the efforts that the local school administrative unit will make to assist the teacher to complete the required course work during the next year of teaching; and
- (6) A statement that the superintendent believes that the applicant is likely to complete the required course work within the one-year extension.
- (7) A document, signed by the chair of the local board of education, which includes:
- (8) A certification that the local board of education has investigated the extenuating circumstances that the teacher claims prevented him or her from completing the required coursework for a license without undue hardship;
- (9) A statement that the local board of education is satisfied that the teacher's description of the circumstances is true;
- (10) A statement that the local board of education is satisfied that, due to extenuating circumstances, the teacher could not have completed the required coursework for a license without undue hardship;
- (11) A certification that the local board of education has approved the employment of the teacher for the next school year, subject only to the State Board of Education's decision to grant the requested one-year extension of the teacher's provisional license.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0380 DECISION OF THE STATE BOARD OF EDUCATION FOR A REQUESTED EXTENSION FOR AN EDUCATOR'S LICENSE

After receiving the panel's recommendation, the State Board of Education shall make a decision whether to grant the requested extension unless otherwise prohibited by state or federal law.

Authority G.S. 115-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-270.20.

16 NCAC 06C .0381 BEGINNING TEACHER SUPPORT PROGRAM REQUIREMENTS

(a) All public school units must have a Beginning Teacher Support Program (BTSP) and a Beginning Teacher Support Program Plan (BTSP Plan) that has been approved by the public school unit and by NCDPI. All beginning teachers who are pursuing a continuing professional license must participate in a BTSP for three years. For the purposes of this Rule, a "year" is defined as working in a full-time permanent position for six or more calendar months during a North Carolina fiscal year. BTSP Plans shall include a documented process for identifying and verifying all beginning teachers.

(b) Student services personnel, administrators, and curriculum-instructional specialists are not required to participate in the BTSP.

(c) A beginning teacher with an initial license who converts to a continuing license must complete three years of teaching and a Beginning Teacher Support Program prior to conversion. Once a teacher has earned a continuing license in one licensure area, an additional participation in a BTSP is not required.

(d) Beginning teachers must be assigned to a BTSP in their area of licensure.

(e) Public school units must collect and submit data on the reasons why teachers leave the teaching profession and on vacancies in teaching positions to NCDPI for the State of the Teaching Profession in North Carolina Report.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-300.1.

16 NCAC 06C .0382 BEGINNING TEACHER SUPPORT REQUIREMENTS

In order to support beginning teachers, all public school units must:

- (1) Assign all beginning teachers a mentor who works in close proximity to the beginning teacher;
- (2) Limit non-instructional duties, which are duties that are not directly involved with the instructional program or the implementation of the standard course of study.
- (3) Assign beginning teachers a limited number of exceptional students; and
- (4) Assign beginning teachers no extracurricular assignments, which are activities performed by a teacher involving students that are outside the regular school day and not directly related to the instructional program unless such assignments are requested in writing by the beginning teacher.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-300.1.

16 NCAC 06C .0383 BEGINNING TEACHER PROFESSIONAL DEVELOPMENT PLAN

(a) All beginning teachers must create a Professional Development Plan (PDP) annually in collaboration with their mentor and the principal or principal's designee.

(b) The PDP must be based on the North Carolina Professional Teaching Standards, and must include goals, strategies, and assessment of the beginning teacher's progress in improving professional skills.

(c) The beginning teacher, mentor and principal must meet at the beginning, middle, and end of each year to conduct formative assessment conferences to monitor the progress of the beginning teacher in meeting the goals established by the PDP. Signatures of beginning teacher, mentor, and principal are required for each formative assessment conference.

(d) All beginning teachers must complete any professional development assigned by the public school unit annually.

(e) All beginning teachers shall be evaluated.

(f) Public school units with approved BTSP plans must participate in an annual review, which includes a self-assessment

and a peer review. This review shall be filed annually with the North Carolina Department of Public Instruction. Data from the annual reviews will be summarized and analyzed by NCDPI on a five-year cycle.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-300.1.

16 NCAC 06C .0384 MENTOR PROGRAM REQUIREMENTS

(a) All local boards shall have a mentor program to provide ongoing support for new teachers entering the profession.

(b) Public school units shall select qualified teachers to serve as mentors using the North Carolina Professional Teaching Standards and North Carolina Educator Evaluation System to evaluate teachers unless it develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those in the North Carolina Professional Teaching Standards and North Carolina Educator Evaluation System.

(c) Public school units may use the most recently available evaluation for teachers who lack an evaluation from the prior year. Teachers without evaluation data for two or more consecutive years shall not be eligible to serve as mentor teachers, unless the mentor is a retired teacher.

(d) Any teacher who is assigned to be a mentor to a beginning teacher shall meet eligibility requirements in the year of the assignment. No mentor whose evaluation falls below the "proficient" level may continue to serve as a mentor to a beginning teacher, regardless of existing mentor-mentee relationships with the beginning teacher.

(e) Mentor assignments and guidelines shall follow the expectations listed under the key features of Standard 2: Mentor Selection, Development, and Support for Beginning Teacher Support Program Standards:

- (1) Mentor selection criteria shall include input from a variety of stakeholder groups.
- (2) Mentor selection criteria are clearly articulated by program leadership.
- (3) The process for mentor application and selection is transparent and uniformly applied.
- (4) Mentors support beginning teacher orientation and provide logistical and emotional support.
- (5) Mentors focus their primary support on improving instruction and learning.
- (6) Mentors provide ongoing support and encouragement for the beginning teacher.
- (7) Mentors receive initial training regarding their role as mentors and their responsibilities in the induction program.
- (8) Mentors receive ongoing training to advance their knowledge and skills.
- (9) Mentors have opportunities to participate in professional learning communities of mentoring practice.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-270.5; 115C-300.1; 115C-333.1.

16 NCAC 06C .0385 STANDARDS THAT DETERMINE TEACHER RATINGS

The North Carolina Professional Teaching Standards used to determine teacher proficiency are a part of the North Carolina Educator Evaluation System (NCEES). The Professional Teaching Standards assess the following areas of the teaching profession:

- (1) Demonstration of leadership;
- (2) Establishment of a respectful learning environment for a diverse population of students;
- (3) Understanding of instructional content;
- (4) Facilitation of student learning; and
- (5) Self-reflection of professional practice.

Authority G.S. 115C-12(22); 115C-268.1; 115C-268.5; 115C-299.5; 115C-333; 115C-333.1; 115C-335.

16 NCAC 06C .0386 SCHOOL ADMINISTRATOR PREPARATION PROGRAM COURSEWORK REQUIREMENTS

All School Administrator Preparation Programs shall incorporate coursework addressing the North Carolina Standards for School Executives including:

- (1) Understanding state and federal laws, regulations, and case law that affects North Carolina public schools;
- (2) Using technology for effective teaching and learning and administrative duties;
- (3) Determining how a child responds to research-based interventions to screen students who may be at risk of academic failure, monitoring the effectiveness of instruction proposed for students identified as at-risk, and modifying instruction as needed to meet the needs of each student;
- (4) Applying skills to observe and analyze the teaching of literacy and numeracy across content areas using developmentally appropriate and differentiated instructional strategies to meet the needs of all learners;
- (5) Understanding the importance of creating and promoting an engaging, safe school climate;
- (6) Understanding and using processes to evaluate licensed staff; and
- (7) Using effective leadership and implementation strategies to facilitate professional practices and manage change.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-284; 115C-284.1.

16 NCAC 06C .0387 SCHOOL ADMINISTRATOR PREPARATION PROGRAM CURRICULUM REQUIREMENTS

All School Administrator Preparation Programs shall offer curriculum aligned with the North Carolina Standards for School Executives that addresses student learning and school improvement and focuses on the following:

- (1) All grade levels from preschool through grade 12;
- (2) The role of kindergarten through grade 12 instruction, emphasizing literacy and numeracy, curriculum, assessment and the needs of the school or district in improving learning;
- (3) All students, with specific attention to students with special needs, such as specific learning disabilities, English language learners, gifted students, and students in early childhood programs;
- (4) Collaborative relationships with all members of the school community, such as parents, school board members, local school councils or other governing councils, and community partners; and
- (5) The role of instructional and student services personnel.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-284; 115C-284.1.

16 NCAC 06C .0388 SCHOOL ADMINISTRATOR PREPARATION PROGRAM INTERNSHIP REQUIREMENTS

(a) All School Administrator Preparation Programs must include an internship as part of its curriculum. The internship shall be conducted at one or more public or nonpublic schools to expose the candidate in a variety of school leadership situations in settings that represent diverse economic and cultural conditions, including interaction with various members of the school community. The internship shall include the following components:

- (1) Engagement in instructional activities that involve teachers in a variety of disciplines and grade levels, including general education, special education, bilingual education and gifted education classroom settings;
- (2) Observation of the hiring and supervision of teachers, other licensed staff, and non-licensed staff, which includes the development of a professional development plan for teachers; and
- (3) Participation in leadership opportunities.

(b) Each program shall assign a faculty member to serve as faculty supervisor for the internship portion of the program. All programs shall ensure that each candidate successfully completes the training.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-284; 115C-284.1.

16 NCAC 06C .0389 SCHOOL ADMINISTRATOR PREPARATION PROGRAM INTERNSHIP SITE REQUIREMENTS

To serve as an internship site for a School Administrator Preparation Program, a public or nonpublic school shall fulfill the following requirements:

- (1) The principal of the school shall hold a valid and current North Carolina principal license or if the internship site is located in another state, the principal shall hold a valid and current license with an area that is comparable or equivalent to the North Carolina principal license; and
- (2) The principal shall have two years of experience as a building principal. Local Education Agencies (LEAs) and other public-school governing bodies shall ensure that the cooperating principal meets the experience requirement prior to placement of the intern.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-284; 115C-284.1.

16 NCAC 06C .0390 SCHOOL ADMINISTRATOR PREPARATION PROGRAM REQUIREMENTS

For the creation and implementation of a School Administrator Preparation Program, as approved by the State Board of Education, the following requirements shall be met:

- (1) The program shall be jointly established by one or more institutions of higher education, not-for-profit entities, or for-profit entities, and a local education agency or nonpublic school.
- (2) Each program shall offer curricula that address student learning and school improvement aligned with the North Carolina Standards for School Executives.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-284; 115C-284.1.

16 NCAC 06C .0391 TESTING EXEMPTIONS FOR ADMISSION INTO AN EDUCATOR PREPARATION PROGRAM

(a) A student seeking admission to an Educator Preparation Program (EPP) shall be exempt from taking the Praxis assessment if he or she meets one of the following conditions:

- (1) For SAT scores prior to March 2016:
 - (A) Individuals with a total SAT score of 1100 are exempt from Praxis Core testing requirements;
 - (B) Individuals with a total SAT score of less than 1100 but a score of at least 550 on the Verbal test are exempt from the Preprofessional Skills Tests in Reading and Writing; and
 - (C) Individuals with a total SAT score of less than 1100 but a score of at least 550 on the Math test are exempt from the Preprofessional Skills Test in Mathematics.
- (2) For SAT scores after March 2016:
 - (A) Individuals with a total SAT score of 1170 are exempt from Praxis Core testing requirements;

(B) Individuals with a total SAT score of less than 1170, but a score of at least 600 on the evidence-based reading and writing test are exempt from the Preprofessional Skills Tests in Reading and Writing; and

(C) Individuals with a total SAT score of less than 1170 but a score of at least 570 on the Math test are exempt from the Preprofessional Skills Test in Mathematics.

(3) For ACT scores:

(A) Individuals with a composite ACT score of 24 or higher are exempt from Praxis Core testing requirements;

(B) Individuals with a composite ACT score of less than 24, but with a score of at least 24 on the English test are exempt from the Preprofessional Skills Tests in Reading and Writing; and

(C) Individuals with a composite ACT score of less than 24, but a score of at least 24 on the Math test are exempt from the Preprofessional Skills Test in Mathematics.

(b) In the event that either the College Board or ACT changes the scaling of their respective assessments, the SBE shall use concordance information from the testing vendor to establish new cut scores for exemption from the Praxis assessments.

(c) The passing scores for the Praxis assessment are established by the test vendor and approved by the State Board of Education.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-269.15.

16 NCAC 06C .0392 TESTING REQUIREMENTS FOR ADMISSION TO AN EDUCATOR PREPARATION PROGRAM

Students seeking admission to an Educator Preparation Program must pass the Praxis Core academic Skills for Educators assessment unless an exemption is permitted under G.S. 115C-269.15 or Rule .0390 of this Section. The Praxis assessment is a preprofessional skills test as specified in G.S. 115C-269.15 and established by the North Carolina State Board of Education. The passing scores for the Praxis assessment are established by the test vendor and approved by the State Board of Education.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-269.15.

16 NCAC 06C .0393 MATHEMATICS INSTRUCTIONAL REQUIREMENTS FOR EDUCATOR PREPARATION PROGRAMS TRAINING ELEMENTARY AND EXCEPTIONAL CHILDREN GENERAL CURRICULUM TEACHERS

In addition to the minimum requirements set forth in G.S. 115C-269.20(1) and (2), all Educator Preparation Programs that provide training for elementary and exceptional children general

curriculum teachers shall include coursework in the following areas:

- (1) Instruction in the teaching of mathematics with attention to the following:
 - (a) Content, which includes number and operations, early algebra, measurement; and
 - (b) Pedagogical issues, which includes high quality tasks, classroom discourse, instructional moves.
- (2) Instruction in evidence-based learning trajectories, how to identify what students are able to do, and what is needed to address their needs including:
 - (a) How to identify which mathematical concepts or skills students have and have not demonstrated, and
 - (b) How to plan for instruction based on student strengths and needs as determined by the evidence.
- (3) Instruction in understanding the strengths and weaknesses of instructional supports and how to adapt and utilize mathematical resources to advance instruction; and
- (4) Instruction in designing learning experiences to align with specific learning goals.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-269.20.

16 NCAC 06C .0394 STANDARDS OF PRACTICE FOR INNOVATIVE OR EXPERIMENTAL PROGRAMS FOR SCHOOL ADMINISTRATOR PREPARATION

(a) Any existing Innovative or Experimental School Administrator Preparation Programs shall be reviewed by the Professional Educator Preparation and Standards Commission annually, which shall use the following standards:

- (1) The program is organized and administered, showing a structure for the oversight and management of the program which ensures flexibility and accountability.
- (2) The program provides documentation of human, fiscal, and physical resources.
- (3) The program addresses the needs of the students.
- (4) The program includes exit levels of competency, a procedure for recommending licensure, and a follow up process.
- (5) The program has defined and measurable expected outcomes and results as measured by the annual Educator Preparation Program Report Card pursuant to G.S. 115-269.50.

(b) No new innovative or experimental school administrator preparation programs will be approved after July 1, 2017.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-269.35; 115C-269.50; 115C-284; 115C-284.1.

16 NCAC 06C .0395 PROCESS FOR FILING A COMPLAINT AGAINST AN EDUCATOR PREPARATION PROGRAM (EPP)

Complaints against an EPP must be made in writing to the State Board of Education. The written complaint may be filed by an individual or entity through the following means:

- (1) Filling out and submitting the complaint form online;
- (2) Mailing a hard copy to the physical address on the form; or
- (3) Faxing a hard copy to the fax number on the form.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-269.55.

16 NCAC 06C .0396 RESTRICTIONS ON THE AUTHORITY OF THE STATE BOARD OF EDUCATION ON COMPLAINTS AGAINST AN EDUCATOR PREPARATION PROGRAM (EPP)

The State Board of Education does not have jurisdiction over complaints against Educator Preparation Programs (EPPs) that relate to the following areas:

- (1) Contractual arrangements with an EPP, such as program removal due to not meeting a program requirement or being noncompliant with the EPP on the university level;
- (2) Commercial issues including any type of business transaction with the EPP or university, such as financial enrollment, bankruptcy, closing of institution, and program fidelity;
- (3) Grade issues such as requesting a change in grade for a course or gaining credit for a course or requirement in the program; and
- (4) Seeking readmittance to an EPP.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-269.55.

16 NCAC 06C .0397 EDUCATOR PREPARATION PROGRAM COURSEWORK REQUIREMENTS FOR ALL PROGRAMS

(In addition to the minimum requirements set forth in G.S. 115C-269.20(a)(1), all Educator Preparation Programs shall include instruction in the following areas:

- (1) The identification of academically or intellectually gifted children;
- (2) Evidence based practices as defined by the Every Student Succeeds Act, which are essential for early career success in content instruction;
- (3) The teaching of diverse populations of students; and
- (4) Classroom management.

Authority G.S. 115C-12; 115C-268.1; 115C-268.5; 115C-269.5; 115C-269.10; 115C-269.20.

SECTION .0700 – EDUCATOR EMPLOYMENT

**16 NCAC 06C .0701 MODEL EMPLOYMENT
CONTRACT FOR TEACHERS**

All contracts between a local board of education, as defined in G.S. 115C-5(5), and a teacher, as defined in G.S. 115C-325.1(6), shall contain the following:

- (1) A statement that the contract is effective only if approved by a majority of the local board at an officially called meeting of the local board.
- (2) The term of the contract. Such term may be for any length permitted by law. At the conclusion of the contract term, the local board may, but is not required to, re-employ the teacher by offering the teacher a subsequent contract as provided by law.
- (3) An indication of the compensation that the teacher shall receive for professional services performed pursuant to the contract. Such compensation shall be at a rate consistent with the North Carolina General Statutes, the salary schedule for teachers established by the State of North Carolina, and any local supplement that may apply. If the teacher is to be paid from local funds, the compensation will be consistent with the local salary schedule adopted pursuant to G.S. 115C-302.1(h).
- (4) With respect to qualifications:
 - (a) The teacher's obligation to maintain a North Carolina teaching license valid for the teacher's area of assignment.
 - (b) The teacher's obligation to inform the local board's Human Resources Office in the event that the teacher's license is revoked, suspended, expired, or not renewed for any reason.
 - (c) A statement that the teacher is solely responsible for obtaining and maintaining the required licensure.
- (5) With respect to duties:
 - (a) A requirement that the teacher shall perform all duties assigned by the superintendent or superintendent's designee and required by the laws of the State of North Carolina.
 - (b) A statement that the contract does not give the teacher a right to any particular assignment or school site.
 - (c) A requirement that the teacher agrees to become familiar with and abide by the policies and practices of the local board and the North Carolina State Board of Education, and to abide by the laws of the State of North Carolina and the United States.
- (6) With respect to special duties:
 - (a) A statement that, if there are special duties or assignments for which the local board has agreed to compensate the teacher, those will be described in

a separate agreement and the additional compensation will not be considered salary for the purpose of computing the teacher's salary under the provisions of G.S. 115C-325.1 et seq.

- (b) A statement that any return to regular duties is not a demotion as defined by law.
- (7) A provision that explains the teacher's entitlement to health care benefits, earned leave and such other benefits as are available pursuant to the laws of the State of North Carolina and the policies and practices of the local board.
- (8) Any requirements for termination of the contract initiated by the teacher pursuant to the provisions and procedures provided in G.S. 115C-325.1 et seq.
- (9) Any requirements for alteration or termination of the contract by the local board pursuant to the provisions and procedures provided in G.S. 115C-325.1 et seq.
- (10) With respect to modification, a statement that the contract is subject to modification as a result of subsequent legislative enactments.
- (11) With respect to severability, a statement that if any provision of the contract is held to be invalid or unenforceable, such provision shall be severed and shall be inoperative, and the remainder of the contract shall remain in full force and effect.
- (12) A statement indicating that the contract shall be governed by the laws of the State of North Carolina.
- (13) Any other provisions deemed necessary or appropriate by the parties, or as required by law.
- (14) The model teacher contract is found online on the Department of Public Instruction website.

Authority G.S. 115C-12; S.L. 2013-360, s. 9.6(e).

SUBCHAPTER 06D - INSTRUCTION

SECTION .0200 - TEXTBOOKS

**16 NCAC 06D .0211 TEXTBOOK EVALUATION
CRITERIA AND INVITATION TO SUBMIT**

The North Carolina Department of Public Instruction shall develop the criteria used to evaluate textbooks presented for adoption for their conformity to the North Carolina Standard Course of Study.

- (1) The criteria shall be included in the Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina. The Invitation, also developed by the Department, shall provide the required procedures for submission, evaluation, and adoption of textbooks and a schedule for the process.

- (2) General Counsel to the State Board of Education shall review and approve the Invitation prior to its being submitted to the State Board of Education for review and adoption.
- (3) The State Board-approved and adopted Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina that includes the criteria shall be sent to the publishers on the NC Publishers Registry requesting the submission of textbooks for evaluation and adoption. Only publishers on the NC Publishers Registry will be sent the invitation and can submit textbooks for evaluation and adoption.

Authority G.S. 115C-12; 115C-89.

**16 NCAC 06D .0212 TEXTBOOK PUBLISHERS
REGISTRY**

- (a) In accordance with G.S. 115C-94, the State Superintendent of Public Instruction or designee shall maintain a register of all publishers who submit textbooks for adoption by the State Board of Education. The State Superintendent shall prescribe the information required for registration.
- (b) Publishers shall be registered on the NC Publishers Registry in order to receive the State Board of Education-approved Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina, which shall provide the required procedures for submission, evaluation, and adoption of textbooks. Publishers are required to follow the procedures set forth in the invitation. Failure to comply with all procedures, including stated deadlines, may result in disqualification. Only publishers on the NC Publishers Registry will be sent the invitation and can submit textbooks for evaluation and adoption.
- (c) Each publishing company piloting textbook materials being submitted for consideration in the current adoption year shall notify the Textbook Commission, in writing, which materials are being piloted and in which local education agencies materials are being piloted. The Textbook Commission shall notify all local superintendents involved in piloting textbook materials prior to the end of the textbook selection process that the materials they are piloting may or may not be accepted by the Commission.
- (d) Contact with the State Board of Education, the Textbook Commission, advisors, and the Department must be limited.

- (1) The Commission may meet publicly with representatives of publishers to discuss the Commission's plans and procedures for adoption of textbooks.
- (2) At no time during the adoption process (from the time the State Board approves the invitation until the State Board adopts the list of textbooks) may the publishers or any of their representatives meet privately with members of the Textbook Commission, the State Board of Education, evaluation advisors, or the Department staff involved in submission, evaluation, or adoption process.
- (3) A period of time shall be set aside for the Textbook Commission to meet and deliberate

before a list of textbook recommendations is taken to the State Board of Education for adoption. Publishers will have time to present additional information to the Commission if their title(s) have been excluded from the list of recommendations. The procedure for reconsideration shall be described in the Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina.

(e) Publishers may not exercise undue pressure.

- (1) For purposes of restrictions, "undue pressure" means personal contact, whether in person, by telephone, or in written form, that attempts to advocate for the selection of a particular book or series of books. "Undue pressure" does not include social contact or presentations to the Textbook Commission as a whole, and does not include written communication with Textbook Commission members or agency officials following acceptance or rejection of a submission in an effort to seek clarification or reconsideration.
- (2) The State Superintendent shall remove from the NC Publishers Registry any publisher whose representatives attempt to exercise undue pressure of any kind to adopt its books upon a member of the Textbook Commission, the advisors, or the Department.
- (3) The State Board of Education shall direct the State Superintendent of Public Instruction to remove from the NC Publishers Registry any publisher whose representatives attempt to exercise undue pressure of any form upon a member of the State Board of Education to adopt its books.

Authority G.S. 115C-12; 115C-89.

SECTION .0300 - TESTING PROGRAMS

**16 NCAC 06D .0307 TEST ADMINISTRATION IN
PUBLIC SCHOOLS**

(a) Test Administration -- Only persons who are employed by the school system, either permanently or contractually, and have professional training in education and the state testing program shall administer secure tests to students.

- (1) The North Carolina Department of Public Instruction (NCDPI) shall supply the tests to the local education agencies (LEAs).
- (2) LEAs shall:
 - (A) account to the NCDPI for all tests received;
 - (B) provide a secure, locked storage facility for all tests received;
 - (C) prohibit the reproduction of any or all parts of the test; and
 - (D) prohibit its employees from disclosing the content of the tests or specific items contained in the tests to persons

other than authorized employees of the LEA.

(b) LEAs must monitor test administration procedures. If school officials discover any instance of improper administration and determine that the validity of the test results has been affected, they must notify the local board of education, declare a misadministration, and order the affected students to be re-tested. Only the superintendent and the LEA test coordinator have the authority to declare a test misadministration at the local level.

(c) The Superintendent of Public Instruction may conduct audits of LEAs if he/she receives written complaints that allege improper test administration, and he/she may require the re-testing of students.

(d) The NCDPI shall score or have scored all tests in the North Carolina Testing Program. In addition, the department shall provide score interpretative services to the LEAs.

(e) LEAs shall, at the beginning of each school year, provide information to students and parents or guardians advising them of the districtwide and state-mandated tests that students will be required to take during that school year. In addition, LEAs shall advise students and parents or guardians of the dates the tests will be administered and how the results from the tests will be used. Information LEAs provide to parents shall include whether the State Board of Education or the local board of education requires the test(s).

(f) LEAs shall report scores resulting from the administration of districtwide and state-mandated tests to students and parents or guardians along with available score interpretation information within 30 days from generation of the score at the LEA level or receipt of the score and interpretive documentation from the NCDPI.

(g) In order to ensure adequate representation and the generalizability of the data used to develop tests and to conduct evaluation studies, selected LEAs and schools, determined through stratified random samples, shall participate in field testing and other sample testing such as the National Assessment of Educational Progress (NAEP) and other national or international assessments as designated by the department or the SBE.

Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12.

16 NCAC 06D .0308 ROLE OF THE TESTING COORDINATOR

(a) The local superintendent in a local education agency (LEA) shall act as or appoint a school system testing and accountability coordinator to assist in the local administration, reporting, and interpretation of test results and other accountability measures in the North Carolina Testing Program.

(b) LEA testing and accountability coordinators shall attend training sessions provided by the North Carolina Department of Public Instruction regarding proper test administration, test security, appropriate use of accommodations, scanning and scoring answer sheets, and preparation of test materials for scoring at a central site. LEA test coordinators shall conduct in-person training for the school test coordinators in their LEAs for the purpose of providing instruction to local test administrators and proctors. LEA testing and accountability coordinators shall arrange for the scanning, scoring, and reporting of results from tests adopted by the State Board of Education.

Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12.

16 NCAC 06D .0309 REQUIREMENTS REGARDING END-OF-COURSE ASSESSMENTS

(a) All eligible students shall participate in the administration of end-of-course assessments (standard administrations with or without accommodations or an alternate assessment). This rule shall apply to all public schools, including traditional, charter, and regional schools.

(b) Public schools shall include each student's end-of-course (EOC) assessment results in the student's permanent records and high school transcript.

(c) Public schools shall administer EOC assessments within the North Carolina Department of Public Instruction's designated testing window.

(d) Public schools shall use results from all operational EOC assessments as a minimum of twenty percent (20%) of the student's final grade for each respective course with the exception of:

- (1) students following the Occupational Course of Study Pathway; English Learner (EL) students in their first year in a U.S. school; and
- (2) effective with the 2018–19 school year and beyond, all students enrolled in a course during the initial implementation year of the new assessment for that course where scores are not immediately available due to standard setting.
- (3) For these exceptions, public schools shall adopt policies regarding the use of EOC assessment results in assigning final grades.

(e) Public school students who are enrolled for credit in courses in which EOC assessments are required shall take the appropriate EOC assessment at the completion of the course.

(f) Public school students who are exempt from final exams by local board of education policy shall not be exempt from EOC assessments.

(g) Public school students shall take the appropriate EOC assessment the first time the student takes the course requiring the assessment.

(h) Public school students shall take the appropriate EOC assessment at the end of the course regardless of the grade level in which the course is offered.

(i) Public school students who are identified as failing a course for which an EOC assessment is required shall take the appropriate EOC assessment.

(j) Public school students may drop a course with a required EOC assessment within the first 10 days of enrollment in a semester block schedule or within the first 20 days of enrollment in a yearlong traditional schedule. Students who are enrolled for credit after the 10/20 days, regardless of course delivery (e.g., traditional classroom, NC Virtual Public School, vendor-based online) shall not drop a course with a required EOC assessment and shall participate in the appropriate EOC assessment at the completion of the course.

(k) Public school students enrolled in courses requiring the administration of the EOC assessment who previously obtained a proficient score on the appropriate EOC assessment may use the proficient score as a minimum of 20% of their final course grade

or they may elect to retake the appropriate EOC assessment at the completion of the course and use the most recent score for the final grade calculation.

Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12.

16 NCAC 06D .0310 APPROPRIATE USE OF STATE TESTS

Secure tests developed by the State of North Carolina may not be used for purposes other than those approved by the Division of Accountability Services and the State Board of Education.

Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12.

16 NCAC 06D .0311 TESTING CODE OF ETHICS

(a) This Rule sets out the administrative testing procedures and testing code of ethics and shall apply to all public school employees, including charter school and regional school employees, who are involved in the state testing program.

(b) The superintendent/charter school director or superintendent's/charter school director's designee shall develop local policies and procedures to ensure maximum test security in coordination with the policies and procedures developed by the test publisher.

(c) The superintendent/charter school director or superintendent's/charter school director's designee shall instruct personnel who are responsible for the testing program in testing administration procedures. This instruction shall include test administrations that require testing accommodations and shall emphasize the need to follow the directions outlined by the test publisher.

(d) The superintendent/charter school director or superintendent's/charter school director's designee shall designate the personnel who are authorized to have access to secure test materials. "Access" to test materials by school personnel means handling the materials but does not include reviewing tests or analyzing test items.

(1) Persons who have access to secure test materials shall not use those materials for personal gain.

(2) No person may copy, reproduce, or paraphrase in any manner or for any reason the test materials without the express written consent of the test publisher.

(e) The principal shall ensure test security within the school building. The principal shall store test materials in a secure, locked facility. The principal shall allow test materials to be distributed immediately before the test administration.

(f) Any breach of security, loss of materials, failure to account for materials, or any other deviation from required security procedures shall be reported immediately to the principal, school test coordinator, school system (LEA) test coordinator, superintendent/charter school director, and regional accountability coordinator.

(g) Preparation for testing. The superintendent/charter school director shall ensure that school system (LEA) test coordinators:

(A) secure necessary materials;

(B) plan and implement training for school test coordinators, test administrators, and proctors;

(C) ensure each school test coordinator and test administrator is trained before each test administration on the policies and procedures for conducting a proper test administration and for processing and returning test materials; and

(D) in conjunction with program administrators, ensure the need for test accommodations is documented and that accommodations are limited to the specific need.

(h) The principal or the principal's designee shall serve as school test coordinator.

(i) The principal shall ensure the school test coordinator maintains test security and accountability of test materials, including taking the following actions:

(A) before each test administration, the school test coordinator shall accurately count and distribute test materials, and

(B) immediately after each test administration, the school test coordinator shall collect, count, and return all test materials to the secure, locked storage facility establishes any needed school policies and procedures to assure all eligible students are tested fairly;

(C) identifies and trains personnel, proctors, and backup personnel for test administrations; and

(D) encourages a positive atmosphere for testing.

(j) Test administrators shall be school personnel who have professional training in education and the state-testing program.

(k) Teachers shall provide instruction that meets or exceeds the state-adopted curriculum standards to meet the needs of the specific students in the class.

(1) Teachers may help students improve test-taking skills by:

(2) helping students become familiar with test formats using curricular content;

(3) teaching students test-taking strategies and providing practice sessions;

(4) helping students learn ways of preparing to take tests; and

(5) using resource materials such as test questions from test item banks and linking documents in instruction and test preparation.

(l) With respect to test administration, the superintendent/charter school director or superintendent's/charter school director's designee shall:

(1) assure each school establishes procedures to ensure all test administrators comply with test publisher guidelines;

- (2) inform the local board of education of any breach of this code of ethics; and
- (3) inform school system (LEA) test coordinators and principals of their responsibilities.
- (m) The school test coordinator shall:
- (1) assure school personnel know the content of state and local testing policies;
- (2) implement the school system and local testing policies and procedures to assure all eligible students are tested fairly;
- (3) ensure trained proctors are assigned to test administrations by the principal; and
- (4) ensure all testing irregularities are reported to the school system (LEA) test coordinator.
- (n) Test administrators shall:
- (1) administer tests according to the directions in the assessment guide and any subsequent updates developed by the test publisher;
- (2) administer tests to all eligible students;
- (3) report all testing irregularities to the school test coordinator; and
- (4) provide a positive test-taking environment.
- (o) Proctors shall serve as additional monitors to help the test administrator assure that testing occurs fairly.
- (p) Scoring. The school system test coordinator shall:
- (1) ensure each test is scored according to the procedures and guidelines defined for the test by the test publisher;
- (2) maintain quality control during the entire scoring process, which consists of handling and editing documents, scanning answer documents, and producing electronic files and reports. Quality control shall address at a minimum accuracy and scoring consistency.
- (3) maintain security of tests and data files at all times, including:
- (A) protecting the confidentiality of students at all times when publicizing test results; and
- (B) maintaining test security of answer keys and item-specific scoring rubrics.
- (q) Analysis and reporting. Educators shall use test scores appropriately. This means that the educator recognizes that a test score is only one piece of information and must be interpreted together with other scores and indicators. Test data help educators understand educational patterns and practices. The superintendent shall ensure that school personnel analyze and report test data ethically and within the limitations described in this paragraph.
- (1) Educators shall maintain the confidentiality of individual students. Publicizing test scores or any written material containing personally identifiable information from the student's educational records shall not be disseminated or otherwise made available to the public by a member of the State Board of Education, any employee of the State Board of Education, the State Superintendent of Public Instruction, any employee of the North Carolina Department of Public Instruction, any member of a local board of education, any employee of a local board of education, or any other person, except as permitted under the provisions of the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §1232g.
- (2) Educators shall release test scores to students, parents, legal guardians, teachers, and the media with interpretive materials as needed.
- (3) Staff development relating to testing must enable school personnel to respond knowledgeably to questions related to testing, including the tests, scores, scoring procedures, and other interpretive materials.
- (4) Items and associated materials on a secure test shall not be in the public domain. Only items that are within the public domain may be used for item analysis.
- (5) Data analysis of test scores for decision-making purposes shall be based upon:
- (A) disaggregation of data based upon student demographics and other collected variables;
- (B) examination of grading practices in relation to test scores; and
- (C) examination of growth trends and goal summary reports for state-mandated tests.
- (r) Unethical testing practices include, but are not limited to, the following practices:
- (1) encouraging students to be absent the day of testing;
- (2) encouraging students not to do their best;
- (3) using secure test items or modified secure test items for instruction;
- (4) changing student responses at any time;
- (5) interpreting, explaining, or paraphrasing the test directions or the test items;
- (6) classifying students solely for the purpose of avoiding state testing;
- (7) not testing all eligible students;
- (8) failing to provide required accommodations during testing;
- (9) modifying scoring programs including answer keys, equating files, and lookup tables;
- (10) modifying student records solely for the purpose of raising test scores;
- (11) using a single test score to make individual decisions; and
- (12) misleading the public concerning the results and interpretations of test data.
- (s) In the event of a violation of this Rule, the State Board of Education may, in accordance with the contested case provisions of G.S. 150B, impose any one or more of the following sanctions:
- (1) withhold any applicable monetary incentive awards;
- (2) file a civil action against the person or persons responsible for the violation for copyright infringement or for any other available cause of action;

- (3) seek criminal prosecution of the person or persons responsible for the violation; and
- (4) in accordance with the provisions of 16 NCAC 06C .0312, suspend or revoke the professional license of the person or persons responsible for the violation.

Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12.

16 NCAC 06D .0313 USE OF STATE-DESIGNATED STUDENT ASSESSMENTS IN NC TEACHER EVALUATION PROCESS

(a) This Rule specifies requirements for the assessments used as standardized artifacts to report student growth for teachers and school growth for participants in the North Carolina Teacher Evaluation Process. The following assessments are considered standardized artifacts reflective of student growth for teachers and school growth for participants in the Teacher Evaluation Process:

- (1) End-of-Grade English Language Arts/Reading (grades 3–8)
- (2) End-of-Grade Mathematics (grades 3–8)
- (3) End-of-Grade Science (grades 5 and 8)
- (4) End-of-Course NC Math 1
- (5) End-of-Course NC Math 3
- (6) End-of-Course English II
- (7) End-of-Course Biology
- (8) NC Final Exams (will end after the 19-20 school year)
- (9) K–3 Checkpoints
- (10) Career and Technical Education State Assessments

(b) All eligible public school students shall participate in the standard administration of the aforementioned assessments, with or without accommodations).

- (1) All students (including charter school students) enrolled in North Carolina Virtual Public School (NCVPS) courses that administer a North Carolina Final Exam (NCFE) shall participate in the administration of the NCFE.
- (2) All students in NCVPS Occupational Course of Study (OCS) courses that are taught jointly between the local education agency (LEA) and the NCVPS shall participate in the administration of the NCFEs.

(c) Public schools shall administer these assessments within the North Carolina Department of Public Instruction's (NCDPI's) designated testing window:

- (1) Last 5 days of the course for block or semester courses or
- (2) Last 10 days of the course for yearlong courses.

(d) Public schools shall administer these assessments to students enrolled in NCVPS courses within the final five instructional days for block/semester courses and within the final 10 instructional days of the course for yearlong courses. For students who will complete an NCVPS course before the five- or ten-day testing window opens, public schools shall apply to the NCDPI's Division of Accountability Services for permission to administer the assessment(s) at the completion of the NCVPS course as long

as there is no impact on providing instruction to other students in the school.

(e) Public schools shall use the course-specific operational assessment as the only final exam for the course.

(f) Public schools shall use results from all course-specific operational assessments as a minimum of 20 percent of the student's final grade for each respective course.

(1) This requirement does not apply to end-of-year assessments in grades 3–8 nor does it apply to students following the OCS Pathway.

(2) This requirement does not apply to English Learner (EL) students in their first year in a U.S. school.

(3) Effective with the 2018–19 school year and beyond, this requirement does not apply to students enrolled in a course during the initial implementation year of the new assessment for that course where scores are not immediately available due to standard setting.

(4) Since the NCVPS is a supplement to public schools, determination of an NCVPS final course grade is the district's decision. The district determines according to local policy how much the final exam will count (i.e., minimum of 20 percent or higher) in the student's final grade for the course.

(g) Public schools may adopt policies to use results from end-of-year assessments in grades 3–8 elementary and middle school assessments as part of the student's final grade.

(h) Regardless of the grade level in which the course is offered, students enrolled in courses in which assessments are required shall take the appropriate assessment at the completion of the course.

(1) This requirement does not apply to students for Science NCFEs at grades 6, and 7 whose teachers have their test scores for the same year from the end-of-grade (EOG) tests of English Language Arts (ELA)/Reading and/or Mathematics and/or the Social Studies NCFEs. The decision must be applied consistently to all schools within a district so that teachers in like categories have the same measures.

(2) This requirement does not apply to students for Social Studies NCFEs at grades 6, 7 and 8 whose teachers have their test scores for the same year from the EOG tests of ELA/Reading, Mathematics, and/or Science and/or Science NCFEs. The decision must be applied consistently to all schools within a district so that teachers in like categories have the same measures.

(3) School Systems may elect to administer the Science and Social Studies Final Exams even if teachers have ELA/Reading, Mathematics, Science, or Social Studies scores.

(i) Public school students (including seniors) who are exempt from final exams by local board of education policy shall not be exempt from these assessments.

Public school students who are identified as failing a course/grade/subject for which an assessment is required shall take the appropriate assessment.

Authority G.S. 115C-12(9); 115C-83.6; 115C-83.5; 115C-174.11; 115C-174.12; 115C-269.35; 115C-333.2; 115C-334; 115C-335.

SUBCHAPTER 06E - STUDENTS

SECTION .0100 - ATTENDANCE

16 NCAC 06E .0107 SCHOOL VIOLENCE ACTS DEFINED AND THE ANNUAL REPORT OF THESE CRIMES

(a) Local Education Agencies (LEAs) shall report the following crimes and offenses within five school days to the State Board of Education via the Department of Public Instruction-approved discipline reporting system in conformity with the State's Uniform Education Reporting System:

- (1) Homicide as defined in G.S. 14-17 and 14.18;
- (2) Assault resulting in serious personal injury as defined in G.S. 14-32.4;
- (3) Assault involving the use of a weapon as defined in G.S. 14-32 through 14-34.10;
- (4) Rape as defined in G.S. 14-27.2, 14-27.3 and 14-27.7A;
- (5) Sexual offense as defined in G.S. 14-27.4, 14-27.5 and 14-27.7A;
- (6) Sexual assault as defined in G.S. 14-27.5A and 14-33(c)(2);
- (7) Kidnapping as defined in G.S. 14-39;
- (8) Robbery with a dangerous weapon as defined in G.S. 14-87;
- (9) Indecent liberties with a minor as defined in G.S. 14-202.1, 14-202.2 and 14-202.4;
- (10) Assault with a firearm or powerful explosive as defined in G.S. 14-34 through 14-34.10 and 14.49 through 14-50.1;
- (11) Robbery with a firearm or dangerous explosive as defined in G.S. 14-87;
- (12) Willfully burning a school building as defined in G.S. 14-60;
- (13) Making bomb threats or engaging in bomb hoaxes as defined in G.S. 14-69.2;
- (14) Assault on school officials, employees, and volunteers as defined in G.S. 14-33(c)(6);
- (15) Possession of a controlled substance in violation of the law as defined in G.S. 90-86 through 90-113.8;
- (16) Possession of a firearm in violation of the law as defined in G.S. 14-269.2;
- (17) Possession of a weapon in violation of the law as defined in G.S. 14-269.2;
- (18) Unlawful, underage sales, purchase, provision, possession, or consumption of alcoholic beverages as defined in G.S. 18B-302;
- (19) Assault as defined in G.S. 14-33 but not resulting in an injury as severe as defined in G.S. 14-32.4;

- (20) Fighting, or affray as defined in G.S. 14-33;
- (21) Gang activity as defined in G.S. 14-50.16 14-50.20;
- (22) Robbery as defined in G.S. 14-87, but without the use of a dangerous weapon;
- (23) Extortion as defined in G.S. 14-118.4;
- (24) Communicating threats as defined in G.S. 14-277.1;
- (25) Threat of assault with a firearm or powerful explosive as defined in G.S. 14-277.1;
- (26) Threat of assault with a weapon as defined in G.S. 14-277.1;
- (27) Threat of assault without a weapon as defined in G.S. 14-277.1;
- (28) Possession or use of tobacco products as defined in G.S. 14-313;
- (29) Property damage as defined in G.S. 115C-398;
- (30) Bullying as defined in G.S. 115C-407.15;
- (31) Cyberbullying as defined in G.S. 14-458.1 and 14-458.2;
- (32) Verbal harassment as defined in G.S. 115C-407.15;
- (33) Sexual harassment as defined in G.S. 115C-335.5; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.;
- (34) Harassment - Race/Ethnicity as defined in G.S. 115C-407.15;
- (35) Harassment – Disability as defined in G.S. 115C-407.15;
- (36) Harassment – Sexual orientation as defined in G.S. 115C-407.15;
- (37) Harassment – Religious affiliation as defined in G.S. 115C-407.15; and
- (38) Discrimination as defined in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681-1688; Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

(b) Failure to follow reporting requirements under this provision may justify disciplinary action pursuant to 16 NCAC 06C .0312 (License Suspension and Revocation).

(c) These offenses shall be reported when they occur under the following conditions and circumstances:

- (1) on school property, defined as any public school building, bus, public school campus, grounds, recreational area, or athletic field in the charge of the principal; or
- (2) off school property on a school-sponsored field trip.

Authority G.S. 115C-12(18), (21); 115C-288(g); 115C-307(a).

16 NCAC 06E .0106 DEFINITION OF STUDENT CHRONIC ABSENTEEISM RATE

(a) Student chronic absence is a risk factor for adverse outcomes. Student chronic absence differs from both truancy and average daily attendance. Student daily attendance is the percentage of

students present in a school each day. Student truancy measures unexcused absences only. Student chronic absence refers to missing so much school, for any type of absence – excused, unexcused, disciplinary – that a student is at risk of falling behind.

(b) Student Chronic Absentee is a student who is enrolled in a North Carolina public school for at least 10 school days at any time during the school year, and whose total number of absences is equal to or greater than 10 percent of the total number of days that such student has been enrolled at such school during such school year. This definition is established to track rates of student chronic absenteeism accurately and consistently for North Carolina students.

(c) This definition applies to all students enrolled in a school, including those who have not reached the compulsory attendance age, as well as those who have reached or exceeded the compulsory attendance age.

Authority G.S. 115C-12(9)(d), (18); 115C-378; 115C-379.

SECTION .0200 - SCHOOL ATHLETICS AND SPORTS MEDICINE

16 NCAC 06E .0204 INTERSCHOLASTIC ATHLETICS

(a) Local Education Agencies (LEAs) and charter school boards are authorized to determine whether and to what extent students in grades 6-12 may participate in interscholastic athletics; provided, however, that students in sixth grade are not eligible to participate in football.

(b) In order to qualify for participation in public school athletics, a student shall meet the following requirements:

- (1) The student shall meet the residence criteria of G.S. 115C-366(a). The student shall participate only at the school to which the student is assigned by the LEA or, if over the age requirements, the school to which the student would be assigned at the next higher grade level.
- (2) The student shall meet age requirements at each grade level to participate. The principal shall have evidence of the legal birth date of the student. A student who is ineligible to participate at one grade level due to age is eligible to participate at the next higher grade level only. However, no student shall participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade nine or participation on a high school team, whichever occurs first. No student is eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into sixth grade.

(A) A student is eligible to participate in high school athletic contests during a school year if the student does not reach the 19th birthday on or before August 31 of that school year.

(B) A student shall not participate on a ninth grade junior high school team if the student becomes 16 years of age on or before August 31 of that school year.

(C) A student shall not participate on a sixth, seventh or eighth grade team if the student becomes 15 years of age on or before August 31 of that school year.

(c) In grades 9-12, the student shall pass at least five courses (or the equivalent for non-traditional school schedules) each semester to be eligible anytime during the present semester and meet promotion standards established by the LEA/Charter School. In grades 6, 7 and 8, the student shall pass at least one less course than the number of required core courses each semester and meet promotion standards established by the LEA/Charter School. Regardless of the school organization pattern, a student who is promoted from the eighth grade to the ninth grade automatically meets the courses passed requirement for the first semester of the ninth grade. Regardless of the school organization pattern, a student who is promoted from the fifth grade to the sixth grade automatically meets the courses passed requirement for the first semester of the sixth grade.

(d) The student shall receive a medical examination each year by a duly licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9, 90-18.1, and 90-18.2.

(e) The student shall not participate in interscholastic athletics after any of the following:

- (1) graduation;
- (2) becoming eligible to graduate;
- (3) signing a professional athletic contract;
- (4) receiving remuneration as a participant in an athletic contest; or
- (5) participating on an all-star team or in an all-star game that is not sanctioned by the association of which the student's school is a member. The student is ineligible only for the specific sport involved.

(f) Each principal of a school that participates in interscholastic athletics shall certify a list of eligible students for each sport.

(g) Any student-athlete, coach or school official in grades 6-12 who is ejected from any athletic contest shall at least be penalized as follows:

- (1) for the first offense, the person shall be reprimanded and suspended for the next game at that level of play (varsity or junior varsity) and for any intervening games at either level;
- (2) for a second offense, the person shall be placed on probation and suspended for the next two games at that level of play (varsity or junior varsity) and for any intervening games at either level;
- (3) for a third offense, the person shall be suspended for one calendar year;
- (4) a coach who is suspended at any level of grades 6-12 (middle school, junior high or high school)

may not coach in any other grade level in grades 6-12 during the period of suspension.

- (5) Penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.

(h) LEAs and charter schools may allow their schools to belong to the North Carolina High School Athletic Association (NCHSAA), which has established as a minimum the rules adopted by the SBE. The NCHSAA may waive any eligibility requirement contained in this Rule, except the age requirement, if it finds that the rule fails to accomplish its purpose, or it works an undue hardship when applied to a particular student. The NCHSAA may enforce penalties for the violation of this Rule at the high school level.

(i) The LEA or Charter School that has jurisdiction over the high school may impose additional penalties. LEAs or charter schools or conferences may adopt and impose penalties at the middle and junior high school levels.

Authority G.S. 115C-12(12); 115C-12(23).

16 NCAC 06E .0205 CONCUSSION SAFETY REQUIREMENTS FOR INTERSCHOLASTIC ATHLETIC COMPETITION

(a) For purposes of this Rule, a concussion is a traumatic brain injury caused by a direct or indirect impact to the head that results in disruption of normal brain function, which may or may not result in loss of consciousness.

(b) All coaches, school nurses, athletic directors, first responders, volunteers, students who participate in middle or high school interscholastic athletic activities, and the parents or guardians of those students shall receive, on an annual basis, a concussion and head injury information sheet.

(c) The information sheet shall include:

- (1) The definitions and symptoms of concussions and head injuries;
- (2) A description of the physiology and the potential short-term and long-term effects of concussions and other head injuries;
- (3) The medical return-to-play protocol for post-concussion participation in interscholastic athletic activities; and
- (4) Any other information deemed necessary by the local board of education.

(d) School employees, first responders, volunteers, and students shall sign the sheet and return it to the coach before participating in interscholastic athletic activities, including tryouts, practices, or competition.

(e) Parents shall sign the information sheet and return it to the coach before a child may participate in any such interscholastic athletic activities. The signed sheets shall be maintained in accordance with subsection (f).

(f) If a student participating in a middle or high school interscholastic athletic activity exhibits signs or symptoms consistent with concussion, the student shall be removed from the activity at that time and shall not be allowed to return to play or practice that day.

(g) A student removed from play for exhibiting signs or symptoms consistent with concussion shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance for such participation from one of the following:

- (1) A physician licensed under Article 1 of Chapter 90 of the General Statutes with training in concussion management;
- (2) A neuropsychologist licensed under Article 18A of Chapter 90 of the General Statutes with training in concussion management and working in consultation with a physician licensed under Article 1 of Chapter 90 of the General Statutes;
- (3) An athletic trainer licensed under Article 34 of Chapter 90 of the General Statutes;
- (4) A physician assistant, consistent with the limitations of G.S. 90-18.1; or
- (5) A nurse practitioner, consistent with the limitations of G.S. 90-18.2.

(h) Each school shall develop a venue-specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly.

(i) This plan shall be:

- (1) In writing;
- (2) Reviewed by an athletic trainer licensed in North Carolina;
- (3) Approved by the principal of the school;
- (4) Distributed to all appropriate personnel;
- (5) Posted conspicuously for community and parental awareness at all athletic-sponsored venues; and
- (6) Reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities.

(j) The plan shall include:

- (1) A delineation of roles;
- (2) Methods of communication;
- (3) Available emergency equipment; and
- (4) Access to and plan for emergency transport.

(k) Each school shall maintain complete and accurate records of its compliance with the requirements of this subdivision pertaining to head injuries.

(l) The State Board of Education authorizes the NCHSAA to apply and enforce this Rule.

Authority G.S. 115C-12(12); 115C-12(23).

16 NCAC 06E .0206 ATHLETIC TRAINERS

(a) Each Local Education Agency (LEA) must designate for each high school within its jurisdiction either a licensed athletic trainer who is qualified pursuant to Article 34 of Chapter 90 of the General Statutes of North Carolina or a first responder. These persons may be employed on a full-time or part-time basis or may serve as a volunteer.

(b) If not a licensed athletic trainer, a first responder shall:

- (1) have completed and continue to maintain certification in cardiopulmonary resuscitation

- as certified by an organization such as the American Red Cross or the American Heart Association;
- (2) have completed and continue to maintain certification in first aid as certified by an organization such as the American Red Cross or the American Heart Association;
- (3) have completed and continue to maintain training in concussion management as offered by an organization such as the National Federation of State High School Associations (NFHS).
- (4) have completed and continue to maintain continuing education in injury prevention and management as offered by an organization such as the National Federation of State High School Associations (NFHS); and
- (5) complete 10 hours of staff development each school year specific to first aid, injury recognition and prevention. The 10 hours may include _____ hours necessary for recertification/renewals.

(c) The licensed athletic trainer or first responder may not have concurrent coaching responsibilities during the time in which the person is working as a licensed athletic trainer or first responder.

(d) A licensed athletic trainer or first responder shall attend all football practices and games, unless excused by the superintendent due to emergency.

(e) Each LEA shall monitor school athletic trainer's or the first responder's compliance with this Rule.

(f) LEAs shall work toward having a licensed athletic trainer or first responder available for all school practices and games of all sports at both the high school and middle school.

Authority G.S. 115C-12(12); 115C-12(23).

SUBCHAPTER 06G - EDUCATION AGENCY RELATIONS

SECTION .0300 - SCHOOL-BASED MANAGEMENT AND ACCOUNTABILITY PROGRAM

16 NCAC 06G .0314 ALTERNATIVE SCHOOLS' ACCOUNTABILITY MODELS

(a) This Rule establishes the North Carolina Department of Public Instruction's (NCDPI) procedures for alternative schools' participation in the State's Alternative Schools' Accountability Model and shall apply to all alternative schools, including charter schools approved to use the alternative accountability model, that have an NCDPI-assigned local education agency (LEA) school code. Accountability indicators and results for students who attend programs or classes in a facility that does not have an LEA school code shall be reported to and included in the students' base school's accountability results.

(b) At the beginning of each school year, local public school and charter school boards shall determine the option that each alternative school under their jurisdiction will follow for participation in the Alternative Schools' Accountability Model. The local board's participation decision shall be reported to the

NCDPI's Director of Accountability Services by August 1 of each school year.

(c) Local public school and charter school boards shall select from the following Alternative Schools' Accountability Model options:

(1) Option A. Alternative schools can participate in School Performance Grades as defined by G.S. 115C-83.15 or

(2) Option B. Alternative schools can participate in the Alternative Schools' Progress Model.

(A) Schools electing to participate in the Alternative Schools' Progress Model will be evaluated as follows, with Components used in the overall school score: (i) 20 percent Student Persistence, which is defined as the percent of alternative students who remain enrolled in any North Carolina; (ii) 20 percent School Achievement, which is comprised of: three years of data using the following indicators: End-of-Grade (EOG) English Language Arts/Reading and Mathematics Assessments at Grades 3–8; EOG Science Assessments at Grades 5 and 8; End-of-Course (EOC) Assessments in Biology, NC Math 1, NC Math 3, and English II; ACT@; ACT WorkKeys; 4-year graduation rate; 5-year graduation rate; and math course rigor; (iii) 60 percent Growth, which will be calculated using the Education Value-Added Assessment System (EVAAS).

(B) A change rating will be assigned to schools comparing their previous year to the current year. All schools will receive a rating of: "Progressing," which indicates a change in the school from the previous year by at least +3 points; "Maintaining," which indicates a change in the school from the previous year by -2.9 to +2.9 points; or, "Declining," which indicates a change in the school from the previous year by at least -3 points.

(3) Option C. The alternative school may propose its own alternative accountability model for approval by the State Board of Education (SBE). The proposed model must include criteria for achievement and growth. A request for Option C must be submitted annually to the SBE for approval at its October meeting.

(d) Schools that are identified as Developmental Day Centers (as determined by the Department of Health and Human Services) and schools which are providing special education and related services in public separate settings to students with disabilities who are significantly cognitively delayed, have multiple handicapping conditions, and may also have significant

behavioral or sensory integration needs shall participate in accountability by administering the appropriate assessment to all eligible students, and participating in either Option B or Option C as defined herein. To participate in this model, schools who meet the criteria in this Section will be reviewed and approved by the Exceptional Children's Division and the Accountability Services Division.

Authority G.S. 115C-12(24); 115C-105.35; 115C-83.15.

16 NCAC 06G .0315 ACCOUNTABILITY ANNUAL PERFORMANCE STANDARDS

(a) All eligible students in membership (i.e., enrolled in a school) at grades 3 through 8 and in high school courses in which an end-of-course (EOC) assessment is administered shall participate in the state assessment program adopted by the State Board of Education (SBE). Participation is reported for:

- (1) grades 3 through 8 end-of-grade (EOG) English language arts/reading and mathematics;
- (2) grades 5 and 8 EOG science;
- (3) grade 10 EOC English II,
- (4) grade 11 EOC assessments in NC Math, NC Math 3, and EOC Biology;
- (5) grade 11 ACT; and
- (6) grade 12 Career and Technical Education Concentrators and ACDT WorkKeys.

(b) Effective 2017–18 and beyond, all eligible students in membership at grade 8 enrolled for credit in NC Math 1 shall take the EOC assessment at the completion of the course. Schools shall not assess these students on the grade 8 mathematics EOG assessment. These students shall take the NC Math 3 EOC assessment for federal accountability in high school.

(c) For the accountability model, a school that does not assess at least 95 percent of its expected test population for the all students group and each subgroup of students shall be deemed not to have met participation rate requirements. For the ELA/reading and mathematics assessment (i.e., EOG ELA/reading, EOG Mathematics, EOC English, and EOCs NC Math 1/NC Math 3) academic indicator, the greater of all students tested, or 95 percent of students expected to test, shall be the denominator for proficiency calculations used in reporting, long-term goals, and the accountability model. Participation rates shall be publicly reported annually.

(d) For the science (i.e., EOG Science and EOC Biology), ACT, and ACT WorkKeys assessments, participation rates shall be reported for all students and each subgroup of students. Missed participation rates will be highlighted in public reporting. Schools shall submit to the North Carolina Department of Public Instruction (NCDPI) justification for not meeting participation rates and a plan of action to improve participation rates.

(e) Students identified as English Learners (ELs) shall participate in the statewide testing program using either the standard test administration or the standard test administration with accommodations.

- (1) Effective 2017–18 and beyond, ELs shall participate in state assessments beginning with their first year in a U.S. school; however,
 - (A) For the first year, the requirement is for participation and for reporting

(e.g., NC School Report Card), not the accountability model.

(B) For year two, ELs' test scores shall be included in the growth analysis for the accountability model.

(C) For year three and beyond, ELs' test scores shall be included in growth and the achievement indicator of the accountability model.

(f) All students with disabilities who are included in membership, including those with Individualized Education Programs (IEPs) and those identified under Section 504 of the Rehabilitation Act of 1973, shall participate in the state assessment program using one of the following assessments as appropriate and as determined by the student's IEP or Section 504 Plan:

- (1) The standard test administration with or without accommodations, or
- (2) An alternate assessment (as defined below in letter F) with or without accommodations, if eligible.

(g) Only students with the most significant cognitive disabilities who have IEPs may participate in a state-designated alternate assessment based on alternate academic achievement standards.

- (1) These students shall be evaluated and included in the accountability performance composite.
- (2) The Every Students Succeeds Act (ESSA) requires the total number of students assessed in each subject using the alternate assessment based on alternate academic achievement standards statewide does not exceed 1.0 percent of the total number of all students assessed in each subject.
- (3) As required by ESSA, the NCDPI must notify districts and charter schools that have been identified (based on the previous school year's participation data) as being likely to exceed 1.0 percent of students assessed in a subject area on the alternate assessment for the current school year.

- (A) These identified districts and charter schools must provide the NCDPI a justification of the need to assess more than 1.0 percent of its students on the alternate assessment in any subject.
- (B) Districts and charter schools that did not exceed 1.0 percent in the previous school year but anticipate exceeding in the current school year, must also submit a justification.
- (C) Justifications from each district and charter school will be reviewed by the NCDPI, and follow up actions will be determined based on the information in the justification document.

- (D) The completed justification must be signed by the superintendent/charter school director, exceptional children's director, and LEA/charter school test coordinator.

- (E) The justification documents for districts and charter schools that actually exceed the 1.0 percent participation on the alternate assessment will be publicly posted.

Authority G.S. 115C-12; 115C-105.35; Every Student Succeeds Act ESSA).

16 NCAC 06G .0316 PURPOSE AND COMPOSITION OF THE STATE BOARD OF EDUCATION'S COMPLIANCE COMMISSION FOR ACCOUNTABILITY

The purpose of the Compliance Commission for Accountability (Commission) shall be to advise and to make recommendations to the State Board of Education (SBE) through the North Carolina Department of Public Instruction (NCDPI) on testing issues and other issues related to school accountability and improvement.

- (1) The SBE, after discussing issues related to testing and accountability as presented by the NCDPI, may request that the Commission further discuss such issues and make recommendations to the SBE. Issues the Commission may discuss include the following:
 - (a) proposed changes to the State's accountability program;
 - (b) the testing code of ethics;
 - (c) test security and administration;
 - (d) auditing procedures to ensure integrity of the testing and accountability programs;
 - (e) the relationship of testing to other aspects of schooling; and
 - (f) other issues related to testing and accountability as deemed appropriate by the SBE.
- (2) The Commission shall consider requests from schools that desire to be exempt from participating in field test(s)/special studies and shall make a recommendation to the SBE on such requests.
- (3) Upon recommendation by the State Superintendent of Public Instruction, the SBE shall approve appointments to the Compliance Commission consisting of 22 members in accordance with the procedures stated in SBE Policy ADVS-002 (Appointments to Advisory Committees to the State Board of Education), who shall represent the following categories:
 - (a) Four shall be teachers;
 - (b) Five shall be principals representing elementary, middle, and high schools;
 - (c) Four shall be from central office staffs, (at least one must represent Exceptional Children);
 - (d) Two shall represent local boards of education;
 - (e) One shall represent NC charter schools;

- (f) Two shall be members of the business community;
- (g) One shall be a parent representative;
- (h) One shall represent higher education; and
- (i) Two shall be at-large.

- (4) Terms of membership shall be for four years, be staggered, and shall run through December 31. Members may be reappointed by the SBE for one additional term.

- (a) To the extent possible, members will be appointed from the eight education districts (as defined in G.S. 115C-65) to keep the Commission balanced geographically and professionally.
- (b) As Commission members are replaced, the SBE shall, to the extent possible, recommend and approve replacements to keep the Commission balanced geographically and professionally.
- (c) A member of the SBE as designated by the State Board membership shall sit on the Commission as a non-voting ex-officio member.

- (5) The SBE shall appoint a chair from the membership of the Commission. The Chair shall serve for two years.

- (6) The Commission shall elect a Vice-Chair from its membership.

- (7) The Commission shall meet at least annually. The SBE may call a special meeting of the Commission to discuss an issue.

- (8) The Department of Public Instruction, Division of Accountability Services, shall staff the Commission and shall develop the agendas for the scheduled meetings in conjunction with the Commission's Chair. Draft minutes of the Commission meetings shall be provided to the SBE within one month following each meeting, with official approved minutes being shared with the SBE following approval by the Commission.

Authority G.S. 115C-12; 115C-105.35.

SECTION .0500 - CHARTER SCHOOLS

16 NCAC 06G .0503 CHARTER SCHOOL ACCOUNTABILITY REQUIREMENTS

Each year all eligible students shall take state-required assessments mandated by law or State Board of Education policy. All charter schools shall comply with G.S. 115C-83.15 and G.S. 115C-83.16 and accountability measures identified in the State's federally-approved Every Student Succeeds Act Consolidated State Plan, unless granted a waiver by the State Board of Education pursuant to 16 NCAC 06G .0517 - .0522.

Authority G.S. 115C-12; 115C-83.15, 115C-83.16, 115C-105.20, 115C-218(a), 115C-218.85(a)(3); Every Student Succeeds Act of 2015 (P.L. 114-95).

16 NCAC 06G .0504 CHARTER SCHOOLS STUDENT ADMISSION

All charter schools admission procedures and policies shall comply with G.S. 115C-118.45. Open enrollment for a charter school shall follow the mission statement and targeted population in the State Board of Education approved application. The admissions period shall be no less than 30 consecutive calendar days. If there are more applications than seats available, the charter school shall determine a date, time, and location to hold the lottery required by G.S. 115C-218.45(h). The lottery shall occur during an official meeting that shall be open to the public and subject to Article 33C of Chapter 143 of the General Statutes.

Authority G.S. 115C-12; 115C-218.45.

16 NCAC 06G .0505 CHARTER SCHOOLS FINANCIAL NONCOMPLIANCE – IMPACT OF FINANCIAL NONCOMPLIANCE

(a) There are three stages of financial noncompliance under which a charter school may be placed: cautionary, probationary, and disciplinary.

(b) The presence of any one of the following financial conditions shall result in a charter school being assigned a noncompliance status:

- (1) If the charter school fails to report required Uniform Education Reporting System (UERS) data within 10 days of the required or agreed-upon reporting date or does not submit accurate data due to incorrectly utilizing UERS approved materials or software within the next reporting cycle;
- (2) If the charter school fails to respond to a specific financial, personnel, or student information request for information or data from the Department of Public Instruction by the required reporting date;
- (3) If the charter school fails to submit the required audited financial statements to the North Carolina Department of State Treasurer's Local Government Commission, as prescribed by G.S. 115C-218.30 and G.S. 115C-447.
- (4) If the charter school shows signs of financial insolvency or weakness, including a decline in student membership;
- (5) If the Office of State Treasurer receives a "non-sufficient funds (NSF)" notification during the course of cash certification processing;
- (6) If the charter school receives a material audit finding in its annual independent financial statement audit which indicates a violation of State law, a violation of any of the conditions or procedures set forth in its Charter, a failure to meet generally accepted accounting practices and principles, including sound fiscal

management in accordance with G.S. 115C-218.95 and remains unresolved; and/or

- (7) If the charter school's staff fails to attend required financial training.

(c) For these warning conditions, funds may be frozen (i.e. the school's access to the cash management system is revoked) until the exception is corrected. Any combination of the above violations may immediately move the charter school to Financial Disciplinary Status without first being held in either the Cautionary or Probationary status. Should a charter school have repeated violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status.

(d) This policy does not preclude the State Board of Education from taking any action with regards to a charter school if so warranted, regardless of the charter school's financial noncompliance status.

(e) The stages of financial noncompliance are as follows:

- (1) Level 1: Financial Cautionary Status

(A) A charter school may receive a notification of Financial Cautionary Status for any of the above conditions. The school shall remain in cautionary status for a minimum of 30 calendar days from the date of notification, and during that time must correct the exception(s) that caused the financial warning(s) if applicable. When the exception(s) is corrected as prescribed in the notification of noncompliance by NCDPI, the school will be notified of removal from cautionary status.

- (2) Level 2: Financial Probationary Status

(A) A charter school may receive a notification of Financial Probationary Status for any of the above conditions. The school will be placed in Financial Probationary Status, if the school fails to correct the exception(s) during the 30 calendar days cautionary period, unless otherwise stated in the initial notification of noncompliance. The school remains in probationary status for a minimum of 30 calendar days from the date of notification, and during that time must correct the exceptions that caused the financial warnings if applicable. When all of the exceptions have been corrected, the school will be notified of removal from probationary status. While in probationary status, state funds for the school may be allotted on a monthly basis until the exceptions that caused the financial warnings are corrected. Failure to resolve the exceptions may result in the school being placed on Financial Disciplinary Status, referred to the Charter School Advisory Board

- and/or to the State Board of Education for further action.
- (3) Level 3: Financial Disciplinary Status
- (A) The school will be placed in Financial Disciplinary Status, if the school fails to correct all of the exceptions during the established timeframe. Any of the financial conditions noted in this policy, or combination thereof, may immediately result in the charter school being placed on Financial Noncompliance Disciplinary status without the benefit of being first held in either the Cautionary or Probationary status. Also, should a charter school have repeat violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status without the benefit of completing either the Cautionary or Probationary status periods.

(f) When in Disciplinary status, the school is expected to immediately address all of the exceptions that caused the financial noncompliance within 10 business days from the date of notification or otherwise stated. State funds for the school may be allotted on a monthly basis until the exceptions causing the noncompliance are corrected. When all of the exceptions have been corrected, the school will be notified of removal from disciplinary status. Failure to resolve the exceptions will result in the school being referred to the Charter School Advisory Board and/or to the State Board of Education for further action.

Authority G.S. 115C-12(5); 115C-218, 115C-218.15, 115C-218.30, 115C-218.95; 115C-408.

16 NCAC 06G .0506 CHARTER SCHOOLS GOVERNANCE NONCOMPLIANCE

(a) There are three (3) stages of Governance Noncompliance: Governance Cautionary Status, Governance Probationary Status, and Governance Disciplinary Status. A charter school may be placed within a governance non-compliance status based on any one of the following governance warning conditions:

- (1) Failure to have a functioning board in place, including failure to conduct regular meetings of the board and failure to adopt policies regarding the operation of the charter school. Such policies would include a minimum of Personnel, Disciplinary, and Parental Grievance policies.
- (2) Inability to show progress towards the educational and organizational goals described in the charter school application.
- (3) Failure to maintain student enrollment. (i.e., Required minimum of 80 students, or as otherwise stated in the charter application or approved waiver to operate under the minimum of 80 students.)

- (A) Bylaws violations including, but not limited to, failure to follow the Open Meetings Law, failure to maintain Public Records, failure to implement a Conflict of Interest Policy, failure to adhere to basic rules of Parliamentary Procedure.
- (B) Charter Agreement violations including, but not limited to, following State/Federal Regulations, ensuring Health & Safety Standards, making adequate academic progress, meeting Testing and Reporting requirements, and supplying all reports and documentation as requested by the Office of Charter Schools to ensure legal compliance with General Statute, State Board of Education Policy, and the Charter Agreement.
- (C) Substantiated complaints indicating that the Board is not acting as a representative of the school community to ensure that the needs of all students, parents, and teachers will be addressed.
- (D) Failure to maintain certification of at least 50 percent of teachers in all grades pursuant to G.S. 115C-218.90. Charter schools shall maintain compliance with this law from December 31 of each year through the end of the school calendar year. Failure to do so will be seen as noncompliance with the statutory requirement.

(b) The stages of noncompliance are as follows:

- (1) Level 1: Governance Cautionary Status: Upon receiving a Governance Warning for any of the above conditions, the charter school will be placed on Governance Cautionary Status. The school remains in cautionary status for 30 calendar days and during that time must correct the exception that caused the warning. When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will be removed from cautionary status. Failure to correct the exception during the 30 calendar days cautionary period constitutes a second warning and the school will be placed on Governance Probationary Status.
- (2) Level 2: Governance Probationary Status: The school remains on Governance Probationary Status for 30 calendar days and during that time must correct the exceptions that caused all of the governance warnings. When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will be removed from probationary

status. Failure to correct the exception during the 30 calendar days probationary period constitutes a third warning and the school will be placed on Governance Noncompliance Status.

- (3) Level 3: Governance Noncompliance Status: The school remains on Governance Noncompliance Status for 10 calendar days. When in Noncompliance Status, the school is expected to immediately address all of the exceptions that caused the governance warnings. State funds for the school may be allotted on a monthly basis until the exceptions that caused all of the governance warnings are corrected. A School placed in Governance Noncompliance Status may be referred to the Charter Schools Advisory Board for appropriate inquiry and action as determined by the State Board of Education.

Authority G.S. 115C-12; 115C-218, 115C-218.15, 115C-218.30, 115C-218.95.

16 NCAC 06G .0507 CHARTER SCHOOLS RENEWAL PROCESS

(a) In order for the State Board of Education to assess whether a charter school seeking a renewal of its charter is meeting expected academic, financial, and governance standards, a charter school seeking renewal shall submit to the Office of Charter Schools a Self-Study.

(b) The charter holder shall provide the following information in the Self-Study on the form made available by the Office of Charter Schools:

- (1) School name;
- (2) School mailing address;
- (3) Primary contact person, including name, title, phone number, fax number, email address, and dated signature;
- (4) Contact information for the board of directors' chairperson, including name, term of office, mailing address, phone number, fax number, email address, and dated signature;
- (5) A letter signed by the Board Chairperson stating the charter holder's intent to seek charter renewal;
- (6) School mission statement as stated in the charter application;
- (7) If applicable, revised school mission statement approved by the State Board of Education;
- (8) A narrative statement not to exceed two pages explaining how the school is fulfilling the State Board approved mission statement;
- (9) Five goals the charter holder has for the school during the next five years, including at least one academic goal, one financial goal, and one operational goal;
- (10) The name of or a description of the curriculum design presently used by the school;

(11) A summary of instructional methodology or instructional techniques utilized used at the school;

(12) The names of evaluation instruments, other than state-mandated tests, used to assess student performance, including descriptions of those assessments;

(13) A narrative statement explaining how the school uses student data to improve student learning and to raise the academic performance of all students;

(c) All pages of the Self-Study shall be numbered consecutively.

(d) The Self-Study shall include a table of contents and all pages shall be numbered consecutively.

(e) No font smaller than 12 point shall be used and all reports shall be typed, or computer prepared.

(f) The charter school seeking to renew its charter may utilize assistance from outside the school to complete the Self-Study.

Authority G.S. 115C-12; 115C-218(a)(6); 115C-218.6.

16 NCAC 06G .0508 CHARTER SCHOOLS APPLICATION AND REVIEW PROCESS

(a) Deadline for Filing Charter School Applications.

(1) Prior to each application round, the State Board of Education shall approve the application process, timeline, and non-refundable fee.

(2) Applications for charters, and the nonrefundable fee, must be received by the Office of Charter Schools no later than the date and time specified for the charter application round that year.

(3) Applications and fees received after the deadline specified by the Office of Charter Schools will not be considered, and any affected applicant groups will be notified in writing.

(4) Rejection of Incomplete Applications. The Charter School Advisory Board and Office of Charter Schools shall review all timely applications and shall reject all incomplete applications. In order to be deemed complete, all sections of the application must be completed as prescribed in the "Application Instructions" and G.S. 115C-218.2.

(b) Charter School Advisory Board Responsibilities

(1) The Charter School Advisory Board, with the assistance of the Office of Charter Schools, shall review each complete application and determine whether the application meets the requirements of G.S. 115C-218.1

(A) Meets all the requirements of the Charter School Act, G.S. 115C-218 et seq.;

(B) Would achieve one or more of the purposes set forth in G.S. 115C-218(a);

(C) Contains viable governance, business, and education plans; and

(D) Satisfies any other requirements adopted by the SBE.

(2) The Charter Schools Advisory Board will present its recommendation on each charter school application to the SBE by the May SBE meeting for discussion.

(c) SBE Review of Applications and Award of Charters

(1) The SBE may request information from applicants, their officers, agents or employees or other persons having information regarding the charter application reviewed by the Charter School Advisory Board when the SBE seeks clarification or greater detail regarding an application

(2) When awarding charters, the SBE may give priority consideration to applications that demonstrate the capability to provide comprehensive learning experiences to students identified as at risk of academic failure.

(3) When determining whether to award a charter, the SBE may consider any factors including the extent to which the application:

(A) Reflects the applicant's commitment to the purposes of the charter school law stated in G.S. 115C-218(a);

(B) Promotes innovation through charter schools;

(C) Reflects the applicant's planning, research and understanding of educational issues, including budgeting, financing and accounting;

(D) Demonstrates the applicant's commitment to governance by participation of a large, diverse and locally-based board;

(E) Contains articles of incorporation and by-laws;

(F) Contains a budget that accurately reflects anticipated revenues and costs; including costs associated with maintenance of the school facilities and projected growth;

(G) Describes student admission requirements and lottery system that comply with G.S. 115C;

(H) Describes a plan for acquisition and utilization of a facility;

(I) Describes a five year marketing plan that promotes a diverse learning environment; and

(J) Any other factor that it determines will promote the purposes of the Charter School Act, G.S. 115C-218 et seq.

Authority G.S. 115C-12; 115C-218, 115C-218.1; 115C-218.5.

16 NCAC 06G .0509 PLANNING YEAR FOR NEW PRELIMINARY CHARTER SCHOOLS

(a) All nonprofit boards eligible to receive a charter for the first time shall participate in a year-long planning program prior to the charter school's opening for students. During this planning year, n directors from nonprofit boards holding charters shall attend meetings conducted by consultants from the Office of Charter Schools regarding the following topics: school opening plans, staff development, finance, governance, board training, marketing, policies and procedures, securing a school site, and hiring a school administrator. Final approval of the charter shall be contingent upon the nonprofit board completing all of the planning program requirements.

(b) The State Board of Education may accelerate the mandatory planning year for a charter applicant that meets the following requirements:

(1) Demonstrates a clear and compelling need for the accelerated planning year;

(2) Demonstrate an exceptional need for the charter school in the proposed location;

(3) Agrees to participate in the planning year while the charter application is being reviewed without any guarantee of charter award; and

(4) Demonstrates that there is a facility identified by the applicant that is feasible for opening on an accelerated schedule.

(c) The State Board shall also consider the presence or absence of the following factors in making its determination of whether to accelerate a planning year:

(1) Unique mission and educational program outlined in the nonprofit board's application;

(2) Local, state, and national nonprofit partnerships committed to assisting the school;

(3) Potential for economic and educational development of the region;

(4) Mentoring by a successful organization that has experience in creating public schools;

(5) Obstacles to educational reform efforts that leave chartering as an available option;

(6) Commitment to work with a successful charter school board as a guiding mentor;

(7) The length of time the nonprofit corporation has existed; and

(8) Whether the proposed board has previously or currently operates a public charter school.

(d) An applicant requesting acceleration shall submit the request to the State Board of Education prior to the application due date for consideration.

Authority G.S. 115C-12; 115C-218; 115C-218.1; 115C-218.5(b).

16 NCAC 06G .0510 CHARTER AMENDMENTS FOR EXISTING PUBLIC CHARTER SCHOOLS - APPROVAL PROCESS

(a) The following constitute material charter amendments that require the State Board of Education's ("SBE") approval prior to implementation:

(1) Grade expansion beyond increases contemplated in G.S. 115C-218.8(3);

- (2) Relocation outside a 5-mile radius or outside of the Local Education Agency (LEA) identified in the charter;
- (3) Transferring the charter to another non-profit entity;
- (4) Altering the mission or targeted student population;
- (5) Employing or terminating a management company;
- (6) Change to the charter application with respect to the National School Lunch program;
- (7) Enrollment growth, consistent with requirements in G.S. 115C-218.7.

(b) The following constitute charter amendments that must be approved by the Department of Public Instruction staff prior to implementation, but do not require further approval from the SBE:

- (1) Bylaws;
- (2) The name of the charter school;
- (3) The Articles of Incorporation;
- (4) Relocation within a 5-mile radius or outside of the Local Education Agency (LEA) identified in the charter;
- (5) Class sizes as stated in the application;
- (6) Length of school day;
- (7) Length of academic year;
- (8) Curriculum changes;
- (9) Change to the charter application with respect to student transportation;
- (10) Change to the charter application with respect to changing its food service plan;
- (11) Requests to delay the opening of the school by one year; and
- (12) Using second year enrollment as outlined in the approved charter.

(c) Notwithstanding the foregoing, the Department of Public Instruction may carry any proposed amendment to the SBE for its review.

Authority G.S. 115C-12; 115C-218.7, 115C-218.8.

16 NCAC 06G .0511 CHARTER AMENDMENTS FOR EXISTING PUBLIC CHARTER SCHOOLS – REQUIRED DOCUMENTATION

(a) A charter holder shall submit the following documentation to the State Board of Education when it seeks to amend its charter:

- (1) Board meeting minutes reflecting the vote of the Board of Directors for the charter school;
- (2) A cover letter fully explaining the request signed by the nonprofit board chair and lead administrator of the charter school;
- (3) A strikethrough version of the charter application showing proposed amendments; and
- (4) The proposed amended text to the charter application.

(b) If the charter holder does not provide the required documentation, its amendment proposal will not be processed.

Authority G.S. 115C-12; 115C-218.7, 115C-218.8.

16 NCAC 06G .0512 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – PURPOSE AND DEFINITIONS

(a) Purpose

- (1) A charter school model that has been successfully implemented in North Carolina or elsewhere should serve as a platform on which additional schools could and should operate. Accordingly, the State Board of Education (SBE) may, in certain well-defined instances, grant permission for a non-profit corporation board of directors (board) to replicate either its own successful model, or to employ an educational management company (EMO) or a charter management organization (CMO) to replicate a successful model currently being operated under the management of the EMO or CMO. The SBE may also, in certain well-defined instances, grant permission for a non-profit corporation board to "fast track" such a replication by foregoing the planning year normally required for newly-approved charter applicants. These Rules outline the criteria and process by which the SBE may authorize fast-track replication.

- (2) Nothing in these Rules shall be construed to prohibit a North Carolina non-profit corporation board that seeks to replicate another charter school from doing so through the regular application process and, upon approval, receiving the planning year trainings from NCDPI.

(b) Definitions

- (1) "Charter school model" or "model" mean the core mission and function of a charter school, including its governance, its curriculum, its organizational structure, its targeted population, and other key characteristics of the school, such as small class size, thematic academics, extended day, etc.
- (2) "Replication" means the act of copying, recreating, or repeating, in this case a successful charter school model. A "replication" would require the utilization of one charter school "model" to form the creation of a new charter school.
- (3) "Fast-Track Replication" is a special form of replication in which the approved applicant foregoes the planning year normally required of new charter school applicants. The "fast-track" applicant will still be required to participate in a one-day basic training workshop that will be provided by the Department of Public Instruction. The State Board of Education shall make final decisions regarding "fast track" replication applications in less than 120 days from the application submission.

Authority G.S. 115C-12; 115C-218.3.

16 NCAC 06G .0513 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – ELIGIBILITY

(a) A non-profit corporation board that currently operates a charter school in North Carolina is eligible to apply to fast-track replicate its existing model only if the non-profit corporation board's current school or schools demonstrate a consistent track record of academic, financial, and operational success. If the board operates more than one school, each school shall meet this standard. To meet this standard, the non-profit corporation board shall meet each of the following conditions at all times while its application is pending:

- (1) Each school operated by the non-profit corporation shall:
 - (A) have academic outcomes at least comparable to those of the students enrolled in the LEAs in which they are located; or
 - (B) meet or exceed growth for the three years preceding the application at issue, by measures contemplated by G.S. 115C-83.15;
- (2) Each school operated by the non-profit corporation shall have unqualified audits for the three years preceding the application.
- (3) Each school operated by the non-profit corporation shall have resolved any noncompliance issues cited by the Department of Public Instruction during the three years preceding the application.
- (4) A majority of the non-profit corporation board members and 50 percent or greater of the board officers shall be North Carolina residents.

(b) A non-profit corporation board that does not operate a charter school in North Carolina is eligible to apply to replicate through fast-track replication an existing model operated by an EMO or CMO. The non-profit corporation board is eligible to apply only if the schools operated by the EMO or CMO have a consistent track record of academic, financial, and operational success. The non-profit corporation board is eligible to replicate an existing model operated by the EMO or CMO only if the non-profit corporation board shows that each of the following conditions at all times while its application is pending:

- (1) The non-profit corporation board shall demonstrate that each school managed by the EMO or CMO:
 - (A) has an academic proficiency comparable to the LEAs in which the current schools are located by measures contemplated by G.S. 115C-83.15; or
 - (B) meets or exceeds growth for the three years preceding the application at issue.
- (2) The non-profit corporation board shall demonstrate that the schools operated in other states by the EMO or CMO meet similarly rigorous standards for academic performance.

- (3) The non-profit corporation board shall demonstrate that each school managed by the EMO or CMO have unqualified audits without fiscal compliance issues for three years immediately preceding the application.
- (4) The non-profit corporation board shall demonstrate that the schools operated in other states by the EMO or CMO meet similarly rigorous standards for financial performance.
- (5) A majority of the non-profit corporation board members and 50% or greater of the board officers shall be North Carolina residents.

Authority G.S. 115C-12; 115C-218.3.

16 NCAC 06G .0514 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – GENERAL REQUIREMENTS

(a) In addition to the specific requirements set forth in these Rules, the State Board of Education ("SBE") may impose reasonable requirements both in the review and application stages as well as in the approval process.

(b) In addition to considering growth and proficiency and financial audits, the SBE may consider any other relevant factors in determining whether to grant a fast-track replication request, including but not limited to the following:

- (1) The needs of the particular geographical area proposed to be served by the replicated model;
- (2) The ability of the non-profit corporation board to manage additional schools;
- (3) The abilities and strengths of the non-profit corporation board that seeks to employ the EMO or CMO; and
- (4) The community support for the replicated model.

Authority G.S. 115C-12; 115C-218.3.

16 NCAC 06G .0515 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – ACCOUNTABILITY

(a) For purposes of accountability, each school within a network of schools operated by a single non-profit corporation board or a single EMO or CMO is a separate and distinct charter school and shall be assessed based upon its own separate academic, financial, and operational performance.

(b) The strengths or weaknesses of other schools are not factors in determining whether the State Board of Education ("SBE") should take action against an individual school; however, the strengths and weaknesses of all schools in a network may influence the SBE's decision regarding whether or not to allow fast track replication of a school in that network.

(c) The SBE, the Department of Public Instruction, and the Office of Charter Schools will observe and evaluate schools that are replications to the same extent and in the same manner as the State monitors all charter schools.

(d) The non-profit corporation board shall ensure that, with respect to each of the schools in the EMO or CMO's network, the

public will have open access to board members and meetings of the board.

Authority G.S. 115C-12; 115C-218.3.

**16 NCAC 06G .0516 VIRTUAL CHARTER SCHOOLS
ATTENDANCE AND MEMBERSHIP - APPLICABILITY**

(a) A pilot virtual charter school established pursuant to S.L. 2014-100 and approved by the State Board of Education (SBE) is not required to record and report daily attendance to the Department of Public Instruction.

(b) A pilot virtual charter school established pursuant to S.L. 2014-100 and approved by the State Board of Education (SBE) is required to keep records of student activity by course and shall report that information to the Department of Public Instruction within fifteen days of the end of each school month. The virtual charter school's measurements of student activity shall be defined by the school in a manner consistent with its SBE-approved charter.

(c) A virtual charter school shall define a full instructional course load for each grade level it offers. A student s shall be enrolled for at least half of the instructional course load to be considered in membership at the virtual charter school.

(d) A student shall not be counted in the virtual charter school's average daily membership until the student has measurements of student activity in each of his or her courses.

(e) When a student who has no measurements of student activity for ten consecutive calendar days, excluding holidays, the virtual charter school shall remove the student from the school's membership. Upon a determination that the student is not returning to the school, the virtual charter school shall withdraw the student's enrollment. The effective date of withdrawal reported to the Department of Public Instruction shall the first day immediately after the student's last day of student activity.

(f) Virtual schools must use the statewide student information management system to record and report school and student data.

Authority G.S. 115C-12(18); 115C-218; 115C-218.30; S.L. 2014-100.

**16 NCAC 06G .0517 ALTERNATIVE CHARTER
SCHOOL – PURPOSE AND APPLICABILITY**

Unless otherwise prohibited by federal or state law, a charter school that meets specific criteria may be eligible to be designated an "Alternative School" for purposes of participation in the "North Carolina Alternative Schools' Alternative Accountability Model." The purpose of the following rules is to establish the criteria for eligibility and the procedures for applying for this designation.

Authority G.S. 115C-12(24); 115C-218(a)(2).

**16 NCAC 06G .0518 ALTERNATIVE CHARTER
SCHOOL – ELIGIBILITY**

(a) Definitions

- (1) "Student at risk" means a person eligible to enroll in a North Carolina public school who because of a wide range of individual, personal, financial, familial, social, behavioral or academic circumstances may experience failure

at school or other unwanted academic or personal outcomes unless interventions occur to reduce the risk factors. Circumstances which often place students at risk may include, but are not limited to: not meeting state or local proficiency standards; grade retention; unidentified or inadequately addressed learning needs; alienation from school life; experiencing unchallenging curricula or instruction; tardiness or poor school attendance; negative peer influence; unmanageable behavior; substance abuse and other health risk behaviors, abuse and neglect; inadequate support from family or schools ; and limited English proficiency.

- (2) "Dropout" means any student who leaves school for any reason before graduation or completion of a program of studies without transferring to another elementary or secondary school.

(b) In order to qualify for designation as an "alternative school" for purposes of accountability under G.S. 115C, the charter school must include grades 9-12.

- (1) At least 75 percent of the school's population in grades 9-12 must be "Students at risk" of academic failure and must also meet one or more of the following indicators:
- (2) The students must either be recently released from a juvenile justice facility, or otherwise be subject to and participating in the juvenile justice court process;
- (4) The students must be currently served by a treatment facility licensed pursuant to G.S. 122C, or have recently been discharged from such a facility;
- (5) The students must be currently under long-term suspension from a public or private school; or
- (6) The students must be high-school dropouts as defined Paragraph (a) of this Rule; or be imminently at risk of dropping out as demonstrated by adequate documentation in the charter school's application for designation under this policy.

Authority G.S. 115C-12(24); 115C-218(a)(2).

**16 NCAC 06G .0519 ALTERNATIVE CHARTER
SCHOOL - APPLICATION**

(a) A charter school that meets the eligibility criteria set forth in 16 NCAC 06G .0518 and seeks to be designated as an "alternative school" shall submit an application to the Office of Charter Schools that includes the following:

- (1) The school's mission as it relates to the request for designation as an "alternative school";
- (2) A designation of which alternative accountability option, as defined by the Department of Public Instruction's School Based Management and Accountability Program under G.S. 115C-105.20, that it is

requesting, which option cannot be changed except at the time of renewal;

- (3) The criteria the school plans to use that will meet the eligibility requirements, including the documentation the school will use to support its admissions process;
- (4) An admission plan for recruiting at-risk students as described in the application;
- (5) An explanation of how the school intends to serve its student population; and
- (6) The goals the school is setting for academic achievement for its student population.

(b) A plan that is not well-defined shall not be approved.

Authority G.S. 115C-12(24); 115C-218(a)(2).

16 NCAC 06G .0520 ALTERNATIVE CHARTER SCHOOL – APPLICATION APPROVAL

(a) The Charter School Advisory Board ("CSAB") shall, if appropriate, establish a timeline for the submission of applications for alternative charter schools and for the review and approval of such applications.

(b) The CSAB shall develop an application template to be used for applicants for alternative charter school designation.

(c) The Office of Charter Schools ("OCS") will first review the alternative charter school application for completeness and will then submit all complete applications to the CSAB for its review.

(d) The CSAB shall review complete applications and make recommendations to the State Board of Education.

(e) The State Board of Education's approval of alternative charter school designation is valid for three years from the effective date of the approval, which effective date will be set forth in the approval document.

Authority G.S. 115C-12(24); 115C-218(a)(2).

16 NCAC 06G .0521 ALTERNATIVE CHARTER SCHOOL – REVIEW AND RENEWAL OF DESIGNATION

(a) The Charter School Advisory Board ("CSAB") shall review each alternative charter school every three years to determine if the school should continue with its alternative charter school designation. In its review the CSAB shall utilize the criteria set forth in 16 NCAC 06G .0521. The CSAB shall also evaluate the school's academic progress and compare the projected outcomes in the alternative charter school's application to actual outcomes.

(b) If the review shows that the school continues to meet eligibility criteria, the CSAB may recommend the school to the State Board of Education for final approval for another three-year designation.

Authority G.S. 115C-12(24); 115C-218(a)(2).

SECTION .0500 - CHARTER SCHOOLS

16 NCAC 06G .0522 ALTERNATIVE CHARTER SCHOOL – TERMINATION OF DESIGNATION

(a) If at any time it appears the school is not meeting the criteria for designation under these Rules, or is otherwise not in

compliance with state or federal the Charter School Advisory Board ("CSAB") may:

- (1) direct the Office of Charter Schools or the Department of Public Instruction to investigate the school; or
- (2) direct the school to appear before the CSAB and respond to questions.

(b) In the event the CSAB finds cause to terminate the school's designation as an alternative school, the CSAB may make such a recommendation to the State Board of Education ("SBE").

Authority G.S. 115C-12(24); 115C-218(a)(2).

16 NCAC 06G .0523 APPROVAL AND DISCLOSURE OF MANAGEMENT ORGANIZATIONS AND SUPPORT ORGANIZATIONS

(a) A "Management Organization" means an entity that meets one of the following definitions:

- (1) A "Charter Management Organization" (CMO) is a non-profit organization that operates or manages one or multiple charter schools by centralizing support and operations.
- (2) An "Education Management Organization" (EMO) is a for-profit organization that contracts with new or existing public-school districts, charter school districts, and charter schools to operate and manage one or multiple charter schools by centralizing support and operations.
- (3) A "Charter Support Organization" (CSO) is a for-profit or non-profit, nongovernmental entity that provides:
 - (A) assistance to developers during the application, planning, program design, and initial implementation of a charter school, or
 - (B) technical assistance to operating charter schools, including specific and limited services such as but not limited to professional development, non-profit board development, payroll, and curriculum development.

(b) All applicants for a charter school must receive SBE approval before partnering with a Management Organization. This approval may be sought as part of the application or renewal processes or through the amendment process

(c) All existing charter schools must receive SBE approval before partnering with, or terminating an existing relationship with, a Management Organization.

(d) All applicants for a charter school must disclose existing or contingent partnerships with Charter Support Organizations as part of the applicant's charter application.

Authority G.S. 115C-12; 115C-218; 115C-218.1; 115C-218.5.

16 NCAC 06G .0524 CHARTER SCHOOLS PROCESS FOR ASSUMPTION OF INADEQUATELY PERFORMING CHARTER SCHOOLS

(a) Upon determination by the State Board of Education (SBE) that grounds exist to terminate or not renew a charter (hereinafter referred to as the "Existing School"), the SBE, in lieu of terminating the charter may allow a different non-profit entity to assume the charter.

(b) In determining whether a different non-profit entity may assume a charter the SBE shall comply with the provisions of S.L. 2014-101, s.6 and consider all factors, including:

- (1) Factors relevant to the existing school whose charter may be eligible for assumption:
 - (A) Academic performance;
 - (B) Financial status of the existing school, including outstanding debts;
 - (C) Compliance with all applicable laws and policies;
 - (D) Status of the school facility;
 - (E) Feedback from the school community, including the parents, staff and students; and
 - (F) Any other relevant factor.
- (2) Factors Relevant to the non-profit entity seeking to assume a charter:
 - (A) Overall financial viability;
 - (B) Academic performance;
 - (C) Geographic location;
 - (D) Existence of any financial and governance compliance issues;
 - (E) Ability of the assuming school to retain existing students; and
 - (F) Any other relevant factor.

(c) No single factor is given any weight or is, by itself, determinative.

Authority G.S. 115C-12; 115C-218.95.

SUBCHAPTER 06H - FEDERAL PROGRAMS

SECTION .0100 – FEDERAL PROGRAMS

16 NCAC 06H .0113 NUTRITION STANDARDS FOR ELEMENTARY SCHOOLS

(a) Minimum Standards for school meals are as follows:

- (1) Meals served shall be consistent with the current edition of the Dietary Guidelines for Americans, Federal Regulations as approved for North Carolina and State Board of Education Policy on Nutrition Standards for School Meals.
- (2) When averaged over the week, reimbursable meals shall contain 20 to 35 percent of calories from fat, and less than 10 percent total calories from saturated fat. Trans fat and sodium levels shall be monitored regularly and kept as low as possible.
 - (A) In addition to the above, the following standards shall apply:

- (i) Reimbursable meals shall contain no more than 200 mg cholesterol when averaged over breakfasts and lunches for the week.
- (ii) Food preparation methods for all foods shall be limited to baking, roasting, broiling, boiling, and steaming.
- (iii) A minimum of one daily serving of whole grain products shall be offered; whole grain foods will be increased gradually to a minimum of eight servings per week as market availability of whole grain products increases to supply menu needs. Efforts to meet the daily target of whole grain foods shall be contingent upon market availability.
- (iv) Four fruits and/or vegetables shall be offered daily. Fruits and vegetables may be canned, frozen, fresh, or dried with preparation methods limited to baking, roasting, broiling, boiling, and steaming. Dark green, deep yellow or orange fruits or vegetables shall be offered three or more times per week. Fresh fruits or vegetables shall be offered at least four times weekly at breakfast and/or lunch.
- (v) Legumes shall be offered at least one time per week.
- (vi) All milk choices shall be one percent or less milk fat.

(b) Minimum Nutrition Standards for A la Carte Foods and Beverages. If local policy allows A la Carte food and beverage choices, the following options may be offered:

- (1) In addition to items offered as a part of the reimbursable meal, A la Carte items shall contain less than 35 percent total calories from fat, excluding seeds and nuts, less than 10 percent total calories from saturated fat, less than one percent total calories from trans-fat, and less than 35 percent added sugar by weight
- (2) Any item in the same serving size as offered that day as part of the reimbursable meal, with a limit of one additional entrée portion
- (3) Single serving dairy products containing less than 200 calories, less than 35 percent total calories from fat, less than 10 percent total calories from saturated fat, less than one percent

total calories from trans-fat, and less than 35 percent added sugar by weight

- (4) Nuts and seeds (less than 1 oz portion)
- (5) Single serving yogurt or frozen yogurt
- (6) Canned, frozen, fresh, or dried fruits and vegetables found in the Food Buying Guide for Child Nutrition Programs with preparation methods limited to baking, roasting, broiling, boiling, and steaming water
- (7) Milk containing one percent or less milk fat
- (8) Fruit juice containing 50 percent or more fruit juice with no added sweeteners (less than 8 oz portion)
- (9) Frozen fruit products containing 100 percent fruit with no added sweeteners (less than 8 oz portion)

(c) Minimum Standards for After School Snack Programs

- (1) All After School Snack Programs (ASSP) administered by NC DPI shall meet the meal pattern requirements specified by the US Department of Agriculture.
- (2) All foods and beverages available to students enrolled in the ASSP shall meet the same criteria required for A la Carte foods and beverages.

(d) Local Child Nutrition Programs shall implement these nutrition standards in all elementary schools no later than the first day of the 2008 school year.

(e) The Child Nutrition Services Section of the Department of Public Instruction shall review the nutrition standards for elementary schools annually and shall modify the standards as needed based on several criteria, including, but not limited to, current science, best practices in the food and beverage industry, and the availability and affordability of new foods and beverages.

(f) The Child Nutrition Services Section of the Department of Public Instruction shall monitor the progress of each local school administrative unit toward achieving the nutrition standards and shall provide technical assistance and training as needed to assist local school administrative units in implementing the nutrition standards. Each local Child Nutrition Program shall submit nutrient analyses of menus planned for the months of October and March annually which shall be used to assess progress towards achieving the standards.

(g) The Child Nutrition Services Section shall report annually on the progress of each local school administrative unit to the State Board of Education, and to the Joint Legislative Education Oversight Committee.

(h) Students who have special nutritional needs that are in conflict with the nutrition standards shall be exempt from the standards. Each student's special needs shall be addressed through a medically-recognized document provided by a health care professional. When the child's documented nutritional need differs from the nutrition standards, the Child Nutrition Program shall comply with a documented plan or other specific instructions.

Authority G.S. 115C-12; 115C-264.3.

16 NCAC 06H .0114 DISPUTE RESOLUTION PROCESS FOR HOMELESS STUDENTS - DEFINITIONS

(a) The State Board of Education recognizes that the interests of students are best served when disputes are resolved informally at the local level where the issues and parties are best known.

(b) As used in this Rule:

- (1) The terms "homeless," "homeless child," and "homeless student" shall mean the same as the term "homeless children and youth" as defined by 42 U.S.C. 11434a(2). These terms shall also be deemed to include the term "unaccompanied youth".
- (2) The term "unaccompanied youth" shall mean the same as defined by 42 U.S.C. 11434a(6).
- (3) The term "local educational agency" (LEA) includes local school administrative units, charter schools, lab schools, regional schools, Innovative School District schools, and Innovations Zone schools.
- (4) The term "LEA dispute resolution process" shall refer to the LEA's policy on resolving complaints brought by parents, guardians, or unaccompanied youth regarding students experiencing homelessness. The term shall refer to appeals processes within the LEA, prior to any appeal by the parent, guardian, or unaccompanied youth appeals to the State Coordinator.
- (5) The term "local liaison" shall refer to the official at each LEA, who ensures the LEA dispute resolution process for homeless children and youth is mediated in accordance with local, state, and federal policy as required by 42 U.S.C. 11432(g)(6)(A)(vii).
- (6) The term "school business day" means days on which students are scheduled to be in attendance at school, according to the academic calendar adopted by the LEA.
- (7) The term "State Coordinator" shall refer to the staff person who carries out federally mandated duties regarding students experiencing homelessness as required by 42 U.S.C. 11432(d)(3).
- (8) The term "State appeal process" shall refer to the policies the State Coordinator, LEAs, parents, guardians, and unaccompanied youth must follow when a parent, guardian, or unaccompanied youth seeks to appeal a dispute to the State Coordinator.

Authority G.S. 115C-12; 42 U.S.C. 11431; 42 U.S.C. 11432.

16 NCAC 06H .0115 DISPUTE RESOLUTION PROCESS FOR HOMELESS STUDENTS – LEA DISPUTE RESOLUTION PROCESS

(a) Each LEA shall develop and implement a process for parents, guardians, or unaccompanied youth who have complaints about eligibility, school selection, or enrollment to file an appeal to the local liaison upon registering, or attempting to register, the child

or youth at the school in which enrollment is sought. For purposes of this policy, the phrase "school in which enrollment is sought" may be either the school of origin or the school located in the attendance zone of the child or youth's temporary residence. Enrollment shall be deemed to include attending classes and participating fully in school activities. The LEA shall define and describe the LEA dispute resolution process in its local board of education's official policy manual. The LEA dispute resolution process shall provide that:

- (1) the parent, guardian, or unaccompanied youth may initiate the dispute resolution process with the local liaison at the school in which enrollment is sought or at the local liaison's office;
- (2) faculty and staff of the school who know about the complaint must refer the parent, guardian, or unaccompanied youth to the local liaison;
- (3) the local liaison shall expeditiously carry out the LEA dispute resolution process within fifteen school business days, or thirty calendar days, whichever is less;
- (4) the LEA official(s) responsible for making the final LEA decision are identified in the local policy;
- (5) the LEA shall enroll the child or youth immediately in the school in which enrollment is sought pending resolution of any complaint between the school or LEA and the parent, guardian, or unaccompanied youth over school enrollment;
- (6) the LEA shall provide the student with all the services for which the student is eligible and shall permit the student to participate fully in school activities while the dispute is being resolved;
- (7) the LEA shall, at the time a complaint is made to the local liaison when practicable, but in no case more than one school business day later, provide the parent, guardian, or unaccompanied youth with a statement of rights and procedures, written in an understandable and uniform format, and to the extent practicable, in a language that the parent, guardian, or unaccompanied youth can understand, that informs them of:
 - (A) contact information including telephone number, e-mail address, and physical address of the local liaison and of the State Coordinator for homeless education, with a brief description of their roles;
 - (B) the right to notify the local liaison, within two school business days of the school's decision, of the parent, guardian or unaccompanied youth's intent to appeal the decision and the right to receive notice of the appeal procedure, including the timeline and process for making the initial appeal

and any subsequent appeals available under LEA policy, which process must allow for appeals to be made orally or in writing and must identify the LEA official(s) who makes the final LEA decision;

- (C) a simple form that parents, guardians, or unaccompanied youth can complete and submit to the local liaison to formally initiate the appeal and any subsequent appeals available under LEA policy;
- (D) the right to appeal the final LEA decision to the State Coordinator within three school business days after the final LEA decision with the option of requesting an extension from the State Coordinator (though extensions are not guaranteed) and a step-by-step description on how to file this appeal;
- (E) the right to enroll immediately in the school located in the attendance zone of the child or youth's temporary residence or remain in the school of origin with transportation provided pending resolution of the dispute, if such transportation is requested by the parent, guardian, or local liaison on behalf of the youth;
- (F) notice that immediate enrollment includes full participation in all school activities;
- (G) the right to obtain assistance of advocates or attorneys;
- (H) the right to provide supporting written or oral documentation during the appeals process.

(b) Each LEA shall appoint a local liaison for identifying homeless students. The local liaison shall:

- (1) ensure that when parents, students, and unaccompanied youth initiate the dispute resolution process, all parties comply with the LEA's dispute resolution policy and that the parents, students, and unaccompanied youth are provided with the information listed above.
- (2) ensure that each unaccompanied youth and any student experiencing homelessness who files a dispute about enrollment or whose parent or guardian files such a dispute is enrolled immediately in the school pending resolution of the dispute;
- (3) communicate the LEA dispute resolution process to parents, guardians, and unaccompanied youth experiencing homelessness; and
- (4) inform the LEA superintendent, other appropriate school officials, and the State Coordinator of the dispute immediately after

the parent, guardian, or unaccompanied youth has initiated the dispute resolution process.

(c) The State Coordinator shall train the local liaisons to carry out and mediate the dispute resolution process and to ensure that each school and the LEA meets the requirements of the McKinney-Vento Act as amended by the Every Student Succeeds Act of 2015.

Authority G.S. 115C-12; 42 U.S.C. 11431; 42 U.S.C. 11432.

**16 NCAC 06H .0116 DISPUTE RESOLUTION
PROCESS FOR HOMELESS STUDENTS - STATE
APPEAL PROCESS**

(a) Any parent, guardian, or unaccompanied youth who is not satisfied with the final LEA decision regarding enrollment may appeal the decision, within three school business days after the final LEA decision, to the State Coordinator through an oral or written appeal to the State Coordinator, including:

- (1) the name, physical address if available, e-mail address, and telephone number of the person filing the appeal;
- (2) the relationship or connection of the person to the child in question;
- (3) the name of the school system and the specific school in question;
- (4) the federal requirement alleged to have been violated;
- (5) how the requirement has been violated; and
- (6) the relief the person is seeking.

(b) If the State Coordinator receives an appeal that is not complete, the Coordinator shall contact the person making the appeal and the local liaison, explain the deficiency, and offer the person the opportunity to complete the appeal.

(c) Upon request of the State Coordinator, the local liaison shall provide the State Coordinator with the record of the complaint, the LEA's actions, and other supporting documents. If the matter involves more than one LEA, then the local liaisons shall cooperate to provide the State Coordinator with a complete record. In either event, the local liaison or liaisons shall provide the complete record within three school business days following the State coordinator's request.

(d) The State Coordinator shall provide the LEA and the parent, guardian, or unaccompanied youth with the opportunity to respond to the LEA decision and to provide any additional evidence they deem relevant within three school business days.

(e) The State Coordinator shall issue a final written decision to the parent, guardian, or unaccompanied youth and the LEA involved within 10 school business days following receipt of the complete appeal.

The State Coordinator's decision shall include:

- (1) a summary of the issue appealed;
- (2) the federal requirement at issue; and
- (3) a description of the State Coordinator's decision in an understandable and uniform format, and, to the extent practicable, provided in a language that the parent, guardian, or unaccompanied youth can understand, including further steps that the LEA or parent, guardian, or unaccompanied youth are required to take.

(f) Nothing contained in this Rule shall prohibit the State Coordinator from investigating whether the parent, guardian, or unaccompanied youth knowingly and voluntarily entered into any agreement affecting their rights under McKinney-Vento Act as amended by the Every Student Succeeds Act of 2015. If the State Coordinator determines that the parent, guardian, or unaccompanied youth did not knowingly and voluntarily enter into the agreement, then the State Coordinator may void the agreement and enter a decision consistent with the applicable facts and law.

Authority G.S. 115C-12; 42 U.S.C. 11431; 42 U.S.C. 11432.

**16 NCAC 06H .0117 OPERATION OF FEDERAL
PROGRAMS**

In accordance with applicable federal regulations, the Department shall administer such federal education programs as are authorized by Congress and accepted by the State Board of Education. In administering federal programs, the Department shall reclaim and/or withhold funds from any local education agency (LEA) or program sponsor that fails to comply with current federal regulations and state policies until the LEA or program sponsor complies.

Authority G.S. 115C-12; 115C-263; 115C-264; 115C-409.

**SUBCHAPTER 06K – EDUCATION SERVICES FOR THE
DEAF AND BLIND (ESDB)**

16 NCAC 06K .0101 SCHOOL SECURITY

The North Carolina School for the Deaf, Eastern North Carolina School for the Deaf and the Governor Morehead School, shall develop and implement policies to provide guidance and support to the Education Services for the Deaf and Blind (ESDB) schools in the management of campus security.

Authority G.S. 115C-12; 115C-150.13.

**16 NCAC 06K .0103 NC STANDARD COURSE OF
STUDY, OCCUPATIONAL COURSE AND EXTENDED
CONTENT STANDARDS**

Education Services for the Deaf and Blind (ESDB) shall follow the requirements of the NC Standard Course of Study, Occupational Course of Study, and Extended Content Standards, for each subject for which a standard is provided.

Authority G.S. 115C-12; 115C-150.13.

16 NCAC 06K .0104 PLACEMENT PROCEDURES

(a) Consistent with federal regulations, the Education Services for the Deaf and Blind (ESDB) shall establish uniform procedures for referral, screening, and placement of Deaf, Hard of Hearing, Blind, Deaf-Blind and Visually Impaired students in the state operated residential programs in ESDB.

(b) Each ESDB school shall name a school representative who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of the child. The individual must hold a current license as a special education teacher, administrator in North Carolina, or speech/language

pathologist. In addition, the individual shall be knowledgeable about the North Carolina Standard Course of Study: Occupational Course of Study (OCS) and Extended Content Standards (ECS); and knowledgeable of the available resources of the school. It is important that the school representative has the authority to commit school resources and ensure that whatever services are described in the Individualized Education Program (IEP) will be provided.

(c) The school representative will contact the local special education director, (not a particular school, unless directed by the local Exceptional Children director) and arrange to observe the student referred in multiple settings, including the student's classroom, cafeteria and a non-structured setting. All contact concerning possible admission to a residential school must be initiated by the LEA. Inquiries from parents and others shall be directed to the appropriate LEA.

(d) The school representative will review forms and consider information used in making the recommendation for placement. (Schools should consider the present status and needs of the student, reason for referral, and services presently and previously provided, and results of screening and assessment.) All state-adopted forms must be completed and signed.

(e) The school representative will participate in discussions about the least restrictive environment for student.

(f) If the IEP team decides that residential school placement is the least restrictive environment for the referred student, the ESDB school representative should take a copy of properly completed and signed forms back to the appropriate ESDB school, discuss with staff and plan for the student's transition.

(g) The ESDB superintendent shall be notified of all student placements and transitions back to an LEA.

Authority G.S. 115C-12; 115C-150.13.

16 NCAC 06K .0105 WEAPONS PROHIBITED ON SCHOOL PROPERTY

(a) All Education Services for the Deaf and Blind (ESDB) schools and places of employment within ESDB shall be free of all unauthorized weapons. No employee or other person shall carry, or engage another person to carry, whether openly or concealed, an unauthorized weapon as defined below, on to school property at any time.

(b) Weapon is defined as any gun, rifle, pistol, or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or other powerful explosive, BB gun, stun gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife (a knife containing a blade that opens automatically by the release of a spring or a similar contrivance), blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), firework, and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction, and maintenance, on school property.

(c) School property is defined as any building, bus, school campus, grounds, recreational area, athletic field, or other property owned, used, or operated by the Education Services for the Deaf and the Blind.

(1) Exceptions Include:

(A) A weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school approved program conducted under the supervision of an adult whose supervision has been approved by the school director;

(B) Firefighters, emergency service personnel, North Carolina Forest Service Personnel, and any private police employed by the Education Service for the Deaf and the Blind when acting in the discharge of their official duties, law enforcement officers, or any of those persons specifically exempted by G.S. 14-269(b).

(d) Any employee who is aware that an unauthorized weapon has been carried onto school property must immediately notify the school director.

(1) Violation of this policy may subject the employee to disciplinary action up to and including dismissal.

(2) The principal shall immediately report violations of this policy to law enforcement.

Authority G.S. 14-269; 14-269.2; 115C-12.

TITLE 19A – DEPARTMENT OF TRANSPORTATION

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Transportation intends to readopt without substantive changes the rules cited as 19A NCAC 02E .0201-.0204, .0206-.0210, .0212-.0215, .0224, .0225, .0601-.0604, .0608-.0611 and repeal through readoption the rule cited as 19A NCAC 02E .0226.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.nddot.gov/about-us/how-we-operate/policy-process/rules/Pages/default.aspx>

Proposed Effective Date: May 1, 2020

Public Hearing:

Date: February 20, 2020

Time: 3:00 p.m.

Location: *Transportation Mobility and Safety Conference Room
161, 750 Greenfield Parkway, Garner, NC 27529*

Reason for Proposed Action: *Pursuant to G.S. 150B-21.3A, Periodic Review and Expiration of Existing Rules, all rules are reviewed at least every 10 years or they shall expire. As a result of the periodic review of Subchapter 10A NCAC 02B, 02D and 02E these proposed rules were determined as "Necessary With Substantive Public Interest" thus necessitating readoption.*

Upon review for the readoption process, the agency deemed the following rules to be necessary without substantive changes and are recommended for readoption: 19A NCAC 02E .0201-.0204, .0206-.0210, .0212-.0215, .0224-.0225, .0601-.0604, and .0608-.0611.

Upon review for the readoption process, the agency deemed the following rule to be unnecessary and is recommending repeal: 19A NCAC 02E .0226.

Comments may be submitted to: *Hannah D. Jernigan, 1501 Mail Service Center, Raleigh, NC 27699-1501; phone (919) 707-2821; email Rulemaking@ncdot.gov*

Comment period ends: *March 5, 2020*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☒ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 02 - DIVISION OF HIGHWAYS

SUBCHAPTER 02E - MISCELLANEOUS OPERATIONS

SECTION .0200 – OUTDOOR ADVERTISING

19A NCAC 02E .0201 DEFINITIONS FOR OUTDOOR ADVERTISING CONTROL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0202 AGREEMENT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0203 OUTDOOR ADVERTISING ON CONTROLLED ROUTES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0204 LOCAL ZONING AUTHORITIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0206 APPLICATIONS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0207 FEES AND RENEWALS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0208 PERMIT AND PERMIT EMBLEM (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0209 TRANSFER OF PERMIT/CHANGE OF ADDRESS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0210 REVOCATION OF OUTDOOR ADVERTISING PERMIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0212 NOTICE GIVEN FOR REVOKING PERMIT (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0213 APPEAL OF DECISION OF DISTRICT ENGINEER TO SEC. OF TRANS. (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0214 STANDARDS FOR DIRECTIONAL SIGNS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0215 PERMITS FOR DIRECTIONAL SIGNS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0224 SCENIC BYWAYS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0225 REPAIR/MAINTENANCE/ ALTERATION OF SIGNS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0226 ORDER TO STOP WORK ON UNPERMITTED OUTDOOR ADVERTISING

Authority G.S. 136-130; 136-133.

SECTION .0600 - SELECTIVE VEGETATION REMOVAL POLICY

19A NCAC 02E .0601 SELECTIVE VEGETATION REMOVAL PERMIT REQUIRED TO REMOVE VEGETATION FROM STATE HIGHWAY RIGHT OF WAY (READOPTED WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0602 REQUESTS FOR SELECTIVE VEGETATION REMOVAL PERMITS FOR A FACILITY (READOPTED WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0603 ISSUANCE OR DENIAL OF SELECTIVE VEGETATION REMOVAL PERMIT FOR A FACILITY (READOPTED WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0604 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMIT FOR FACILITIES (READOPTED WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0608 REQUESTS FOR SELECTIVE VEGETATION REMOVAL PERMITS FOR OUTDOOR ADVERTISING (READOPTED WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0609 ISSUANCE OR DENIAL OF SELECTIVE VEGETATION REMOVAL PERMIT FOR OUTDOOR ADVERTISING (READOPTED WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0610 CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMITS FOR OUTDOOR ADVERTISING (READOPTED WITHOUT SUBSTANTIVE CHANGES)

19A NCAC 02E .0611 BEAUTIFICATION AND REPLANTING REQUIREMENTS FOR SELECTIVE VEGETATION REMOVAL PERMITS (READOPTED WITHOUT SUBSTANTIVE CHANGES)

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 30 – BOARD OF MASSAGE AND BODYWORK THERAPY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Massage and Bodywork Therapy intends to adopt the rule cited as 21 NCAC 30 .1014.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://bmbt.org/mtpages/news.html>

Proposed Effective Date: July 1, 2020

Public Hearing:

Date: February 20, 2020

Time: 1:00 p.m.

Location: Wells Fargo Capitol Center, 13th Floor Conference Room, 150 Fayetteville Street, Raleigh, NC 27601

Reason for Proposed Action: *The adoption of Rule .1014 is to implement fees for licensure of massage and bodywork therapy establishments.*

Comments may be submitted to: Charles P. Wilkins, PO Box 2539, Raleigh, NC 27602; phone (919) 546-0050; email cwilkins@bws-law.com

Comment period ends: March 2, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

SECTION .1000 – MASSAGE AND BODYWORK THERAPY ESTABLISHMENT LICENSURE

21 NCAC 30 .1014 FEES

(a) Fees are as follows:

(1)	Application for license	\$20.00
(2)	Initial license fee	150.00
(3)	License Renewal	100.00
(4)	Late renewal penalty	75.00
(5)	Duplicate license	25.00
(6)	Inspection of establishment	150.00

(b) Fees shall be nonrefundable and shall be paid by credit card or cashier's check, certified check or money order made payable to the North Carolina Board of Massage and Bodywork Therapy.

Authority G.S. 90-632.14; .

CHAPTER 57 - APPRAISAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Appraisal Board intends to amend the rules cited as 21 NCAC 57A .0201, .0210, .0211, .0301, .0404, .0407, .0410, .0601; 57B

.0101, .0302, .0304, .0306, .0307, .0606, .0613, .0614; 57C .0101; 57D .0101 and repeal the rules cited as 21 NCAC 57A .0302, .0306; 57B .0102, and .0103.

Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://www.ncappraisalboard.org>

Proposed Effective Date: May 1, 2020

Public Hearing:

Date: January 28, 2020

Time: 9:00 a.m.

Location: NC Appraisal Board 5830 Six Forks Road Raleigh, NC 27609

Reason for Proposed Action: *In rules 21 NCAC 57A .0201, .0301, .0302 (repeal), .0306 (repeal), .0407, .0601 and 57B .0101, .0102 (repeal), .0103 (repeal), .0302, and .0304 the changes/repeals that were made are primarily as a result of the adoption of the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraisal Qualifications Board as set forth in N.C. Gen. Stat. 93E-1-6.*

21 NCAC 57A .0210 - the changes remove the requirement of a notarized application and set forth the requirements in the application for temporary practice.

21 NCAC 57A .0211 - the changes provide another option to apply when licensed or certified in another State.

21 NCAC 57A .0404 - the changes set out required documentation for name changes with the Board.

21 NCAC 57A .0410 - the changes are required to be consistent with the new language in N.C. Gen. Stat. 93E-2-2.

21 NCAC 57B .0306 - clarifies the requirements for certified appraisers to become instructors.

21 NCAC 57B .0307 - allows for online instruction for certain courses.

21 NCAC 57B .0606 - changes the time period and manner of notification to the Board for course offerings.

21 NCAC 57B .0613 - removes the requirement that sponsors have 30 days to remit payment.

21 NCAC 57B .0614 - adds an option to take a course from the Board or another approved sponsor and changes the renewal date.

21 NCAC 57C .0101 - adds an additional step in the complaint process.

21 NCAC 57D .0101 - revises the information required to be consistent with federal AMC requirements.

Comments may be submitted to: Donald T. Rodgers, NC Appraisal Board, 5830 Six Forks Road, Raleigh, NC 27609; phone (919) 870-4854; fax (919) 870-4859; email ncab@ncab.org

Comment period ends: March 2, 2020

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
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- ☐ Approved by OSBM
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SUBCHAPTER 57A – REGISTRATION, LICENSING, CERTIFICATION AND PRACTICE

SECTION .0200 – TRAINEE REGISTRATION AND APPRAISER LICENSING AND CERTIFICATION

21 NCAC 57A .0201 QUALIFICATIONS FOR TRAINEE REGISTRATION AND APPRAISER LICENSURE AND CERTIFICATION

(a) Applicants for trainee registration, licensure as a licensed residential real estate appraiser, and for certification as a certified real estate appraiser ~~must~~ shall satisfy the qualification requirements set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board as stated in G.S. 93E-1-6 and in this Section. The Appraisal Foundation's website is www.appraisalfoundation.org.

~~(b) Applicants for trainee registration shall have completed, within the five year period immediately preceding the date application is made, 90 hours of education as set forth in 21 NCAC 57B .0101 or education found by the Board to be equivalent to such courses. Applicants for trainee registration must possess a high school diploma or its equivalent.~~

~~(c) Applicants for licensure as a licensed residential real estate appraiser shall have completed 150 hours of education as set forth in 21 NCAC 57B .0102 or education found by the Board to be equivalent to such courses. In addition, applicant for licensure as a licensed residential real estate appraiser must hold an associate's degree, or higher, from an accredited college, community college, or university. Applicants shall have obtained at least 2,500 hours of appraisal experience acquired within the eight year period immediately preceding the date application is made and over a~~

minimum period of two calendar years. Applicants must have been engaged in real estate appraising for at least two calendar years prior to the date application is made. At least 50 percent of this appraisal experience must have been of one to four family residential properties in which the sales comparison approach was utilized in the appraisal process.

~~(d) Applicants for certification as a certified residential real estate appraiser shall have completed 200 hours of education as set forth in 21 NCAC 57B .0102 or education found by the Board to be equivalent to such courses. In addition, applicants for certification as a certified residential real estate appraiser must hold a bachelor's degree, or higher, from an accredited college, community college, or university. Applicants shall have obtained at least 2,500 hours of appraisal experience acquired within the eight year period immediately preceding the date application is made and over a minimum period of two calendar years. Applicants must have been engaged in real estate appraising for at least two calendar years prior to the date application is made. At least 50 percent of this appraisal experience must have been of one to four family residential properties in which the sales comparison approach was utilized in the appraisal process.~~

~~(e) Applicants for certification as a certified general real estate appraiser shall have completed 300 hours of education as set forth in 21 NCAC 57B .0103 or education found by the Board to be equivalent to such courses. In addition, applicants for certification as a certified general real estate appraiser must hold a Bachelor's degree or higher from an accredited college or university. Applicants shall have obtained at least 3,000 hours of appraisal experience acquired within the eight year period immediately preceding the date application is made and over a minimum period of two and a half calendar years of which at least 50 percent must have been in appraising non-residential real estate. Applicants must have been engaged in real estate appraising for at least two and one half calendar years prior to the date application is made. At least 50 percent of the non-residential appraisal experience must have been of special use properties such as schools, churches, or hospitals in which the income approach is not applicable or of improved properties in which the income approach was utilized in the appraisal process.~~

~~(f)(b) Applicants for licensure or certification who are currently registered trainees must shall submit a copy of their complete appraisal log. The log form may be found at the Board's website, www.ncappraisalboard.org, www.ncappraisalboard.org and the contents are found in Rule .0407 of this Subchapter.~~

Applicants for certification who are currently licensed or certified appraisers must shall submit an appraisal log showing that they possess the requisite amount and length of experience as set forth in Paragraphs (c) and (d) of this Rule. the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board. All applicants for licensure or certification shall provide to the Board copies of appraisal reports and work files in support of experience credit. In order for an appraisal to be given experience credit, it must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) and with any applicable state statutes or rules.

~~(g)(c)~~ When a trainee or a licensed real estate appraiser becomes a certified real estate appraiser, his or her previous registration or licensure shall be cancelled by the Board. When a certified

residential real estate appraiser becomes certified as a general real estate appraiser, his or her previous certification shall be immediately cancelled by the Board.

~~(h)(d)~~ In the event that the Board asks requests that an applicant ~~to~~ submit updated information or provide further information that the Board determines is necessary in order for the applicant to complete the application and the applicant fails to submit such the requested information within 90 days following the Board's request, the Board shall cancel the applicant's application and the application fee shall be retained by the Board. application. An applicant whose application has been cancelled and who wishes to obtain a registration, license, or certificate ~~must shall~~ start the licensing process over by filing a complete application with the Board and paying all required fees.

~~(i)(e)~~ An applicant may request that his or her application be withdrawn at any time before final action is taken by the Appraisal Board on the application.

~~(j)(f)~~ If an applicant has ~~a current~~ an open complaint before the North Carolina Appraisal Board or an appraiser licensing board from any other state, or if the applicant has pending criminal charges in ~~this or~~ any state, the application shall be accepted but no further action shall be taken on the application until the complaint or criminal charges are resolved. For the purposes of this Section, Paragraph, criminal charges do not include ~~speeding tickets or~~ traffic infractions.

Authority G.S. 93E-1-6(a); 93E-1-10.

21 NCAC 57A .0210 TEMPORARY PRACTICE

(a) A real estate appraiser who does not reside in North Carolina and who is licensed or certified by the appraiser licensing or certifying agency in another state may apply to receive temporary appraiser licensing or certification privileges in this State by filing ~~a notarized~~ an application with the Board. The application is available on the Board's website at www.ncappraisalboard.org. The application shall include:

- (1) the applicant's name, address, phone number, email, date of birth, social security number, driver's license number;
- (2) license or certification number currently held in another state;
- (3) whether the applicant has had any disciplinary actions taken against them in connection with any appraiser, real estate, or other professional license held;
- (4) whether the applicant has ever been convicted of any criminal offense or has any criminal charges pending;
- (5) the projected beginning and ending date;
- (6) a legal description of the subject properties and state the purpose of the appraisal assignment; and
- (7) the signature of the applicant.

(b) Upon filing a completed application accompanied by the fee prescribed in G.S. 93E-1-9(c), the Board shall consider whether an applicant's appraiser license or certification is or has been subject to discipline in their resident state or any other state, and shall consider all other information outlined in Rule .0202 of this Section. If the application is approved, an applicant shall be

granted a temporary practice permit by the Board authorizing the applicant to perform in this State the appraisal assignment described in ~~such~~ the application, provided that the Board determines the length of time projected by the applicant for completion of the assignment is reasonable given the scope and complexity of the assignment. ~~The fee must be paid by money order, certified check, or cashier's check. The Board may consider whether an applicant's trainee registration or appraiser license or certification is or has been subject to discipline in their resident state or any other state, and may consider all other information outlined in Rule .0202 of this Section.~~

(c) Privileges granted under the provisions of this Rule shall expire upon the expiration date set forth in the temporary practice permit. However, upon a showing by the permittee satisfactory to the Appraisal Board ~~that, notwithstanding the permittee's attention to the appraisal assignment, that~~ additional time is needed to complete the assignment, the Board shall extend the temporary practice privileges granted under the permittee's temporary practice permit to afford him or her additional time to complete the appraisal assignment. ~~The Board shall receive the Such request for extension must be received before the original temporary practice permit expires or it shall not be granted. The request shall be in writing and shall include the temporary practice permit number, the amount of additional time needed to complete the assignment, and the reason the extension is necessary. An applicant for a temporary practice permit shall not begin performing any appraisal work in this State until the temporary practice permit has been issued by the Board. The Board shall deny an applicant who begins work before the permit is issued.~~

(d) Persons granted temporary practice privileges under this Rule shall ~~not only~~ advertise or otherwise hold themselves out as being a North Carolina ~~trainee or~~ licensed or certified appraiser, appraiser for the assignment for which they received the temporary practice permit. Any appraisal report for an appraisal of property located in North Carolina ~~must shall~~ contain a copy of the temporary practice number for that assignment.

(e) A trainee may not apply for a temporary practice permit. The term "trainee" shall include apprentices and others who are licensed and regulated by a state agency to perform real estate appraisals under the supervision of a certified appraiser. If a trainee does enter the state to inspect a property located in this state, the trainee ~~must shall~~ be accompanied by the trainee's supervising appraiser. The trainee's supervisor ~~must shall~~ be a North Carolina ~~licensed or~~ certified real estate appraiser. If not, the supervising appraiser ~~must shall~~ be licensed or certified as a real estate appraiser in another state and ~~must shall~~ receive a temporary practice permit for the assignment.

~~(f) An applicant for a temporary practice permit shall not begin performing any appraisal work in this State until the temporary practice permit has been issued by the Board. If an applicant does begin work before the permit is issued, the temporary practice permit shall be denied.~~

Authority G.S. 93E-1-9 (c) and (d); 93E-1-10; Title XI, Section 4422(a); 12 U.S.C. 3351(a).

21 NCAC 57A .0211 APPLICANTS LICENSED OR CERTIFIED IN ANOTHER STATE

(a) Applicants for licensure or certification who are not licensed or certified in residents of North Carolina but are licensed or certified in another State shall file an application as stated in Rule .0101 of this Subchapter. The application may be found on the Board's website at www.ncappraisalboard.org. The application ~~requires~~ requires: the name, contact information, educational background of the applicant, an experience log when required for licensure or certification, answers to questions regarding character (regarding both disciplinary matters and criminal offenses), and a sworn statement that the information in the application is correct.

- (1) the applicant's name and contact information;
- (2) the applicant's education background;
- (3) the applicant's prior disciplinary and criminal history; and
- (4) a sworn statement that the information in the application is correct.

~~In addition, nonresident applicants~~ Applicants who do not reside in North Carolina, shall ~~also~~ consent to service of process in this State and file an affidavit of residency with the application. If the applicant is ~~licensed by the appraiser licensing board of the applicant's resident state, board, not active on the Appraisal Subcommittee's National Registry,~~ the applicant shall ~~also~~ file with the application a letter of good standing from the appraiser licensing board of ~~the resident any state where the applicant is licensed or certified that was issued by that licensing board~~ no later than 30 days prior to the date application is made in this State.

~~(b) Applicants for certification who are residents of North Carolina and who are certified in another state shall file an application as stated in Rule .0101 of this Subchapter. The application may be found on the Board's website at www.ncappraisalboard.org. The applicant shall file a letter of good standing from the other state that that was issued by that licensing board no later than 30 days prior to the date application is made in this State.~~

~~(e)(b)~~ Applicants for registration licensure or certification shall obtain a criminal records check that complies with the requirements of Rule .0202(e) of this Subchapter. ~~This records check shall have been performed within 60 days of the date the completed application for registration or certification is received by the Board. Applicants shall pay the reporting service for the cost of these reports.~~

~~(d)(c)~~ An appraiser whose license or certification is suspended in North Carolina shall not apply for licensure or certification in this State under this Rule while the license or certification is suspended. An appraiser whose license or certification was revoked in North Carolina shall not apply for licensure or certification in this State under this Rule for five years after the date of revocation.

Authority G.S. 93E-1-9 (a) and (b); 93E-1-10; 12 U.S.C. 3351(a).

SECTION .0300 – APPRAISER EXAMINATIONS

21 NCAC 57A .0301 TIME AND PLACE

(a) Applicants who have completed the education and experience requirements for licensure or certification as set forth in 21 NCAC

~~57A .0204~~ G.S. 93E-1-6 shall be issued an examination approval ~~form. form by the Board.~~ The examination approval form is valid for five attempts at the examination or for one year from date of issuance, whichever comes first.

~~(b) Examinations for appraiser licenses or certificates shall be scheduled at such times and places as determined by the Executive Director and the Board approved private testing service. Applicants for the examination shall be scheduled for examination based on their successful completion of appraiser educational qualification requirements stated in G.S. 93E-1-6 and filing an application with the Board. The application may be found on the Board's website at www.ncappraisalboard.org. Violation of examination procedures and instructions is grounds for denial, suspension, or revocation of a certificate.~~

~~(e)(b) As set forth in the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, as adopted in G.S. 93-1-6, Examination~~ examination results are valid for 24 months from the date the examination is successfully completed.

Authority G.S. 93E-1-6(c); 93E-1-10.

21 NCAC 57A .0302 SUBJECT MATTER AND PASSING SCORES

Authority G.S. 93E-1-6(c); 93E-1-10.

21 NCAC 57A .0306 EXAMINATION REVIEW

Authority G.S. 93E-1-6(c); 93E-1-10.

SECTION .0400 – GENERAL APPRAISAL PRACTICE

21 NCAC 57A .0404 CHANGE OF NAME OR ADDRESS

All trainees, ~~licensees~~ licensees, and certificate holders shall notify the Board in writing of each change of business address, residence address, or ~~trade name~~ change within 10 days of ~~said~~ the change. ~~The address shall be sufficiently descriptive to enable the Board to correspond with and physically locate the trainee, licensee or certificate holder. The trainee, licensee, or certificate holder shall submit the Request for Reissuance of Appraiser Wall Certificate and Pocket Card Due to Name Change form. The form shall be accompanied by the fee prescribed in G.S. 93E-1-7(d). The form may be found on the Board's website at www.ncappraisalboard.org, and shall include the following information:~~

- (1) licensee's previous name;
- (2) licensee's new name;
- (3) the date the name was legally changed;
- (4) signature, date, and license number; and
- (5) the legal documentation showing the name change.

Authority G.S. 93E-1-10.

21 NCAC 57A .0407 SUPERVISION OF TRAINEES

(a) A certified real estate appraiser may engage a registered trainee to assist in the performance of real estate appraisals, provided that the appraiser:

- (1) has been certified for at least three years;
- (2) has ~~no more than three~~ the number of trainees working under him or her at any one time as follows:
 - (A) a certified residential appraiser may have two trainees working under his or her supervision at any one time. Once at least one of those trainees has completed 50 percent of the required appraisal experience ~~required by 21 NCAC 57A .0201(e), (d), or (e), as set forth in G.S. 93E-1-6,~~ a certified residential appraiser may add another trainee; and
 - (B) a certified general appraiser may have three trainees working under his or her supervision.
- (3) Prior to the date any trainee begins performing appraisals under his or her supervision, the supervisor shall inform the Board of the name of the trainee by filing a Supervisor Declaration Form with the Board. The form may be found on the Board's website at www.ncappraisalboard.org. The supervisor shall also inform the Board when a trainee is no longer working under his or her supervision by using the Supervisor Declaration Form. The form shall include the following information:
 - (A) the name and registration number of trainee;
 - (B) the name and certification number of supervisor;
 - (C) the date the trainee completed the supervisor/trainee course;
 - (D) the date the supervisor completed the supervisor/trainee course;
 - (E) whether the supervisor has had any disciplinary action within the past three years or pending complaints against his or her ~~license;~~ certification; and
 - (F) the signature of both the supervisor and trainee (only required for association).
- (4) actively and personally supervises the trainee on all appraisal reports and appraisal related activities until the trainee is no longer under his or her supervision;
- (5) reviews all appraisal reports and supporting data used in connection with appraisals in which the services of a trainee is utilized, and assures that research of general and specific data has been conducted and reported, application of appraisal principles and methodologies has been applied, ~~that the~~

~~analysis is sound and reported~~, and that any analysis, opinions, or conclusions are developed and reported so that the appraisal report is not misleading;

- (6) complies with all provisions of Rule .0405 of this Section regarding appraisal reports;
- (7) reviews and signs the trainee's log of appraisals prepared in accordance with Paragraph (c) of this Rule. The supervisor shall make available to the trainee a copy of every appraisal report where the trainee performs more than 75 percent of the work on the appraisal; and
- (8) has not received any disciplinary action against his or her appraisal license or certificate from the State of North Carolina or any other state within the previous three years. For the purposes of this ~~Section, disciplinary action~~ Subparagraph, "disciplinary action" means an active suspension, a downgrade of a credential, a revocation, or any other action that restricts a supervisor's ability to engage in appraisal practice.

(b) ~~Active and personal supervision~~ "Active and personal supervision" includes direction, guidance, and support from the supervisor. The supervising appraiser shall have input into and knowledge of the appraisal report prior to its completion, and shall make any changes to the report before it is transmitted to the client. In addition, the supervisor shall accompany the trainee on the inspections of the subject property on the first 50 appraisal assignments or the first 1500 hours of experience, whichever comes first, for which the trainee will perform more than 75 percent of the work. After that point, the trainee may perform the inspections without the presence of the supervisor provided that the supervisor is satisfied that the trainee is competent to perform those inspections, and that the subject property is less than 50 miles from the supervisor's primary business location. The supervisor shall accompany the trainee on all inspections of subject properties that are located more than 50 miles from the supervisor's primary business location.

(c) ~~The trainee shall maintain a log on a form that includes each appraisal performed by the trainee, the type of property appraised, type of appraisal performed, complete street address of the subject property, the date the report was signed, the experience hours claimed, the name of the supervisor for that appraisal, and whether the supervisor accompanied the trainee on the inspection of the subject property.~~ An appraisal experience log shall be maintained jointly by the supervisor and the trainee. Both the supervisor and the trainee are responsible for maintaining the experience log and ensuring that it is accurate, current, and includes the following:

- (1) the type of property appraised;
- (2) the type of appraisal performed;
- (3) the date the report was signed;
- (4) the complete street address of appraised property;
- (5) a description of the work performed by the trainee;
- (6) the scope of review and supervision of the supervisor, including whether the supervisor

accompanied the trainee on the inspection of the subject property;

(7) the number of actual work hours by the trainee on the assignment; and

(8) the signature and state certification number of the supervisor.

The log shall be updated at least every 30 days. A separate log shall be maintained for each supervising appraiser. A log form is available on the Board's website at www.ncappraisalboard.org.

(d) An appraiser shall attend an education program regarding the role of a supervisor before any supervision of a trainee. This course shall be taught only by instructors approved by the Board in accordance with 21 NCAC 57B .0614.

(e) Trainees shall ensure that the Appraisal Board has received the Supervisor Declaration Form on or before the day the trainee begins assisting the supervising appraiser by contacting the Board by telephone or email at ncab@ncab.org. The form may be found on the Board's website at www.ncappraisalboard.org. Trainees shall not receive appraisal experience credit for appraisals performed in violation of this Paragraph.

(f) Supervising appraisers shall not be employed by a trainee or by a company, firm, or partnership in which the trainee has a controlling interest.

(g) If a trainee signs an appraisal report or provides significant professional assistance in the appraisal process and is noted in the report as having provided assistance, the appraiser signing the report shall have notified the Appraisal Board before the appraisal is signed that he or she is the supervisor for the trainee. If more than one appraiser signs the report, the appraiser with the highest level of credential shall be the declared supervisor for the trainee. If all appraisers signing the report have the same level of credential, at least one of them shall be declared as the trainee's supervisor before the report is signed.

(h) Only one trainee may receive credit for providing real property appraisal assistance on an appraisal report.

Authority ~~G.S. 93E-1-6-1; G.S. 93E-1-6-1; 93E-1-10; 93E-1-12.~~

21 NCAC 57A .0410 APPRAISAL MANAGEMENT COMPANIES

An appraiser who performs an appraisal for an appraisal management company (AMC) shall ~~assure~~ verify that the company is ~~properly~~ registered with the North Carolina Appraisal Board pursuant to ~~G.S. 93B-2-4~~ G.S. 93E-2-4, unless the AMC is ~~exempt from registration pursuant to G.S. 93E-2-2~~, before accepting the assignment.

Authority G.S. 93E-2-1; 93E-2-3; 93E-2-4(a).

SECTION .0600 - EXPERIENCE CREDIT

21 NCAC 57A .0601 EXPERIENCE CREDIT TO UPGRADE

~~As required by Rule .0201 of this Subchapter, applicants~~ As set forth in G.S. 93E-1-6, applicants for licensure or ~~residential~~ certification shall ~~possess 2,500 hours of appraisal experience and applicants for general certification shall possess 3,000 hours of appraisal experience as defined in this Section.~~ meet the Real Property Appraiser Qualification Criteria as implemented by The

Appraisal Foundation's Appraiser Qualifications Board. All experience shall have been obtained by performing or reviewing appraisals using appraisal methods and processes that are employed by real estate appraisers and shall comply with the edition of the USPAP in effect at the time of the appraisal, in addition to meeting the applicable requirements set forth in this Section.

Authority G.S. 93E-1-10.

SUBCHAPTER 57B - REAL ESTATE APPRAISAL EDUCATION

SECTION .0100 - COURSES REQUIRED FOR REGISTRATION, LICENSURE AND CERTIFICATION

21 NCAC 57B .0101 REGISTERED TRAINEE COURSE REQUIREMENTS

(a) Each applicant for registration as a trainee shall meet the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board as set forth in G.S. 93E-1-6. ~~complete a minimum of 90 hours of precertification education, consisting of the following:~~

- ~~(1) Thirty hours in Basic Appraisal Principles;~~
- ~~(2) Thirty hours in Basic Appraisal Procedures;~~
- ~~(3) Fifteen hours in Residential Market Analysis and Highest and Best Use or 30 hours in General Appraiser Market Analysis and Highest and Best Use; and~~
- ~~(4) A minimum of Fifteen hours in The Uniform Standards of Professional Appraisal Practice (USPAP).~~

~~(b) Credit for these courses shall be earned from a Board approved course sponsor or school and all course content shall be approved by the Appraisal Board in accordance with the rules in this Subchapter. The Board shall approve all course sponsors, schools, and course content that qualify for credit. These courses shall be completed within the five-year period immediately preceding the date when application for registration is made to the Board by the applicant.~~

~~(c) Basic Appraisal Principles shall be a prerequisite to taking Basic Appraisal Procedures, and Basic Appraisal Procedures shall be a prerequisite to taking either Residential or General Market Analysis and Highest and Best Use. The the 15 hour USPAP course may be taken any time after the successful completion of Basic Appraisal Procedures. course.~~

~~(d) These four courses shall be obtained in a classroom setting. No credit shall be given for these courses taken by any other method, such as correspondence school courses or on-line online courses.~~

~~(e) Before the application may be granted by the Board, the applicant shall complete the supervisor course developed by the North Carolina Appraisal Board as set forth in 21 NCAC 57A .0407(d).~~

Authority G.S. 93E-1-6(a); 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0102 LICENSED RESIDENTIAL AND CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

21 NCAC 57B .0103 CERTIFIED GENERAL REAL ESTATE APPRAISER COURSE REQUIREMENTS

Authority G.S. 93E-1-6(b); 93E-1-8(a); 93E-1-10.

SECTION .0300 – COURSE STANDARDS FOR PRELICENSING AND PRECERTIFICATION EDUCATION

21 NCAC 57B .0302 COURSE CONTENT

(a) All courses shall consist of instruction in the subject areas outlined in the Appraiser Qualification Board's Guide Note 1. Guide Note 1 may be accessed at the Appraisal Foundation website at www.appraisalfoundation.org.

(b) Courses may also include coverage of additional related subject areas; however, any such course ~~must~~ shall provide additional class time above the minimum required classroom hours ~~specified in 57B .0101, .0102, and .0103 and the minimum requirement of 15 hours for USPAP for the coverage of such additional subject areas as set forth in G.S. 93E-1-6.~~

(c) On or before the first class meeting day of the Basic Appraisal Principles course, the instructor shall give to each student material prepared by the Board regarding the trainee registration process and the process to upgrade to a licensed or certified appraiser. The student handout may be accessed on the Board's website at www.ncappraisalboard.org.

Authority G.S. 93E-1-6; 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0304 COURSE SCHEDULING

(a) All courses shall have fixed beginning and ending dates, and schools and course sponsors shall not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment shall be permitted only if the enrolling student satisfies the attendance requirements set forth in Paragraphs (d) and (e) of Rule .0303 of this Section.

(b) Courses shall be scheduled in a manner that provides for class meetings of up to eight classroom hours in any given day.

(c) A classroom hour consists of 50 minutes of classroom instruction. Classroom breaks at the rate of 10 minutes per classroom hour shall be scheduled and taken at reasonable times; however, instructors shall not use accumulated, unused break time to end the class early.

~~(d) Instruction shall be given for the minimum hours specified in Rules .0101, .0102, and .0103 of this Section. as set forth in G.S. 93E-1-6.~~

~~(e) All courses, except those taught on-line online via the Internet, shall have a minimum of five students enrolled in order for the course to be held.~~

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0306 INSTRUCTOR REQUIREMENTS

(a) Except for guest lecturers as set forth in Paragraph (b) of this Rule, all ~~qualifying~~ qualifying courses ~~or courses deemed equivalent by the~~

~~Board that qualify for credit pursuant to this Section shall be taught by instructors who are found by the Board to be equivalent to those listed below. The~~ meet the following minimum qualifications are as follows: qualifications:

- (1) for residential appraiser courses, the instructor shall:
 - ~~(A) have completed 200 classroom hours of real estate appraisal education as set forth in Rules .0101 and .0102 of this Subchapter;~~
 - ~~(B)~~(A) have two years' full-time experience as a certified residential or general real estate appraiser within the previous five years, with at least one-half of the experience in residential property appraising; and
 - ~~(C)~~(B) be a current certified as a residential or general real estate appraiser.
- (2) for general appraiser courses, the instructor shall:
 - ~~(A) have 300 classroom hours of real estate appraisal education as set forth in Rules .0101, .0102, and .0103 of this Subchapter;~~
 - ~~(B)~~(A) have three years' full-time experience as a general real estate appraiser within the previous five years, with at least one-half of the experience in income property appraising; and
 - ~~(C)~~(B) currently be and has been a certified general real estate appraiser for at least five years.
- (3) for USPAP courses, the instructor shall:
 - (A) currently be a certified residential or a certified general appraiser; and
 - (B) be certified by the Appraiser Qualifications Board of the Appraisal Foundation as an instructor for the National USPAP Course. If a USPAP instructor fails to renew or loses his or her certification by the Appraiser Qualifications Board, the instructor shall stop teaching and notify the Appraisal Board of the loss of certification.
- (4) for statistics, modeling and finance courses, the instructor shall:
 - (A) have previously completed this class; or
 - (B) have completed 3 semester hours of statistics from a regionally accredited college or university.

(b) Guest lecturers who do not possess the qualifications set forth in Paragraph (a) of this Rule may teach collectively up to one-fourth of any course, provided if the Board determines that each guest lecturer possesses education and experience in the subject area about which the lecturer is teaching.

(c) Instructors shall conduct their classes in a manner that demonstrates knowledge of the subject matter being taught and mastery of the following ~~basic~~ teaching skills:

- (1) The ability to communicate through speech, including the ability to speak at a rate of speed and with appropriate grammar and vocabulary;
- (2) The ability to utilize illustrative examples, and to respond to questions from students;
- (3) The ability to utilize varied instructive techniques other than straight lecture, such as class ~~discussion or other techniques;~~ discussion;
- (4) The ability to utilize instructional aids to enhance learning;
- (5) The ability to maintain a learning environment and control of a class; and
- (6) The ability to interact with adult students in a manner that does not offend or criticize them.

(d) Upon request of the Board, an instructor or proposed instructor shall submit to the Board a recording that depicts the instructor teaching portions of a qualifying course.

(e) The inquiry into determining whether to approve an instructor shall include consideration of whether the instructor has ever had any disciplinary action taken or has a disciplinary action pending against his or her appraisal license or certificate or any other professional license or certificate in North Carolina or any other state, or whether the instructor has ever been convicted of or pled guilty to any criminal act or has criminal ~~charges pending.~~ charges. An instructor shall not have received any disciplinary action against his or her appraisal license or certificate from the State of North Carolina or any other state within the previous two years. For the purposes of this Section, disciplinary action means a reprimand, suspension (whether active or inactive), or a revocation.

~~(e)(f)~~ Proposed qualifying course instructors who do not meet the minimum appraisal education and experience qualifications listed in Paragraph (a) of this Rule, and who seek to have their qualifications determined by the Board to be equivalent to the qualifications listed in Paragraph (a) of this Rule, shall supply the Board with copies of sample appraisal reports or other evidence of experience.

~~(h)(g)~~ Persons desiring to become instructors for qualifying courses shall file an instructor application for qualifying education and be approved by the Board. There is no fee for application for instructor approval. Once an instructor has been approved to teach a specific qualifying course, that person may teach the course at any school or for any course sponsor approved by the Appraisal Board to offer qualifying courses. The instructor application form shall include the following information:

- (1) the instructor's name, address, phone ~~number~~ number, and email address;
- (2) a list of course provider(s) the instructor will be teaching for;
- (3) the programs the instructor is seeking approval for;
- (4) the instructor's ~~Licensing/Certification History;~~ licensing/certification history;

- (5) whether the instructor has ever been denied a trainee registration, or appraiser ~~license~~ license, or certificate in NC or any other state;
 - (6) whether the instructor has any disciplinary action taken against a trainee registration, appraiser license or certificate in NC or any other state;
 - (7) whether the instructor has ~~any current charges pending against any professional license in NC;~~ has had any disciplinary action within the past three years or pending complaints or charges pending against his or her license; any professional license in this State;
 - (8) the instructor's college education, appraisal education, appraisal experience, and description of work experience; and
 - (9) the signature of applicant.
- (~~h~~) Current Appraisal Board members shall not be eligible to teach qualifying courses during their term of office on the Board.

Authority G.S. 93E-1-8(a); 93E-1-10.

21 NCAC 57B .0307 CRITERIA FOR COURSE RECOGNITION

(a) Schools and course sponsors seeking to offer appraiser qualifying courses shall make written application to the Board and pay applicable fees as required by G.S. 93E-1-8(b). The application may be accessed at the Board's website at www.nappraisalboard.org, www.ncappraisalboard.org. This application shall include:

- (1) the name of school, mailing address, and phone number;
- (2) the name and email address of the school owner and contact person;
- (3) the name of the school's Director pursuant to Rule .0207 of this Subchapter;
- (4) whether the school owner(s), Director, or any proposed instructor have had any criminal convictions or had any disciplinary action taken against a professional license;
- (5) whether the classroom facilities meet the minimum requirements in Rule .0204 of this Subchapter;
- (6) the courses they are seeking approval for;
- (7) the proposed instructors for the courses; and
- (8) the applicant's signature.

(b) Appraisal subject matter electives offered for ~~qualifying~~ credit pursuant to the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board shall meet all other requirements of this Chapter. The content of these electives shall be ~~directly~~ related to the appraisal of real property to be approved for credit. Appraisal subject matter elective courses shall contain a minimum of 15 hours.

(~~e~~) Various combinations of courses may be recognized as equivalent to the appraiser qualifying courses specified in 57B .0101, .0102 and .0103.

(~~d~~) The 15 hour USPAP course shall be the 15-hour National USPAP Course as approved by the Appraiser Qualifications Board of the Appraisal ~~Foundation, or its equivalent.~~ Foundation.

(~~e~~) The application shall state the name of the instructor for ~~the~~ each course. All instructors shall be approved by the Board pursuant to ~~57B .0306(h).~~ Rule .0306 of this Section. After the course is approved, if a school or course sponsor wishes to change instructors, the school shall notify the Board of the name of the new instructor at least seven calendar days before the proposed change would take effect. If the proposed instructor is not currently approved in accordance with ~~57B .0306(h).~~ Rule .0306 of this Section, the instructor shall be approved by the Board before the school or course sponsor may ~~change instructors.~~ allow the instructor to start instructing.

(~~f~~) Course sponsors may offer all qualifying classes other than Residential Sales Comparison and Income Approach class and the General Appraiser Income Approach class on line via the Internet. Basic Appraisal Principles, Basic Appraisal Procedures, and the 15 hour USPAP course online. The Board shall be provided access to the course ~~via the internet~~ online at a date and time satisfactory to the Board and shall not be charged any fee for such access. To be approved for credit, an ~~on-line~~ online qualifying education course shall meet all of the conditions imposed by the Rules in this ~~Subchapter in advance, except where otherwise noted.~~ Subchapter. The course shall be interactive, permitting the participant to communicate, via telephone, electronic mail, or a website bulletin board, with the presenter and other participants. The sponsor of an ~~on-line~~ online course shall have a method for recording and verifying attendance. A participant may periodically log on and off of an ~~on-line~~ online course provided the total time spent participating in the course is equal to or exceeds the credit hours assigned to the program. The course design and delivery mechanism for an ~~on-line~~ online course ~~offered on the Internet~~ shall have received approval from the International Distance Education Certification Center (IDECC). Information about the IDECC may be found on their website at www.idecc.org. A course completion certificate shall be forwarded to the student as stated in Rule ~~.0303(e).~~ .0607 of this Subchapter.

Authority G.S. 93E-1-8(a); 93E-1-10.

SECTION .0600 - CONTINUING EDUCATION COURSES

21 NCAC 57B .0606 COURSE OPERATIONAL REQUIREMENTS

Course sponsors shall maintain compliance with Rule .0603 of this Section and shall also comply with the following requirements:

- (1) Courses shall ~~be last~~ a maximum of eight classroom hours in any ~~given~~ day. A classroom hour shall consist of 50 minutes of classroom instruction and ten minutes of break time. ~~For any class that exceeds 50 minutes in duration, breaks at the rate of ten minutes per hour shall be scheduled.~~
- (2) Course sponsors shall not utilize advertising of any type that is false or ~~misleading.~~ misleading and shall specify

- the number of continuing education credit hours awarded by the Board for the course.
- (3) Course sponsors shall, upon request, provide any prospective student a description of the course content regarding the instruction to be provided in the course.
- (4) Courses shall be conducted in a facility that meets the following requirements:
- (a) is of sufficient size to accommodate all enrolled students;
 - (b) contains a student desk or worktable space for each student;
 - (c) is free of noise or visual distractions that disrupt class sessions; and
 - (d) complies with all applicable local, state and federal laws and regulations regarding safety, ~~health~~ health, and sanitation. ~~Classes shall not be held in a personal residence under any circumstances.~~
 - (e) Classes shall not be held in a personal residence under any circumstances.
- (5) The course sponsor shall require students to attend at least 90 percent of the scheduled classroom hours in order to complete the course, even if the number of continuing education credit hours awarded by the Board for the course is less than the number of scheduled classroom hours. Attendance shall be monitored during all class sessions to ensure compliance with the attendance requirement. Instruction shall be given for the number of hours for which credit is given. Instructors shall not accumulate unused break time to end the class early.
- (6) Instructors shall require student attentiveness during class sessions. Students shall not be permitted to engage in activities that are not related to the instruction being provided.
- (7) Course sponsors for which an application fee is required by Rules .0602(b) and .0611(b) of this Section shall administer course cancellation and fee refund policies. In the event a scheduled course is canceled, efforts shall be made to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students shall be refunded within 30 days of the date of cancellation or, with the student's permission, applied toward the fees for another course.
- (8) Upon request of the Board, the course sponsor shall submit to the Board a recording that depicts the instructor teaching portions of any continuing education course.
- (9) Course sponsors shall provide the Board in writing or via an electronic link with the dates and locations of all classes the sponsor is offering in ~~the State of~~ North Carolina at least ~~30~~ 10 calendar days before the class is offered, unless circumstances beyond the control of the course sponsor require that the course be rescheduled, such as a weather emergency. If the dates or location of the classes change after such information is provided to the Board, the course sponsor shall notify the Board of such changes within five days of the rescheduled ~~date, date in writing or via an electronic link.~~
- (10) Course sponsors shall provide each student with contact information for the Appraisal Board.
- (11) If an instructor has any disciplinary action taken on his or her appraisal license or any other professional license in North Carolina or any other state, or if the instructor has been convicted of or pled guilty to any misdemeanor or felony, the school or course sponsor shall report that fact to the Board within 15 business days.
- (12) All courses, except those taught ~~on-line via the Internet,~~ online, shall have a minimum number of five students enrolled in the ~~course, course in order for the course to take place.~~

Authority G.S. 93E-1-8(c); 93E-1-10.

21 NCAC 57B .0613 PAYMENT OF FEE REQUIRED BY G.S. ~~90E-1-7(B1)~~ 93E-1-7(B1)

Schools and course sponsors who are required by G.S. 93E-1-7(b1) to pay a fee to the Board for each licensee completing an approved continuing education course conducted by the school or course sponsor shall remit the fee to the Board ~~within 30 days after the date the course is completed.~~ upon uploading the course roster online.

Authority G.S. ~~93E-1-8(c)(d);~~ 93E-1-7; 93E-1-10.

21 NCAC 57B .0614 INSTRUCTORS FOR THE TRAINEE/SUPERVISOR COURSE REQUIRED BY G.S. 93E-1-6.1

- (a) Instructors for the trainee supervision course set forth in G.S. 93E-1-6.1 shall be real estate appraisers who have been certified residential or certified general appraisers for at least three years.
- (b) Instructors shall not have received any disciplinary action regarding their appraisal certificate from the State of North Carolina or any other state within the previous three years. In addition, instructors shall not have been convicted of or pleaded guilty to any criminal act. "Criminal act" shall not include speeding tickets or traffic infractions.
- (c) All applicants for instructor of the trainee supervision course shall obtain a criminal records check. This records check ~~must~~ shall have been performed within 60 days of the date the completed application for approval as an instructor is received by the Board. Applicants shall pay the vendor directly for the cost of these reports. The records check shall comply with the provisions of 21 NCAC 57A .0202(e).
- (d) Persons who wish to teach the trainee supervision course shall be approved by the Board before they may teach this course. ~~Such approval~~ Approval of a trainee supervision course instructor

authorizes the instructor to teach the course for any approved course sponsor.

(e) Applicants who wish to become instructors for the trainee supervision course shall attend an educational workshop sponsored by the Board or complete the NC Supervisor/Trainee course with another approved sponsor, which is a minimum of four hours, before they may be approved. Applicants may check the Board's website for information regarding the date and location of the workshop. The website may be accessed at ~~www.ncappraisalboard.org.~~ www.ncappraisalboard.org.

(f) Approval of trainee supervision course instructors ~~granted on or after July 1 shall expire on June 30 of the following year.~~ expires on the next December 31 following the date of approval. Applications for renewal of Board approval, shall be filed with the Board annually on or before December 1.

Authority G.S. 93E-1-6.1; 93E-1-8(c); 93E-1-10.

SUBCHAPTER 57C – ADMINISTRATIVE LAW PROCEDURES

SECTION .0100 – APPRAISAL BOARD HEARINGS

21 NCAC 57C .0101 FORM OF COMPLAINTS AND OTHER PLEADINGS

(a) Complaints shall be in writing, identify the trainee, appraiser, or appraisal management company, identify the Complainant by name, provide a physical address and contact information for the Complainant, and state the facts that form the basis of the complaint.

(b) When a complaint is received by the Board it shall be considered an allegation. The Board staff shall review the allegation to determine whether it shall be investigated, including examination of the appraisal report, if applicable, which shall be requested from the appraiser, and if based on this information there appears to be no violations of USPAP or any of the Board rules or statutes, then the allegations shall not be further investigated and will be dismissed. A three-panel committee of the Board shall review this decision.

(c) If the Board staff or the three-panel committee determine that further investigation is required, then a formal complaint shall be opened, and the Board staff shall request a response and the entire workfile from the appraiser and shall proceed to investigate the matter.

~~(b)(d)~~ (d) When the Board staff investigates a formal complaint, the scope of the investigation shall not be limited to the persons or transactions described or alleged in the complaint.

~~(e)(e)~~ (e) Complainants are not parties to contested cases heard by the Board, but may be witnesses in the cases.

~~(d)(f)~~ (f) There is no specific form required for answers, motions, or other pleadings submitted prior to the hearing relating to contested cases before the Board, except they shall be in writing. The document shall identify the file number and state the matters it alleges, answers, or requests. Motions may be made on the record during the course of the hearing before the Board.

~~(e)(g)~~ (g) During the course of an investigation of a formal complaint, licensee, the Board, through its legal counsel or staff, may send a trainee, appraiser, or appraisal management company one or more letters of inquiry requesting a response from the

trainee, appraiser, or appraisal management company. The initial letter of inquiry, or attachments thereto, shall set forth the subject matter being investigated. Upon receipt of a letter of inquiry, the trainee, appraiser, or appraisal management company shall respond within 30 calendar days. The response shall include copies of all documents requested in a letter of inquiry.

~~(f)(h)~~ (h) Hearings in contested cases before the Board shall be governed by the provisions of Article 3A of Chapter 150B of the General Statutes.

~~(g)(i)~~ (i) A complaint shall not be accepted if the applicable time period for retention of the work file for that appraisal assignment pursuant to the Recordkeeping Rule of the Uniform Standards of Professional Appraisal Practice has expired. This Section does not apply to complaints involving the actions outlined in G.S. 93E-1-12(b)(1),(2),(4), and (5).

Authority G.S. 93E-1-10; 93E-1-12; 93E-2-3; 93E-2-8.

SUBCHAPTER 57D – APPRAISAL MANAGEMENT COMPANIES

SECTION .0100 – APPLICATION FOR APPRAISAL MANAGEMENT REGISTRATION

21 NCAC 57D .0101 FORM

An appraisal management company that wishes to file an application for an appraisal management company certificate of registration may obtain the required form upon request to the Board or on the Board's website at www.ncappraisalboard.org. The form ~~calls for~~ requires ~~information such as:~~ the following pursuant to G.S. 93E-2-4(b):

- (1) the legal name of the applicant;
- (2) the name under which the applicant will do business in North Carolina;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the applicant's NC Secretary of State Identification Number if required to be registered with the Office of the NC Secretary of State;
- (6) a completed application for approval of the compliance manager;
- (7) any past criminal conviction of and any pending criminal charge against any person or entity that owns ~~ten~~ 10 percent or more of the appraisal management company;
- (8) any past revocation, suspension, cancellation, or denial of an appraisal license of any person or entity that owns any part, directly or indirectly, ~~owns ten percent or more~~ of the appraisal management company;
- (9) any disciplinary action taken against the applicant, including the effective date of the disciplinary action and whether the applicant has complied;
- (10) other States where the applicant is registered to operate, if applicable;
- (11) applicant's employer identification number (EIN);

PROPOSED RULES

- ~~(9)~~(12) if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement ~~or~~ or, if no written agreement exists, a written description of the rights and duties of the several partners;
- ~~(10)~~(13) if a business entity other than a corporation, limited liability company, or partnership, a description of the organization of the applicant entity, including a copy of its organizational documents;

- ~~(11)~~(14) if a foreign business entity, a certificate of authority to transact business in North Carolina and an executed consent to service of process and pleadings; and
- ~~(12)~~(15) a certification that the applicant has obtained a surety bond as required by G.S. 93E-2-4(g).

~~Incomplete applications shall not be acted upon by the Board.~~

Authority G.S. 93E-2-4; ~~S.L. 2013-403.~~

APPROVED RULES

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on November 21, 2019 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT****ADMINISTRATION, DEPARTMENT OF**

<u>Debarment</u>	01 NCAC 05B .1520*	33:23 NCR
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NATURAL AND CULTURAL RESOURCES, DEPARTMENT OF

<u>Permissible Activities</u>	07 NCAC 15 .0104*	34:03 NCR
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<u>Permission for Use</u>	07 NCAC 15 .0105*	34:03 NCR
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<u>Lethal Instruments</u>	07 NCAC 15 .0401*	34:03 NCR
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<u>Pets</u>	07 NCAC 15 .0504*	34:03 NCR
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<u>Photographs</u>	07 NCAC 15 .0603*	34:03 NCR
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HEALTH AND HUMAN SERVICES, DEPARTMENT OF

<u>Nondiscrimination Procedures</u>	10A NCAC 01E .0101*	33:24 NCR
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<u>Complaints</u>	10A NCAC 01E .0102	33:24 NCR
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<u>Investigation</u>	10A NCAC 01E .0103	33:24 NCR
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<u>Written Determination</u>	10A NCAC 01E .0104	33:24 NCR
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<u>Reconsideration</u>	10A NCAC 01E .0105	33:24 NCR
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<u>Records</u>	10A NCAC 01E .0106	33:24 NCR
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<u>Other Remedies</u>	10A NCAC 01E .0107	33:24 NCR
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<u>Construction</u>	10A NCAC 01E .0108	33:24 NCR
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<u>Applicability and Scope</u>	10A NCAC 01E .0201	33:24 NCR
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<u>Complaints</u>	10A NCAC 01E .0202	33:24 NCR
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<u>Investigation</u>	10A NCAC 01E .0203	33:24 NCR
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<u>Written Determination</u>	10A NCAC 01E .0204	33:24 NCR
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<u>Reconsideration</u>	10A NCAC 01E .0205	33:24 NCR
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<u>Records</u>	10A NCAC 01E .0206	33:24 NCR
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<u>Other Remedies</u>	10A NCAC 01E .0207	33:24 NCR
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<u>Construction</u>	10A NCAC 01E .0208	33:24 NCR
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<u>Applicability and Scope</u>	10A NCAC 01E .0301	33:24 NCR
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<u>Complaints</u>	10A NCAC 01E .0302	33:24 NCR
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<u>Investigation</u>	10A NCAC 01E .0303	33:24 NCR
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<u>Resolution of Matters</u>	10A NCAC 01E .0304	33:24 NCR
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<u>Reconsideration</u>	10A NCAC 01E .0305	33:24 NCR
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SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Certification and Training for School Resources Officers</u>	12 NCAC 10B .0510*	34:02 NCR
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<u>Minimum Training Requirements</u>	12 NCAC 10B .2005*	34:02 NCR
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ALCOHOLIC BEVERAGE CONTROL COMMISSION

<u>Maintenance of Working Capital</u>	14B NCAC 15A .0902*	34:02 NCR
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<u>Deposits</u>	14B NCAC 15A .0903	34:02 NCR
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<u>Daily Deposits</u>	14B NCAC 15A .0905*	34:02 NCR
<u>Annual Independent Financial Audit</u>	14B NCAC 15A .0907*	34:02 NCR
<u>Employment Age Requirement</u>	14B NCAC 15A .1003*	34:02 NCR
<u>Personnel Manual</u>	14B NCAC 15A .1006*	34:02 NCR
<u>Local Rules</u>	14B NCAC 15A .1102*	34:02 NCR
<u>Cost of Audit</u>	14B NCAC 15A .1103	34:02 NCR
<u>Approval of New Stores</u>	14B NCAC 15A .1203*	34:02 NCR
<u>New Stores Prohibited in Certain Areas</u>	14B NCAC 15A .1204	34:02 NCR
<u>Storage: Deliveries: Security</u>	14B NCAC 15A .1301*	34:02 NCR
<u>Commercial Transportation: Permit and Bond Required</u>	14B NCAC 15A .1302*	34:02 NCR
<u>Direct Shipments</u>	14B NCAC 15A .1304	34:02 NCR
<u>Commemorative Bottles</u>	14B NCAC 15A .1404*	34:02 NCR
<u>Record Required</u>	14B NCAC 15A .1405*	34:02 NCR

PRIVATE PROTECTIVE SERVICES BOARD

<u>Investigation/Armed Security Guard Firearm Registration P...</u>	14B NCAC 16 .0804*	33:15 NCR
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DIETETICS/NUTRITION, BOARD OF

<u>Definitions and Acronyms</u>	21 NCAC 17 .0101*	33:20 NCR
<u>Supervision</u>	21 NCAC 17 .0303*	33:20 NCR

FUNERAL SERVICE, BOARD OF

<u>Fees and Other Payments</u>	21 NCAC 34A .0201	33:20 NCR
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OPTICIANS, STATE BOARD OF

<u>Information and Application</u>	21 NCAC 40 .0104*	33:23 NCR
<u>Election of Members</u>	21 NCAC 40 .0109*	33:23 NCR
<u>Display of Registration and License</u>	21 NCAC 40 .0209*	33:23 NCR
<u>Apprenticeship and Internship Requirements: Registration</u>	21 NCAC 40 .0314*	33:23 NCR
<u>Applicants from Other States</u>	21 NCAC 40 .0319*	33:23 NCR
<u>Affidavit of Applicant</u>	21 NCAC 40 .0323*	33:23 NCR
<u>Licensure for Military-Trained Applicant; Licensure for M...</u>	21 NCAC 40 .0325*	33:23 NCR

REAL ESTATE COMMISSION

<u>Attendance and Participation Requirements</u>	21 NCAC 58A .1705*	34:03 NCR
<u>Broker-in-Charge Course</u>	21 NCAC 58A .1712	34:03 NCR

TITLE 01 - DEPARTMENT OF ADMINISTRATION

01 NCAC 05B .1520 DEBARMENT

- (a) For the purpose of this Rule, "debarred" or "debarment" means a Vendor shall not be entitled to enter into a Contract for Goods or Services and shall be removed from any distribution lists which may be utilized by the Division.
- (b) A Vendor shall be debarred pursuant to G.S. 143-59.2 if the Vendor or any officer, director or owner is convicted of any violation under G.S. 78A, the Securities Act of 1933 or the Securities Exchange Act of 1934.
- (c) A Vendor may be debarred by the SPO upon a finding of fraud, misrepresentation, or other deceptive acts or practices

while doing business with a State agency during an audit by the State Auditor in accordance with G.S. 147-64.6(c)(21) or after an internal audit by an internal auditor in accordance with G.S. 143-746(f). After a finding by the State Auditor or internal auditor, the SPO's determination to debar a Vendor shall be based on the following factors:

- (1) the severity of the conduct identified in the findings and any recommended actions by the State Auditor or internal auditor; and
- (2) a Vendor's history of performance on one or more contracts.

(d) The SPO shall notify a Vendor of any debarment and appeal rights under Article 3 of G.S. 150B, in writing, which may include Electronic form.

History Note: Authority G.S. 143-49; 143-52; 143-53; 143-59.2; 143-60; 147-64.6(c)(21); 143-746;
Eff. February 1, 1996;
Amended Eff. April 1, 1999;
Readopted Eff. December 1, 2019.

TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

07 NCAC 15 .0104 PERMISSIBLE ACTIVITIES

History Note: Authority G.S. 143B-135.182;
Eff. February 1, 1987;
Amended Eff. April 1, 2010;
Transferred from 15A NCAC 28 .0104 Eff. April 1, 2017;
Repealed Eff. December 1, 2019.

07 NCAC 15 .0105 PERMISSION FOR USE

(a) Any person or group wishing to rent, commercially photograph or film, or otherwise use any of the Aquarium or Pier buildings or grounds for a private purpose shall obtain prior written permission from the Aquarium or Pier Director for use of the building or grounds. For the purposes of this Rule, "a private purpose," includes activities which are outside of the daily operations of the Aquarium or Pier. Prior to the approved use, the user shall enter into a written agreement setting forth the terms of the use of the Aquarium or Pier.

(b) In determining whether to approve the use, the Aquarium or Pier Director shall consider the following factors:

- (1) the reason for the use;
- (2) the availability of the requested facilities, or portion thereof;
- (3) the impact of the use on the operations of the Aquarium or Pier, including the impact to public access;
- (4) the impact of the use on Aquarium or Pier resources and facilities; and
- (5) whether the use would be detrimental to the purposes of the Aquariums as defined in G.S. 143B-135.184.

History Note: Authority G.S. 143B-135.182;
Eff. February 1, 1987;
Amended Eff. April 1, 2010;
Transferred from 15A NCAC 28 .0105 Eff. April 1, 2017;
Readopted Eff. December 1, 2019.

07 NCAC 15 .0401 WEAPONS

Carrying or possessing firearms, airguns, bows and arrows, slingshots or deadly weapons of any kind as defined in G.S. 14-269 in the Aquarium or Pier or on Aquarium or Pier property, except by law enforcement officials with jurisdictional authority or other persons as defined in G.S. 14-269(b) and G.S. 14-415.27, is prohibited.

History Note: Authority G.S. 14-269.3; 143B-135.182;
Eff. February 1, 1987;
Amended Eff. April 1, 2010;
Transferred from 15A NCAC 28 .0401 Eff. April 1, 2017;
Readopted Eff. December 1, 2019.

07 NCAC 15 .0504 PRIVATELY-OWNED ANIMALS

(a) No person shall bring any privately-owned animal inside the Aquarium buildings or Pier.

(b) Animals are allowed on the Aquarium's property outside the perimeter fence, not including the Pier House and Pier itself, provided they remain at all times under the owners' control and are restrained by a leash.

(c) Owners with animals that are left unattended or exhibit aggressive behavior, including excessive barking, shall be directed to remove the animal from the Aquarium or Pier premises.

(d) Animal owners shall pick up their animal's waste from Aquarium grounds and dispose of it.

(e) Paragraph (a) of this Rule shall not apply to service animals that meet the criteria specified in the Americans with Disabilities Act (42 U.S.C. 12101 et seq).

History Note: Authority G.S. 143B-135.182;
Eff. February 1, 1987;
Amended Eff. May 1, 2010;
Transferred from 15A NCAC 28 .0504 Eff. April 1, 2017;
Readopted Eff. December 1, 2019.

07 NCAC 15 .0603 PHOTOGRAPHS

History Note: Authority G.S. 143B-135.182;
Eff. February 1, 1987;
Amended Eff. May 1, 2010;
Transferred from 15A NCAC 28 .0603 Eff. April 1, 2017;
Repealed Eff. December 1, 2019.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 01E .0101 NONDISCRIMINATION PROCEDURES

The Department of Health and Human Services provides for the resolution of complaints against any Division within the Department alleging any act prohibited by Federal laws and regulations implementing Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and other applicable nondiscrimination regulations as required by Federal agencies for the Department's receipt of Federal financial assistance. The Department's forms for filing complaints or grievances are located at <https://www.ncdhhs.gov/about/departments-initiatives/ada-grievance-procedure>. Complaint forms submitted to the Department shall include the name and contact information for the individual making the complaint and a description of the basis for the complaint.

History Note: Authority 28 C.F.R. 35.107; 45 C.F.R. 84.7; 45 C.F.R. Part 80.7;
Eff. May 1, 1993;
Readopted Eff. January 1, 2020.

10A NCAC 01E .0102 COMPLAINTS
10A NCAC 01E .0103 INVESTIGATION
10A NCAC 01E .0104 WRITTEN DETERMINATION
10A NCAC 01E .0105 RECONSIDERATION
10A NCAC 01E .0106 RECORDS
10A NCAC 01E .0107 OTHER REMEDIES
10A NCAC 01E .0108 CONSTRUCTION

History Note: Authority 28 C.F.R. 35.107;
Eff. May 1, 1993;
Repealed Eff. January 1, 2020.

10A NCAC 01E .0201 APPLICABILITY AND SCOPE
10A NCAC 01E .0202 COMPLAINTS
10A NCAC 01E .0203 INVESTIGATION
10A NCAC 01E .0204 WRITTEN DETERMINATION
10A NCAC 01E .0205 RECONSIDERATION
10A NCAC 01E .0206 RECORDS
10A NCAC 01E .0207 OTHER REMEDIES
10A NCAC 01E .0208 CONSTRUCTION

History Note: Authority G.S. 143B-10(j)(2); 45 C.F.R. 84.7;
Eff. May 1, 1994;
Repealed Eff. January 1, 2020.

10A NCAC 01E .0301 APPLICABILITY AND SCOPE
10A NCAC 01E .0302 COMPLAINTS
10A NCAC 01E .0303 INVESTIGATION
10A NCAC 01E .0304 RESOLUTION OF MATTERS
10A NCAC 01E .0305 RECONSIDERATION

History Note: Authority G.S. 143B-10(j)(2); 45 C.F.R. Part 80.7;
Eff. November 1, 1994;
Repealed Eff. January 1, 2020.

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 10B .0510 CERTIFICATION AND TRAINING FOR SCHOOL RESOURCE OFFICERS

(a) A "School Resource Officer (SRO)" is defined as any law enforcement officer assigned to one or more public schools within a local school administrative unit, as defined in G.S. 115C-5(6), who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

Any written memorandum of understanding between the local school administrative unit and the law enforcement agency governing the School Resource Officer shall be consistent with this Paragraph.

(b) Deputy Sheriffs assigned by their agency to perform duties as a School Resource Officer shall:

- (1) have been issued general certification by the North Carolina Sheriffs' Education and Training Standards Commission as a Deputy Sheriff; and
- (2) have until December 31, 2020 to complete the Basic School Resource Officer Training Course if they are acting in the capacity of a School Resource Officer between January 1, 2019 and December 31, 2019. Any officer assigned as a School Resource Officer effective January 1, 2020 or later shall complete the Basic School Resource Officer Training course pursuant to Paragraph (f) of this Rule, within one year after being assigned as a School Resource Officer. Deputy Sheriffs who previously completed the training pursuant to Paragraph (f) of this Rule and who have been continually assigned as an SRO pursuant to Paragraph (a) of this Rule shall be credited with completion of the Basic School Resource Officer Training course.

(c) A Deputy Sheriff assigned to one or more public schools within a local school administrative unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year and who has not completed the initial training as established by Paragraph (f) of this Rule shall not work in a school as a School Resource Officer until the officer has completed the initial training as established by Paragraph (f) of this Rule.

(d) The agency head shall submit to the Sheriffs' Standards Division a Form F-20 Commission School Resource Officer Assignment Form for the person(s) selected to act as a School Resource Officer for the agency. The Form F-20 is located on the agency's website: <https://ncdoj.gov> and must be completed in its entirety. The Form F-20 Commission School Resource Officer Assignment Form consists of the following:

- (1) applicant's name;
- (2) date of birth;
- (3) social security number;
- (4) name of agency and address;
- (5) date awarded general certification;
- (6) completion date of School Resource Officer training; and
- (7) date assigned as a School Resource Officer.

(e) The term of certification as a School Resource Officer shall be indefinite, provided the School Resource Officer completes during each calendar year one credit of School Resource Officer refresher training authored by North Carolina Justice Academy. For School Resource Officers who complete the basic SRO training requirement in 2020 or earlier, this requirement becomes effective January 1, 2021. Otherwise, this requirement becomes effective the year following the officer's successful completion of the Basic School Resource Officer Training course. A certified School Resource Officer who has not completed the refresher training during a calendar year as established by this Rule shall

not work in a school as a School Resource Officer until the officer has completed the required refresher training as established by this Rule.

(f) The School Resource Officer training course for Deputy Sheriffs shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The Basic School Resource Officer Training course authored by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the agency:

Sheriffs' Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 629
Raleigh, North Carolina 27602

and may be obtained at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17E-4; 17E-7;
Eff. January 1, 2019;
Amended Eff. January 1, 2020.*

12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS

(a) A Sheriff or Department Head may use a lesson plan developed by the North Carolina Justice Academy or a lesson plan for any of the topic areas developed by another entity such as a different law enforcement agency or training provider. The Sheriff or Department Head may also use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training and as described in 12 NCAC 09B .0209. Lesson plans shall be designed to be delivered in hourly increments. A student who completes the training shall receive the number of credits that correspond to the number of hours assigned to the course, regardless of the amount of time the student spends completing the course, where each hour of instruction shall be worth one credit (e.g., "Legal Update" is designed to be delivered in four hours and will yield four credits). With the exception of Firearms Training and Requalification, successful completion of training shall be demonstrated by passing tests as developed by the delivering agency or as written by the North Carolina Justice Academy. A written test comprised of at least five questions per hour of training shall be developed by the delivering agency, or the agency may use the written test developed by the North Carolina Justice Academy, for each in-service training topic. A student shall pass each test by achieving 70 percent correct answers. Firearms Training and Requalification shall be demonstrated qualification with a firearm as set out in Section .2100 of this Subchapter.

(b) The in-service training for topic areas of the Sheriff's or Department Head's choosing required by this Rule shall either:

- (1) meet the requirements of Paragraph (a) of this Rule; or

- (2) be delivered pursuant to National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in-service year to satisfy these topics in part or in whole. It is not required that this IADLEST training be written in the Instructional Systems Design (ISD) format or delivered by a Commission certified instructor.

(c) The 2019 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) Legal Update;
- (2) Juvenile Law Update;
- (3) Individual Wellness: Coping with Stress and PTSD;
- (4) Best Practices for Officers During Community Dissent;
- (5) Law Enforcement Intelligence Update: Gangs and Divisive Groups;
- (6) Domestic Violence: Law and Procedure Update;
- (7) Opioid Awareness and Response;
- (8) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (9) Any topic areas of the Sheriff's choosing.

(d) The 2019 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Detention Officer Legal Update;
- (2) Detention Intelligence Update: Gangs and Divisive Groups;
- (3) Individual Wellness: Coping with Stress and PTSD;
- (4) Inmate Suicide Prevention;
- (5) Opioid Awareness and Response; and
- (6) Any topic areas of the Sheriff's or Department Head's choosing.

(e) The 2019 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Individual Wellness: Coping with Stress and PTSD;
- (2) Civil Liability for Telecommunicators;
- (3) Human Fatigue in Shift Work; Strategies for Improving Performance;
- (4) Handling Difficult Callers; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

(f) The 2020 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) 2020 Legal Update;
- (2) 2020 Long-Term Effects of Childhood Adversity;
- (3) 2020 The Signs Within: Suicide Prevention Education and Awareness;

- (4) 2020 Career Survival: Training and Standards Issues;
 - (5) 2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing;
 - (6) 2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority;
 - (7) 2020 Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
 - (8) Any topic areas of the Sheriff's choosing.
- (g) The 2020 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:
- (1) 2020 Overcoming Negativity in the Detention Center;
 - (2) 2020 Documenting the Incident Refresher;
 - (3) 2020 The Signs Within: Suicide Prevention Education and Awareness
 - (4) 2020 Career Survival: Training and Standards Issues;
 - (5) 2020 Recognizing Signs of Assaultive Behavior; and
 - (6) Any topic areas of the Sheriff's or Department Head's choosing.
- (h) The 2020 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:
- (1) 2020 Suicide Callers;
 - (2) 2020 Overcoming Negativity in the Communications Center;
 - (3) 2020 Processing Calls/Quality Assurance;
 - (4) 2020 Responding to Domestic Violence Callers;
 - (5) 2020 Career Survival: Training and Standards Issues; and
 - (6) Any topic areas of the Sheriff's or Department Head's choosing.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 2007;

Amended Eff. January 1, 2018; January 1, 2017; January 1, 2016; January 1, 2015; February 1, 2014; January 1, 2013; February 1, 2012; January 1, 2011; January 1, 2010; January 1, 2009; January 1, 2008;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;

Amended Eff. January 1, 2020; August 1, 2019; January 1, 2019.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 15A .0902 MAINTENANCE OF WORKING CAPITAL

(a) A local board shall set its working capital requirements at not less than two weeks' average gross sales of the latest fiscal year nor greater than:

- (1) four months average of the latest fiscal year for boards with gross sales less than one million five hundred thousand dollars (\$1,500,000);
 - (2) three months average of the latest fiscal year for boards with gross sales greater than or equal to one million five hundred thousand dollars (\$1,500,000) and less than fifty million dollars (\$50,000,000); and
 - (3) two months average of the latest fiscal year for boards with gross sales equal to or greater than fifty million dollars (\$50,000,000).
- (b) A local board is considered insolvent if all of the following conditions apply:
- (1) the local board does not adhere to the working capital requirements as stated in Paragraph (a) of this Rule;
 - (2) the local board's current assets are less than the local board's current liabilities and the current portion of long-term debt;
 - (3) the local board is unable to pay its debts as they fall due; and
 - (4) the Commission determines the projected revenues will not meet the projected expenses in the next fiscal year based upon factors including statewide trends in sales and revenues, the status of the local economy, and the local board's projected expenses based upon the prior fiscal year's expenses.
- (c) As used in this Rule, "long-term debt" means the loans and financial obligations lasting over one year.

History Note: Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-702(g),(u); 18B-805(d);

Eff. January 1, 1982;

Amended Eff. November 1, 2011; July 1, 1992; June 1, 1988; May 1, 1984;

Transferred and Recodified from 04 NCAC 02R .0902 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. December 1, 2019.

14B NCAC 15A .0903 DEPOSITS

- (a) Each local board shall designate as its official depositories one or more banks or trust companies in this State.
- (b) The amount of funds on deposit in an official depository or deposited at interest shall be secured as provided in the Rules of the Local Government Commission at 20 NCAC 07, which are incorporated herein by reference, including subsequent amendments and editions.

History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u);

Eff. May 1, 1984;

Transferred and Recodified from 04 NCAC 02R .0903 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. December 1, 2019.

14B NCAC 15A .0905 DAILY DEPOSITS

(a) Each officer whose duty it is to collect or receive moneys of the local board shall deposit the collections and receipts daily into an official depository. If the local board gives its approval, deposits shall be required only when the moneys on hand are equal to or are greater than two hundred fifty dollars (\$250.00), but in any event a deposit shall be made of any amount of moneys on hand on the last business day of the month. Deposits in an official depository shall be reported to the finance officer by means of a duplicate deposit ticket.

(b) A change fund necessary for daily operation of an ABC store shall be established by each local board and maintained in a secure place on the store's premises and shall not be subject to the daily deposit rule set forth in Paragraph (a) of this Rule. Each change fund shall be maintained in the amount and place established by the local board.

(c) The finance officer may at any time audit the records maintained by any employee collecting sales revenue and may prescribe the form and detail of these records.

(d) The Commission shall waive or alter the daily deposit requirement set forth in Paragraph (a) of this Rule for any local board upon a written request where security for the funds involved would include a locked fireproof safe or other container designed for the protection of valuable documents or money.

History Note: Authority G.S. 18B-100; 18B-207; 18B-702(t),(u);

Eff. May 1, 1984;

Amended Eff. November 1, 2010;

Transferred and Recodified from 04 NCAC 02R .0905 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. December 1, 2019.

14B NCAC 15A .0907 ANNUAL INDEPENDENT FINANCIAL AUDIT

(a) Each local board shall have its accounts audited after the close of each fiscal year by an independent certified public accountant. The auditor shall be selected by and report to the local board. The audit contract shall be on a form provided by the Commission. The audit contract shall include a definition of the scope of work, a requirement that the audit be conducted in accordance with generally accepted auditing standards, and a requirement that all audited financial statements be prepared in accordance with GASB Statement 34. The audit report is due to the Commission 90 days after the end of the fiscal year. The financial officer shall ensure one unbound copy of the audit report and management letter is filed with the Commission.

(b) Each officer and employee of the local board having custody of public money or responsibility for keeping records of financial or fiscal affairs shall produce books and records requested by the auditor or the Commission and shall divulge any information relating to fiscal affairs as requested. If any member of the local board or any employee conceals, falsifies or refuses to deliver or divulge any books, records, or information with intent to mislead the auditor or impede or interfere with the audit, that individual is subject to removal for cause pursuant to G.S. 18B-203(a)(8).

(c) Each local board shall disclose the distribution of profits, including all distributions made pursuant to G.S. 18B-805, in a schedule to be included with the annual audited financial statements. The schedule shall be supported by a listing of each person who receives moneys from the local board, the date of payment and, if applicable, the purpose for which the payment was made and restrictions on use of the payment. The listing shall provide the same totals as were used in the schedule for each type of distribution.

History Note: Authority G.S. 18B-100; 18B-203(a)(8); 18B-207; 18B-702(s),(u);

Eff. May 1, 1984;

Amended Eff. November 1, 2010;

Transferred and Recodified from 04 NCAC 02R .0907 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. December 1, 2019.

14B NCAC 15A .1003 EMPLOYMENT AGE REQUIREMENT

A person employed by a local board shall be at least 18 years of age unless waived by the Commission. The Commission shall grant a waiver pursuant to this Rule subject to compliance with the conditions and limitations applicable to permittees pursuant to G.S. 95-25.5(j).

History Note: Authority G.S. 18B-100; 18B-207; 18B-302(h); 18B-807;

Eff. January 1, 1982;

Amended Eff. February 1, 1986;

Transferred and Recodified from 04 NCAC 02R .1004 Eff. August 1, 2015;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;

Amended Eff. December 1, 2019.

14B NCAC 15A .1006 PERSONNEL MANUAL

(a) Each local board shall establish rules governing each of the following:

- (1) Initial employment of employees, including qualifications and requirements for new employees;
- (2) Compensation and benefits;
- (3) Hours and days of work, holidays, vacation, sick leave;
- (4) Promotion, transfer, demotion, and suspension of employees;
- (5) Separation or termination of employees;
- (6) Granting of salary increases; and
- (7) Employee grievance procedures.

(b) A local board may model its personnel policies and procedures after those adopted by the county or municipality in which it operates.

(c) A local board shall not adopt a rule that conflicts with the provisions of Chapter 18B or these Rules.

History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-700(g1); 18B-701(a); 18B-807;
Eff. July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1009 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.

14B NCAC 15A .1102 LOCAL RULES

- (a) Submitted to Commission. A copy of all rules or amendments thereto that may be adopted by a local board to govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least 30 days prior to the date on which it is proposed that those rules or amendments are to become effective.
- (b) Power to Approve. The Commission shall notify a local board within 15 days of receipt of a proposed rule or amendment if the rules are disapproved or the effective date of the rules will be delayed. Those rules or amendments shall become effective when and as approved by the Commission. If the Commission does not send a notice of disapproval within 15 days of receipt, those rules or amendments shall stand approved.

History Note: Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-807;
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1102 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.

14B NCAC 15A .1103 COST OF AUDIT

The cost of any audit or examination of records required by the Commission pursuant to G.S. 18B-205 shall be borne by the local board being audited or examined.

History Note: Authority G.S. 18B-100; 18B-205; 18B-207; 18B-702(u); 18B-807;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1104 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.

14B NCAC 15A .1203 APPROVAL OF NEW STORES

- (a) Notice to Commission. The opening of any new ABC stores shall not be considered by the Commission unless a 45-day notice is given to the Chairman as to the intended location of the store and until a public notice of the intention to open the ABC store has been posted for 30 days at the proposed location.
- (b) Sign Requirements. In order to meet the public notice requirements of Paragraph (a) of this Rule, the local board shall post at least one sign at the proposed new store site in accordance with all the following requirements:

- (1) Dimensions of the sign shall be at least three feet high and three feet wide;
- (2) The board shall state on the sign its intention to open an ABC store on the site and shall state the telephone number of the local board where public comments will be received;
- (3) Lettering shall be at least four inches in height and background colors shall contrast so that the notice may be discerned by the viewer; and
- (4) The sign shall be posted within 10 feet of the property line that is parallel to the public road or sidewalk that will be in front of the proposed store, or if the proposed store will be in an existing shopping center, the sign shall be posted on the front exterior of the existing storefront or building. Lettering on the sign shall face the public road or sidewalk, or if within an existing shopping center, the lettering shall face the exterior of the existing storefront or building.

- (c) In considering whether to approve the opening of a new ABC store, in addition to determining whether the health, safety or general welfare of the community would be adversely affected, the Commission shall consider the factors enumerated in G.S. 18B-901(c)(3), (4), (5), (6), and (7).

History Note: Authority G.S. 18B-100; 18B-207; 18B-801;
Eff. January 1, 1982;
Amended Eff. November 1, 2010; July 1, 1992;
Transferred and Recodified from 04 NCAC 02R .1203 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.

14B NCAC 15A .1204 NEW STORES PROHIBITED IN CERTAIN AREAS

History Note: Authority G.S. 18B-100; 18B-207; 18B-801;
Eff. January 1, 1982;
Transferred and Recodified from 04 NCAC 02R .1204 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Repealed Eff. December 1, 2019.

14B NCAC 15A .1301 STORAGE: DELIVERIES: SECURITY

- (a) Storage. Private warehouse contractors performing the receipt, storage, and distribution functions shall:
- (1) Allocate space in the State ABC warehouse for each item listed on the price list adopted by the Commission. Space allocated shall be based on sales volume;
 - (2) Develop and publish a delivery schedule of spirituous liquors to all local boards based on each local board's sales volume and the economical delivery of spirituous liquor to all local boards, subject to approval of the

Commission. Orders and shipments over the quantity on the approved schedule may be made as agreed between the local boards and the Contractor. All orders over the quantity on the schedule shall be accepted and delivered when the Contractor determines it is economically feasible based upon the size of the regular load and the size of the additional quantity.

- (3) Develop and publish standard operating procedures not covered by these Rules for use by the Contractor and local boards. All procedures published shall be submitted to the Commission.

(b) Deliveries and Shipments. The processing of shipments upon receipt by the local boards shall be as follows:

- (1) The Contractor shall provide the local board representative an Off-Loading Check Sheet, an Invoice Bill(s) of Lading, and a Transmittal Sheet with the shipment. The Off-Loading Check Sheet shall reflect the items and quantities being delivered in numerical order, and the quantities shall agree with those on the Invoice Bill(s) of Lading and the Transmittal Sheet;
- (2) The system used for off-loading shall be such that an accurate count of the merchandise is made and all overages or shortages can be verified by the local board before any exceptions entries are made on the Transmittal Sheet;
- (3) If there are no overages, shortages or breakage, remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (4) If there is an overage which is accepted by the local board representative, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity over, the stock code number and an explanation in the "comments" block on the Transmittal Sheet. Upon return of the Transmittal Sheet to the State ABC warehouse, the Contractor shall issue a debit adjustment. The debit adjustment shall have the original invoice number in the purchase order reference box as a cross reference. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (5) If there is an overage that is not accepted by a local board representative, the local board representative shall enter the quantity, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. The driver shall return the merchandise to the State ABC warehouse;
- (6) If there is a shortage, the local board representative shall line through the number of cases invoiced and shall write the correct

number of cases on the Transmittal Sheet. The local board representative shall enter the quantity under, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. Upon return of the Transmittal Sheet to the State ABC warehouse, the Contractor shall issue a credit adjustment. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;

- (7) The local board representative shall handle breakage discovered during the unloading process as a shortage in shipment in accordance with the procedure set forth in Subparagraph (6) of this Paragraph with the note in the "comments" block of the Transmittal Sheet indicating that the case was returned due to breakage. If the breakage involves a case that is an overage not accepted by the local board representative, the procedures in Subparagraph (5) of this Paragraph shall be followed. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;

- (8) If a local board's shipment includes a shrink-wrapped pallet(s), the local board shall break down the pallet(s) and any overage, shortage, or breakage shall be reported to the State ABC warehouse as follows:

- (A) The procedures for marking the Transmittal Sheet in Subparagraphs (4), (5), (6) and (7) of this Paragraph shall be followed; and
- (B) The updated Transmittal Sheet shall be emailed, faxed or postmarked to the State ABC warehouse within three days of delivery of the pallet(s);

Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;

- (9) Except as provided for in Subparagraph (8) of this Paragraph, the local board representative and the driver shall sign the Transmittal Sheet(s) and the driver shall return the Transmittal Sheet(s) to the State ABC warehouse. The local board representative shall receipt date stamp or sign the distiller's Invoice Bills of Lading copies and the driver shall return them to the State ABC warehouse; and
- (10) The local board shall remit payment to the party listed in the "Remit to" information listed on the Invoice Bill(s) of Lading which includes any Bailment Invoices or Surcharge Invoices. The local board shall enter the Invoice Bill of Lading number on each check or each check stub.

(c) Security Measures. Security of the merchandise during the delivery process shall be as follows:

- (1) The conveyances (trucks and trailers) shall be secured with a serially numbered metal or plastic seal by the Contractor:

- (2) The seal numbers will be entered on the "Seal Nos." line of the invoice transmittal sheet. Extra seals shall be included in sealed envelopes for resealing the unit when shipments are destined for more than one local board and for the return trip after final delivery;
- (3) The local board general manager or the general manager's designated representative shall check the seal number on the unit with the number on the invoice transmittal sheet upon arrival of a shipment. If the numbers correspond the unit shall be unsealed by the local board's representative. If the numbers do not correspond the Contractor shall be contacted for further instructions; and
- (4) The local boards' general manager shall not allow the Contractor's driver or his assistant to remove the seal.

(d) Local boards shall not pick up merchandise from the State ABC warehouse without prior approval from the Administrator or the Administrator's designee.

(e) Local boards may purchase, exchange, or otherwise obtain spirituous liquor from another local board and transport such beverages as necessary for the operation of its ABC stores. Payment for such transactions shall be satisfied as provided by 14B NCAC 15A .1406.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-701(a)(1); Eff. January 1, 1982; Amended Eff. January 1, 2011; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1302 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. December 1, 2019.

14B NCAC 15A .1302 COMMERCIAL TRANSPORTATION: PERMIT AND BOND REQUIRED

- (a) Any person transporting spirituous liquors into and through the State shall first secure a blanket fleet permit for the transportation of spirituous liquors signed by the Chairman or Administrator. That permit shall designate the spirituous liquors to be shipped.
- (b) Driver to Possess Permit. Any person applying for and receiving this permit shall require the driver or operator of any truck, tractor, or trailer to have in the driver's possession a copy of all the documents required pursuant to G.S. 18B-1115(d)(3) and (4).
- (c) Commission to Provide Forms. Blank forms for the bond shall be supplied by the Commission upon request. The bond form shall include the name of the principal, the name and address of the surety, the bond number, and an obligation on the surety to insure the permittee's lawful transport and delivery of alcoholic beverages in the State in the amount of one thousand dollars (\$1000).
- (d) A local board owning and operating trucks for the purpose of transporting spirituous liquors from a local warehouse to the various local stores within a local ABC system shall not be

required to give bond and shall be permitted to operate its trucks without a common carrier permit.

History Note: Authority G.S. 18B-100; 18B-207; 18B-1115; Eff. January 1, 1982; Amended Eff. May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1303 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. December 1, 2019.

14B NCAC 15A .1304 DIRECT SHIPMENTS

- (a) A "direct shipment" means a shipment from the distiller or a warehouse of spirituous liquors, or from an antique spirituous liquor seller, directly to a local board without passing through the State ABC warehouse.
- (b) Direct shipments shall be allowed by the Commission in emergency situations when the State ABC warehouse is closed due to natural or other disasters or in a situation where for transportation reasons it is mutually advantageous to local boards, the Commission, or the operator of the State ABC warehouse.
- (c) Direct shipment shall have prior written approval from the Commission. Merchandise authorized to be shipped by direct shipment shall be consigned by the State ABC warehouse to the distiller's account in care of the local board. The local board shall acknowledge receipt of the merchandise on the shipping documents and forward them to the Contractor for processing through the accounting system as though the merchandise were shipped from the State ABC warehouse.
- (d) Upon compliance with 14B NCAC 15A .1403 and obtaining a transportation permit as required by G.S. 18B-403, an antique spirituous liquor seller may deliver antique spirituous liquor listed in its inventory directly to the local board that placed the special order for that inventory.

History Note: Authority G.S. 18B-100; 18B-204; 18B-207; 18B-403; 18B-701(a)(1); Eff. January 1, 1982; Amended Eff. January 1, 2011; May 1, 1984; Transferred and Recodified from 04 NCAC 02R .1305 Eff. August 1, 2015; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015; Amended Eff. December 1, 2019; January 1, 2018.

14B NCAC 15A .1404 COMMEMORATIVE BOTTLES

The Commission shall approve local boards' orders and sales of specially designed bottles commemorating particular events, occasions, or ceremonies, provided advertising borne upon commemorative bottles is limited to commemorating historical events of the local board and non-profit, charitable enterprises. Other businesses, other than the distiller, shall not advertise themselves or their products via commemorative bottles.

History Note: Authority G.S. 18B-100; 18B-207; 18B-807; Eff. January 1, 1982; Amended Eff. November 1, 2010;

*Transferred and Recodified from 04 NCAC 02R .1405 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 15A .1405 RECORDS REQUIRED

(a) A record of all orders, receipts, invoices, and payments shall be maintained by local boards and be available for inspection by any representative of the Commission during the local board's normal business hours.

(b) Local boards shall retain the following records for the length of time specified in this Paragraph:

- (1) sales report until the annual audit is completed,
- (2) warehouse report for one year,
- (3) daily store report until the annual audit is completed,
- (4) stock difference report for three years,
- (5) receiving report until the annual audit is completed,
- (6) clerk's daily sales and cash report until the annual audit is completed,
- (7) paid invoices for three years,
- (8) loss and damage claim records for three years, and
- (9) required records pursuant to 14B NCAC 15B .0501 related to the sale of mixed beverages for three years.

*History Note: Authority G.S. 18B-100; 18B-203(a)(4); 18B-205; 18B-207; 18B-702(s), (u);
Eff. January 1, 1982;
Amended Eff. May 1, 1984;
Transferred and Recodified from 04 NCAC 02R .1406 Eff. August 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 22, 2015;
Amended Eff. December 1, 2019.*

14B NCAC 16 .0804 INVESTIGATION/ARMED SECURITY GUARD FIREARM REGISTRATION PERMIT

*History Note: Authority G.S. 74C-5;
Eff. June 1, 1984;
Transferred and Recodified from 12 NCAC 07D .0804 Eff. July 1, 2015;
Repealed Eff. December 1, 2019.*

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 17 – BOARD OF DIETETICS, NUTRITION

21 NCAC 17 .0101 DEFINITIONS, ACRONYMS, AND INITIALISMS

(a) As used in this Chapter, the following terms shall mean:

- (1) "Act" means Dietetics/Nutrition Practice Act in G.S. 90, Article 25.
- (2) "Applicant" means any person who has applied to the Board for a license to lawfully do any of the acts listed under G.S. 90-365(a).
- (3) "Application" means a written request directed to and received by the Board, on forms supplied by the Board, for a license to lawfully do any of the acts listed under G.S. 90-365(a), together with all information, documents, and other materials necessary to demonstrate that the applicant has met the requirements for licensure as specified in the Act.
- (4) "Degree" means a degree received from a college or university that was regionally accredited at the time the degree was conferred, or a validated foreign equivalent.
- (5) "Dietitian/nutritionist" or "nutritionist" means one engaged in dietetics or nutrition practice.
- (6) "Health care practitioner" includes any individual who is licensed under G.S. 90 and whose licensed scope of practice includes dietetics or nutrition.
- (7) "Nutrition assessment" means:
 - (A) the evaluation of the nutrition needs of individuals and groups by licensed dietitians/nutritionists and licensed nutritionists based upon biochemical, anthropometric, nutrigenomic, physical, and food and diet history data to determine nutritional needs and order therapeutic diets, including enteral and parenteral nutrition; and
 - (B) the ordering of laboratory tests related to the practice of nutrition and dietetics.
- (8) "Nutrition counseling" means the advice and assistance provided by licensed dietitians/nutritionists and licensed nutritionists to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with therapeutic needs and cultural background, which shall include ethnicity, race, language, religious and spiritual beliefs, education, and socioeconomic status.

(b) As used in this Chapter, the following acronyms and initialisms shall mean:

- (1) "ACBN" means the American Clinical Board of Nutrition, whose Diplomate of the American Clinical Board of Nutrition credential is accredited by the National Commission for Certifying Agencies.
- (2) "ACEND" means the Accreditation Council for Education in Nutrition and Dietetics.

- (3) "AND" means the Academy of Nutrition and Dietetics.
- (4) "BCNS" means the Board for Certification of Nutrition Specialists, whose Certified Nutrition Specialist credential is accredited by the National Commission for Certifying Agencies.
- (5) "CDR" means the Commission on Dietetic Registration, whose Registered Dietitian Nutritionist credential is accredited by the National Commission for Certifying Agencies.
- (6) "LDN" means licensed dietitian/nutritionist.
- (7) "LN" means licensed nutritionist.
- (8) "PLDN" means provisionally licensed dietitian/nutritionist.
- (9) "PLN" means provisionally licensed nutritionist.

- (1) discusses and recommends, with the student or trainee, nutrition care services undertaken by the student or trainee, which are appropriate to the level of nutrition care;
- (2) is available for consultation on nutrition care services being performed by the student or trainee, either through on-site or through electronic communication;
- (3) shall be available to render assistance when requested by the student or trainee or the patient or client, or shall have arranged for another practitioner to be available in the absence of the supervising practitioner;
- (4) periodically observes the nutrition care services of the student or trainee supervised, and evaluates and approves all nutrition care services of the student or trainee supervised; and
- (5) shall maintain responsibility for the nutrition care activities performed by the student or trainee.

*History Note: Authority G.S. 90-352; 90-356;
Temporary Adoption Eff. March 19, 1992 for a period of 180 days
to expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0001 Eff. February 1, 1995;
Amended Eff. December 1, 2011; April 1, 2010; July 18, 2002;
March 1, 1996;
Readopted Eff. December 1, 2019.*

*History Note: Authority G.S. 90-356(2); 90-357.5; 90-368(2);
Eff. March 1, 1996;
Amended Eff. December 1, 2011; July 18, 2002;
Readopted Eff. December 1, 2019.*

21 NCAC 17 .0303 SUPERVISION

For purposes of G.S. 90-368(2), "direct supervision" means the supervising practitioner:

CHAPTER 34 – BOARD OF FUNERAL SERVICE

21 NCAC 34A .0201 FEES AND OTHER PAYMENTS

(a) Fees for funeral service shall be as follows:

Establishment permit	
Application	\$250.00
Annual renewal	\$200.00
Late renewal fee	\$100.00
Establishment and embalming facility reinspection fee	\$100.00
Courtesy card	
Application	\$ 75.00
Annual renewal	\$ 50.00
Out-of-state licensee	
Application	\$200.00
Embalmer, funeral director, funeral service	
Application, North Carolina resident	\$150.00
Application, non-resident	\$200.00
Annual renewal	
Embalmer	\$ 75.00
Funeral Director	\$ 75.00
Total fee, embalmer and funeral director, when both are held by same person	\$ 100.00
Funeral service	\$ 100.00
Inactive status	\$ 30.00
Reinstatement fee	\$ 50.00
Resident trainee permit	
Application	\$ 50.00
Voluntary change in supervisor	\$ 50.00
Annual renewal	\$ 35.00
Late renewal	\$ 25.00

Duplicate License certificate	\$ 25.00
Chapel registration	
Application	\$150.00
Annual renewal	\$100.00
Late renewal	\$ 75.00
(b) Fees for crematory and hydrolysis licensees shall be as follows:	
License	
Application	\$400.00
Annual renewal	\$150.00
Late renewal fee	\$ 75.00
Crematory or hydrolysis reinspection fee	\$100.00
Per-cremation or hydrolysis fee	\$ 10.00
Late filing or payment fee for each cremation or hydrolysis	\$ 10.00
Late filing fee for cremation or hydrolysis report, per month	\$ 75.00
Crematory or Hydrolysis Manager Permit	
Application	\$150.00
Annual renewal	\$ 40.00
(c) Fees for preneed funeral contract regulation shall be as follows:	
Preneed funeral establishment license	
Application	\$150.00
Annual renewal	\$150.00
Late renewal fee	\$100.00
Reinspection fee	\$100.00
Preneed sales license	
Application	\$ 20.00
Annual renewal	\$ 20.00
Late renewal fee	\$ 25.00
Preneed contract filings	
Filing fee for each contract	\$ 20.00
Late filing or payment fee for each contract	\$ 25.00
Late filing fee for each certificate of performance	\$ 25.00
Late filing fee for annual report	\$150.00
(d) Fees for Transportation Permits shall be as follows:	
Application	\$125.00
Annual renewal	\$ 75.00
Late fee	\$ 50.00
(e) All fees remitted to the Board are non-refundable.	

History Note: Authority G.S. 90-210.23(a); 90-210.25(c); 90-210.28; 90-210.67(b),(c),(d),(d1); 90-210.68(a); 90-210.132; Eff. September 1, 1979;
Amended Eff. January 1, 1991; July 1, 1988; January 1, 1988; October 1, 1983;
Recodified from 21 NCAC 34 .0123 Eff. February 7, 1991;
Amended Eff. December 1, 1993; August 2, 1993; May 1, 1993, July 1, 1991;
Temporary Amendment Eff. October 1, 1997;
Amended Eff. August 20, 2014; March 1, 2004; August 1, 1998;
Readopted Eff. Pending consultation pursuant to G.S. 12-3.1.

- (1) Applicants for licensure examination shall provide documentation of eligibility for examination participation by having met requirements of G.S. 90-240(a)(1) or (2), or G.S. 90-241(b).
- (A) Applicants qualifying by G.S. 90-240(a)(2) shall provide a certified transcript showing completion of AAS degree from an accredited school of opticianry.
- (B) Applicants qualifying by G.S. 90-241(b) shall provide a certified

CHAPTER 40 – STATE BOARD OF OPTICIANS

21 NCAC 40 .0104 INFORMATION AND APPLICATION

(a) Potential applicants for a North Carolina optician's license can download application forms from the Board's website www.ncopticiansboard.org. Application forms shall be submitted in order to be considered for licensure by waiver of the examination, or to sit for the licensure examination.

transcript showing completion of an optical certificate program from an accredited school of opticianry, or a Board-recognized training program.

- (2) Applicants for licensure by waiver of examination shall provide documentation for having met requirements of G.S. 90-241(a).
 - (A) Verification of good standing from the state where licensure was previously obtained.
 - (B) Affidavits as set forth in 21 NCAC 40 .0319.
- (3) Applicants shall provide a certified transcript showing graduation from high school as required by G.S. 90-237 for all applications shown in Subparagraphs (a)(1) through (2) of this Rule.

(b) Any person not able to download licensure information, or the licensure or examination application, or training or renewal application, may request that the Board office mail the materials which the Board will mail to the requesting person.

(c) When submitting an application as set forth in Subparagraphs (a)(1) through (2) of this Rule above, applicants shall submit the fee as set forth in G.S. 90-246. Additionally, the applicant shall provide:

- (1) information, including an affirmation regarding whether the applicant has violated G.S. 90, Article 17, or 21 NCAC 40 of the North Carolina Administrative Code, or been convicted of a felony or misdemeanor;
- (2) information as to whether the applicant has been named as a defendant or respondent to a lawsuit involving fraud, deceit, or misrepresentation, malpractice, unethical conduct, gross negligence, or gross misconduct;
- (3) the applicant's age; and
- (4) a passport-size photograph taken within six months of the date the application is submitted to the Board.

History Note: Authority G.S. 90-237; 90-239; 90-240; 90-246; 90-249(6); 90-249.1(a)(8);

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. September 1, 2012; August 1, 1998; February 1, 1989; February 1, 1988; November 1, 1981;

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

Amended Eff. December 1, 2019.

21 NCAC 40 .0109 ELECTION OF MEMBERS

(a) By April 1 of each year, any licensed optician desiring to be nominated for the Board shall forward a petition endorsed by five licensees to the Board.

(b) By April 10 of each year, the Board shall prepare and distribute by mail to each North Carolina licensed optician:

- (1) a notice of the election, and its dates;
- (2) the name of each nominee;
- (3) biographical information on each nominee;

(4) a ballot; and

(5) a return envelope.

(c) The return envelope containing the ballot shall be postmarked no later than April 30. The enclosed ballot shall not be valid unless the optician's signature, license number, and correct mailing address are on the left top corner of the return envelope.

(d) The Board Chair shall appoint an Election Committee of at least three members, who may be Board members, staff members, or a combination of the two, but who shall not be nominees. The Election Committee shall review all ballots for validity based on Paragraph (c) of this Rule, and count all valid ballots.

(e) Based upon the canvass by the Election Committee, the Board Chair shall submit to the Governor a list of three nominees for each vacancy for completion of the appointment process as set forth in G.S. 90-238.

History Note: Authority G.S. 90-238; 90-239;

Eff. November 1, 1981;

Amended Eff. September 1, 2012; April 1, 2011; February 1, 1989; January 1, 1986;

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

Amended Eff. December 1, 2019.

21 NCAC 40 .0209 DISPLAY OF REGISTRATION AND LICENSE

(a) Each registered optical place of business or training establishment shall display its registration certificate, containing the name of the current optician in charge or the name of the current trainer or trainers, in a visible and public area of the place of business or training establishment.

(b) Each apprentice and intern shall display his or her registration certificate in a visible and public part of the training establishment wherein he or she is engaged as a trainee.

(c) Each optician to whom a license has been granted shall display his or her license and current renewal seal in a visible and public part of the office or establishment wherein he or she is engaged as a dispensing optician.

History Note: Authority G.S. 90-244;

Eff. November 1, 1981;

Amended Eff. September 1, 2012; February 1, 1989; July 1, 1983;

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

Amended Eff. December 1, 2019.

21 NCAC 40 .0314 APPRENTICESHIP AND INTERNSHIP REQUIREMENTS: REGISTRATION

(a) Each trainee entering the apprenticeship or internship shall register with the Board providing contact information, training establishment wherein training is being served, name of sponsoring trainer, and paying fees per G.S. 90-246.

(1) The apprenticeship registration fee shall be paid on initial registration and on or before June 30 each year for an annual renewal.

(2) The internship registration fee shall be paid on initial registration.

(3) The work as an apprentice or intern shall be full time, defined as a minimum of 32 hours per

week, under the training sponsorship of a licensed optician, ophthalmologist, or optometrist.

- (4) Part-time work or work as an optical salesman or consultant shall not apply toward completion of apprenticeship or internship.
- (5) No more than two persons, whether apprentices or interns or a combination, may be registered and under training sponsorship of any one optician, ophthalmologist, or optometrist at the same time.
- (6) An apprentice or intern shall be credited with training time only from the date of registration and fee payment with the Board as an apprentice or intern.
 - (A) If an apprentice or intern is transferred to another business location or another registered trainer, or ceases employment with the registered training establishment, the trainer shall document to the Board the trainee's beginning and ending dates under their training.
 - (B) An apprentice or intern shall be credited by the Board with time documented by a prior trainer if the apprentice or intern registers under another trainer within 12 months of ending training with a prior trainer.

(b) In addition to the work specified in Subparagraph (a)(3) of this Rule, the curriculum for the apprentice shall include one of the following, as chosen by the apprentice:

- (1) an optical curriculum certificate program presented by a school of opticianry approved pursuant to Rule .0312 of this Chapter; or
- (2) the National Academy of Opticianry's home study Career Progression Program; or
- (3) any apprenticeship program, approved by the Board, which is offered by an optical place of business registered with the Board pursuant to Rule .0202 of this Chapter. The Board shall approve such apprenticeship program if the program's curriculum summary contains subject matter similar to the curriculum summary of the National Academy of Opticianry's home study Career Progression Program.

The classroom and laboratory time spent in the optical curriculum certificate program shall be credited as part of the apprenticeship period and its minimum of 32 hours per week. Certification that the apprentice has completed and passed one of the approved programs shall be required.

(c) When registering to serve a six month internship, the applicant must have completed the two and one-half years of apprenticeship as required by G.S. 90-240(a)(2) and (3) or have completed the course of training required by G.S. 90-240(a)(1).

(d) Trainers shall document to the Board completion of training for apprentices and interns.

History Note: Authority G.S. 90-239; 90-240; 90-243; 90-249;
Eff. February 1, 1976;
Amended Eff. September 6, 1977;
Readopted Eff. September 29, 1977;
Amended Eff. February 1, 1996; January 1, 1994; July 1, 1991; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;
Amended Eff. December 1, 2019.

21 NCAC 40 .0319 APPLICANTS FROM OTHER STATES

(a) An applicant seeking licensure in North Carolina under G.S. 90-241(a) shall tender an application to the Board as set out in 21 NCAC 40 .0104 accompanied by affidavits from two employers for whom the applicant worked as an optician for the four years immediately preceding the application to the Board, and affidavits from two persons who can attest to the moral character of the applicant. In addition, the applicant shall furnish affidavits from two licensed refractionists, either ophthalmologists or optometrists, for whom the applicant has practiced the profession of opticianry in the state in which the applicant claims credit for the four years prior to the application. An application under G.S. 90-241(a) shall be filed with the Board within 90 days following the termination of the applicant's out-of-state opticianry work for which the applicant claims credit.

(b) An applicant seeking admission to an examination under G.S. 90-241(b) shall tender an application to the Board as set out in 21 NCAC 40 .0104 accompanied by affidavits from two persons under whom or with whom the applicant worked in the practice of opticianry in the other state, either in one or multiple places of business. The application and the affidavits shall describe the tasks performed by the applicant in the other state and the dates the tasks were performed.

History Note: Authority G.S. 90-237; 90-239; 90-241; 90-249(12);
Eff. November 1, 1981;
Amended Eff. August 1, 1998; December 1, 1994; July 1, 1991; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;
Amended Eff. December 1, 2019.

21 NCAC 40 .0323 AFFIDAVIT OF APPLICANT

(a) Applicants for any Board training, registration, examination, and licensure process shall attest to the completeness and accuracy of the information contained in applications.

(b) Upon obtaining agreement from an applicant, the Board shall conduct a criminal background check during review of an applicant as identified in Paragraph (a) of this Rule. Application fees are inclusive of costs involved for such investigations, and no additional charges shall be assessed against the applicant.

(c) If an applicant submits incomplete, false, or misleading information, the Board shall deny the applicant admission to examination, apprenticeship, internship, business, or training establishment registrations or licensure.

(d) It is a violation of G.S. 90-249.1 for any optician shown on a registration application to submit incomplete, false, or misleading information.

History Note: Authority G.S. 90-243; 90-249; 90-249.1; Eff. November 1, 1981;
Amended Eff. September 1, 2012; February 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 22, 2018;
Amended Eff. December 1, 2019.

21 NCAC 40 .0325 LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR MILITARY SPOUSE

(a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military-trained applicant, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete application with applicant's name and contact information, and date of birth;
- (2) providing documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and
- (3) providing documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.

(b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete application with applicant's name and contact information, and date of birth;
- (2) submission of written documentation demonstrating that the applicant is married to an active member of the U.S. military; and
- (3) providing documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) through (4).

History Note: Authority G.S. 90-234; 90-239; 93B-15.1; Eff. December 1, 2019.

CHAPTER 58 - REAL ESTATE COMMISSION

21 NCAC 58A .1705 ATTENDANCE AND PARTICIPATION REQUIREMENTS

(a) In order to receive credit for completing an approved continuing education course, a broker shall:

- (1) attend at least 90 percent of the scheduled instructional hours for the course;

- (2) provide his or her legal name and license number to the course sponsor;
- (3) present his or her pocket card or photo identification card, if necessary; and
- (4) personally perform all work required to complete the course.

(b) With the instructor or the sponsor's permission, a 10 percent absence allowance may be permitted at any time during the course, except that it may not be used to skip the last 10 percent of the course unless the absence is:

- (1) approved by the instructor; and
- (2) for circumstances beyond the broker's control that could not have been reasonably foreseen by the broker, such as:
 - (A) an illness;
 - (B) a family emergency; or
 - (C) acts of God.

History Note: Authority G.S. 93A-3(c); 93A-4.1; Eff. July 1, 1994;
Amended Eff. July 1, 2017; July 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. January 1, 2020.

21 NCAC 58A .1712 BROKER-IN-CHARGE COURSE

(a) The Broker-in-Charge Course is a 12-hour educational course that is required for all brokers designating as broker-in-charge under Rule .0110 of this Subchapter. The 12-hour course is divided into an 8-hour module and a 4-hour module. A broker shall complete the 8-hour module before beginning the 4-hour module.

(b) In order to receive credit for completing the Broker-in-Charge Course, a broker shall:

- (1) attend at least 90 percent of the scheduled instructional hours for the course;
- (2) provide his or her legal name and license number to the course provider;
- (3) present his or her pocket card or photo identification card, if necessary;
- (4) personally perform all work required to complete the course; and
- (5) complete the 12-hour Broker-in Charge Course no later than 120 days after the broker registers for the course.

(c) Upon completion of the 12-hour Broker-in-Charge Course, a broker shall receive four credit hours of elective continuing education. The four credit hours will be awarded in the license year in which the broker completes the 12-hour Broker-in-Charge Course.

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4.2; Eff. January 1, 2020.

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS**Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter
Selina Malherbe
J. Randolph Ward
David Sutton

Don Overby
J. Randall May
David Sutton
Tenisha Jacobs

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>Published</u>			
19	DHR	02708	10/9/2019	Deborah Washington	v.	North Carolina Division of Health Benefits Glana Surles	Malherbe
19	DHR	03473	10/15/2019	Karla Collard	v.	NC Department of Health and Human Services, Division of Social Services	Jacobs
19	DHR	04712	10/17/2019	Ali Alsaras owner Saras Inc D/B/A University Market	v.	NC Department of Health and Human Services	Ward
19	DOJ	01687	10/16/2019	Derrick Demond Lee	v.	NC Sheriffs Education and Training Standards Commission	Overby
19	DOJ	02981	10/30/2019	Shawn Brian Morris	v.	NC Sheriffs Education and Training Standards Commission	Sutton
19	DOJ	03749	10/15/2019	Shelly Lashawn Morales	v.	NC Private Protective Services Board	Bawtinhimer
19	DOJ	04702	10/15/2019	Douglas Earl Martin	v.	NC Private Protective Services Board	Bawtinhimer
18	DST	07704	10/28/2019	Ritchie Darnell Longworth	v.	State Treasurer of North Carolina Retirement Systems Division	May
				<u>Unpublished</u>			
19	ABC	04313	10/22/2019	NC Alcoholic Beverage Control Commission	v.	Jensen Restaurant Ventures LLC T/A Edenton Oyster Bar	Overby
19	ABC	04553	10/16/2019	NC Alcoholic Beverage Control Commission	v.	Wachdi R Khamis Awad T/A Brothers in the Hood	Overby
19	CSE	02932	10/22/2019	Jeremiah Hightower	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward

CONTESTED CASE DECISIONS

19	CSE	04087	10/1/2019	Joe Roswech	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Jacobs
19	DHR	02931	10/15/2019	The Moses H Cone Memorial Hospital and MC Kernersville LLC d/b/a Triad Surgery Center	v.	North Carolina Department of Health and Human Services, Division of Health Service Regulation, Health Care Planning & Certificate of Need	May
19	DHR	02954	10/18/2019	Marie Blamoh Teah	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Malherbe
19	DHR	04140	10/9/2019	Ilene Knox	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	04634	10/28/2019	Kasey Ross	v.	Department of Health and Human Services, Division of Health Service Regulation Adult Care Licensure Section	May
19	DHR	04665	10/28/2019	Valerie Hernandez A	v.	NC Department of Health and Human Services, Division of Health Service Regulation	May
19	DHR	04718	10/24/2019	NOA Human Service(Nena Ikwechegh)	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	May
19	DHR	05155	10/16/2019	Cindy Locklear	v.	Health Care Registry	Overby
19	DHR	05427	10/25/2019	Antoinette Rochelle H	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	Lassiter
17	DOJ	04844	10/8/2019	S&M Brands, Inc	v.	North Carolina Department of Justice	Overby
19	DOJ	04336	10/8/2019	Anthony Clyde Fleener	v.	North Carolina Alarm Systems Licensing Board	Bawtinhimer
19	DOJ	04337	10/7/2019; 10/8/2019	Peggy Sue Dove	v.	NC Private Protective Services Board	Bawtinhimer
19	DOJ	04700	10/7/2019; 10/8/2019	Dwight Denorris Cox	v.	NC Private Protective Services Board	Bawtinhimer
19	DOJ	04701	10/8/2020	Michael Gray Parsons	v.	NC Private Protective Services Board	Bawtinhimer
19	EDC	03665	10/28/2019	Robert Marshall Hooks	v.	NC Departmetn of Public Instruction	May
19	EHR	04370	10/28/2019	DSF of NC Inc Javed Warriach	v.	NCDEQ	May
19	INS	04662	10/22/2019	Phyllis Charlene Dority	v.	NC Health Plan for Teachers and State Employees	Bawtinhimer
19	INS	04908	10/25/2019	Carolyn Lasater	v.	State Health Plan of NC Retirement Division	Malherbe
19	OSP	03050	10/4/2019	Andre Tyron Caldwell	v.	North Carolina Cental University	Jacobs

CONTESTED CASE DECISIONS

19	OSP	03990	10/3/2019; 10/4/2019	Kelly Butler Inman	v.	County of Alamance Alamance County Dept of Social Services	Ward
19	OSP	04217	10/9/2019	Susan Bunch	v.	Mount Airy School Board of Education	May