

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Commission for the Blind

RULE CITATION: 10A NCAC 63C .0203, .0204, .0403, and .0601

RECOMMENDED ACTION:

Approve, and note staff's comment

Object, based on:

Lack of statutory authority

Unclear or ambiguous

Unnecessary

Failure to comply with the APA

Extend the period of review

COMMENT:

At its September 2018 meeting, the RRC objected to the readoptions presented for Rules 10A NCAC 63C .0203, .0204, .0403, and .0601.

The RRC objected to Rules .0204 and .0403 because the text presented to the RRC differed substantially from what was published in the Register. The agency responded to the objection by stating that it accepted the objection and determined that it wanted to move forward with the changed language, rather than revert to what was originally published. In order to do so, the agency must republish the rules for a 60-day comment period pursuant to G.S. 150B-21.2.

The RRC objected to Rules .0203 and .0601 at its September 2018 meeting and again in January 2019 to the rewritten rules submitted in response to the objections. At its meeting in March 2019, the RRC approved the rewritten rules submitted, finding the rules were responsive to the objections. The RRC found that the revisions made to the rules in response to the objection were "substantial" and thus, the rules would need to be republished pursuant to G.S. 150B-21.12(c).

As the agency is required to publish all rules due to substantial change determinations, it has decided to publish all four rules in the NC Register for a 60-day comment period. The agency submitted the Rules for publication in the March 2, 2020 Register.

There is no action for the RRC to take at this time.

Amanda J. Reeder
Commission Counsel

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March 2, 2020

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- (vi)(iii) Hepatitis B virus core antigen.
- (vii) Mumps virus.
- (viii)(iv) Rubella virus.
- (ix)(v) Rubeola (measles) virus.
- (x)(vi) Yellow fever virus.

Proposed Effective Date: July 1, 2020

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): A public hearing may be demanded by written request to Cynthia Speight, Rulemaking Coordinator, within 15 days of the publication of the Notice of Text.

Reason for Proposed Action: The Commission for the Blind initially proposed to readopt Rules 63C .0203 and .0601, and amend rules 10A NCAC 63C .0204 and .0403 in the May 15, 2018 Register. Following objections by the RRC, the agency is republishing all four rules for a 60-day comment period in order to respond to the RRC's objection and public input.

Comments may be submitted to: Cynthia Speight, NC Division of Services for the Blind, 2601 MSC, Raleigh, NC 27699-2601; email dsbpubliccomment@dhhs.nc.gov

Comment period ends: May 1, 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

CHAPTER 63 - SERVICES FOR THE BLIND

SUBCHAPTER 63C - BUSINESS ENTERPRISES PROGRAM

SECTION .0200 - LICENSING AND PLACEMENT

10A NCAC 63C .0203 ~~SUSPEND; TERMINATE LICENSE; SUSPENSION OR TERMINATION OF LICENSE AND REMOVAL FROM BUSINESS ENTERPRISES FACILITY~~

(a) The Division may suspend or terminate the license of an operator, after affording the operator an opportunity ~~for~~ **to appeal**

(4) Laboratory results from tests to determine the absolute and relative counts for the T-helper (CD4) subset of lymphocytes and all results from tests to determine HIV viral load.

(5) Identification of CRE from a clinical specimen associated with either infection or colonization, including all susceptibility results and all phenotypic or molecular test results.

(d) Laboratories utilizing electronic laboratory reporting (ELR) shall report in addition to those listed under Paragraph (c) of this Rule:

(1) All positive laboratory results from tests used to diagnosis chronic Hepatitis C Infection, including the following:

- (A) Hepatitis C virus antibody tests (including the test specific signal to cut-off (s/c) ratio);
- (B) Hepatitis C nucleic acid tests;
- (C) Hepatitis C antigen(s) tests; and
- (D) Hepatitis C genotypic tests.

(2) All HIV genotypic test results, including when available:

- (A) The entire nucleotide sequence; or
- (B) The pol region sequence (including all regions: protease (PR)/reverse transcriptase (RT) and integrase (INI) genes, if available).

(3) All test results for Interferon Gamma Release Assays.

(e) For the purposes of reporting, Carbapenem-Resistant Enterobacteriaceae (CRE) are defined as:

- (1) Enterobacter spp, E.coli or Klebsiella spp positive for a known carbapenemase resistance mechanism or positive on a phenotypic test for carbapenemase production; or
- (2) Enterobacter spp, E.coli or Klebsiella spp resistant to any carbapenem in the absence of carbapenemase resistance mechanism testing or phenotypic testing for carbapenemase production.

Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141.

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Commission for the Blind intends to amend the rules cited as 10A NCAC 63C .0204, .0403 and readopt with substantive changes the rules cited as 10A NCAC 63C .0203, and .0601.

Link to agency website pursuant to G.S. 150B-19.1(e): <https://www.ncdhhs.gov/documents/division-rules>

the decision as set forth in Section .0400, a full evidentiary hearing, when it finds that his facility is not being operated in accordance with the rules and regulations; with the terms and conditions of the agreement, contract, or permit between the Division and the sponsor of the building or site upon which the Business Enterprises facility is located; or with the terms of the contract between the operator and the Division relating to the particular assignment.

(b) An operator may be warned prior to suspension or termination of a license, particularly in situations where lack of compliance is not determined by the Division to pose an immediate threat to the general public or to bring discredit or irreparable damage to the Business Enterprises Program.

(b) ~~[The license of a licensee]~~ Licenses to licensees and operators shall be terminated if the ~~[licensee's vision is improved by conventional means to the point at which the licensee is not legally blind.]~~ licensee or operator:

- (1) no longer meets the definition of legally blind pursuant to Rule .0101 of this Subchapter;
- (2) withdraws from the program and sends written notification to the Division;
- (3) is convicted of a misdemeanor involving crimes of dishonesty or any felony;
- (4) provides false information to the Division pertaining to eligibility requirements set forth pursuant to Rule .0202 of this Subchapter;
- (5) unlawfully possesses firearms or lethal weapons on the job;
- (6) uses Business Enterprises equipment purchased with program funds or a Business Enterprises facility to operate another business; or
- (7) if an operator's license is suspended 3 times within a consecutive 24-month period, regardless of the reason for suspension.

~~[(c) The license of an operator shall be terminated if the operator's vision is improved by conventional means to the point at which the operator is not legally blind.]~~

(c) Licenses to operators shall be suspended if the operator:

- (1) fails to operate the Business Enterprises facility in accordance with the operator agreement for three or more consecutive months;
- (2) commits willful acts in the Business Enterprises facility or on the grounds of the facility to create a potential threat to the facility's staff or customers;
- (3) reports to a Business Enterprises facility under the influence of alcohol or any controlled substance or partakes of such on the job. This shall not include unanticipated effects from the ingestion of prescription medications taken in accordance with the directions of a doctor;
- (4) fails to personally operate the awarded facility, as set forth in the operator agreement, unless prior written approval to operate the facility in another manner has been obtained from the Division. This requirement shall not mandate the physical presence of the operator at the facility at all times of its operation;

- (5) fails three times during the calendar year to pay set-aside and liability fees and health insurance premiums and phone bills, if applicable, to the Controller's Office by the 15th day of the month following the month in which the business was transacted;
- (6) fails to preserve financial and other records pertaining to the operation of the Business Enterprises facility as required by Rule .0601(a)(8) of this Subchapter.
- (7) fails to respond to requests made by an auditing authority conducting audits pursuant to State or federal law, as required by this Subchapter;
- (8) fails to maintain liability and workers compensation insurance coverage as required by law and by Rule .0607 of this Subchapter;
- (9) removes Business Enterprises equipment purchased with program funds from the facility without written authorization from the Division;
- (10) fails to comply with federal or State law prohibiting discrimination in hiring and service to customers;
- (11) fails to comply with federal or State tax laws for individuals who are self-employed if this violation relates to the Business Enterprises facility. This suspension shall only occur if there has been a final adjudication of the violation by State and federal authorities; or
- (12) fails to comply with the operator's responsibilities as required by Rule .0601 of this Subchapter.

~~(e)[(d)] Licenses to operators may also be suspended or terminated for any of the following reasons:~~

- (1) ~~Vision improves so that the operator is no longer eligible for licensing;~~
- (2) ~~[(4)] Extended illness [extended illness, defined as lasting at least three months,] occurs with medically documented diagnosis of prolonged incapacity of the operator to manage the Business Enterprises facility in a manner consistent with the needs of the location or other available locations in the Business Enterprises Program;~~
- (3) ~~[(2)] Withdrawal [withdrawal of the operator from the program upon his written notification to the Division;]~~
- (4) ~~Gross misconduct or conduct so reprehensible as to bring discredit to the program;~~
- (5) ~~[(3)] Conviction [conviction] of a felony (Class A through E); [misdemeanor involving crimes of dishonesty or any felony;]~~
- (6) ~~[(4)] Falsified [falsified] information pertaining to eligibility requirements;~~
- (7) ~~[(5)] Willful [willful] acts that would endanger the lives and property of others;~~
- (8) ~~[(6)] Possession of firearms or lethal weapons on the job; [site at a Business Enterprises facility;]~~

- ~~(9) [(7)] Reporting [reporting] to Business Enterprises assignment under the influence of alcohol or any controlled substance or partaking of such on the job.;~~
- ~~[(8)] [failing to personally operate the awarded facility as set forth in the operator agreement and permit or contract with the host facility unless prior written approval to operate the facility in another manner has been obtained from the Division.];~~
- ~~[(9)] [failing to pay fees to the Controller's Office by the 15th day of the month following the month in which the business was transacted three times during the calendar year.];~~
- ~~[(10)] [failing to preserve required financial and other records with the Division as required by this Subchapter.];~~
- ~~[(11)] [failing to cooperate with record keeping reviews conducted by the Division.];~~
- ~~[(12)] [failing to cooperate with audits conducted by state or federal agencies.];~~
- ~~[(13)] [failing to maintain bonding, liability and workers compensation insurance coverage as required by law or policy.];~~
- ~~[(14)] [using Business Enterprises equipment and or facility to operate another business.];~~
- ~~[(15)] [failing to maintain facility equipment in a sanitary and operable condition within the scope of the operator's level of maintenance authorization.];~~
- ~~[(16)] [removing facility equipment without written authorization from the Division.];~~
- ~~[(17)] [failing to comply with federal or state law prohibiting discrimination in hiring and service to customers; and]~~
- ~~[(18)] [failing to comply with the operator's responsibilities in this Subchapter or the operator's agreement.]~~

(d) Suspension may be used when an apparent action or lack of action by an operator is not serious enough in the opinion of the Division to warrant termination of the license. The length of the suspension shall vary with the seriousness of the situation, but shall not exceed a maximum of 60 days. Prior to the suspension of an operator's license, the Division shall provide the operator with a written corrective action plan. The Division and the operator shall both sign the corrective action plan. The corrective action plan shall include:

- (1) the specific provision in Paragraph (c) of this Rule that the operator has violated, the specific provision contained in the operator's agreement that has been violated, or the specific provision otherwise contained in this Subchapter that has not been complied with;
- (2) the specific corrective actions that the operator must take to cure the violation identified in Paragraph (d)(1) of this Rule, including participation in training or receipt of technical assistance provided by the Division, if necessary; and

(3) the time frame in which the operator must cure the violation, which shall not exceed 90 days. The time frame in which to cure the violation may be extended if actions are being taken to resolve the violations pursuant to a written agreement between the operator and Division.

(e) If an operator fails to complete the corrective action plan to cure the violation within the time set forth in the corrective action plan, or otherwise refuses to sign a corrective action plan, the Division shall suspend the license of the operator. The length of a suspension shall not exceed 60 days.

(f) During the time period in which an operator's license is suspended, the Division shall identify another operator to assume responsibility for the locations of the suspended operator.

Authority G.S. 111-27; 111-27.1; 34 C.F.R. 395.3; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107.

10A NCAC 63C .0204 FILLING OF VACANCIES

(a) ~~The Division shall make available a listing of available Business Enterprises facilities to all licensees.~~

(b) ~~Licensees who wish to apply for any of the locations listed may forward an application to the office of the Chief of Business Enterprises.~~

(c) ~~Transfers and promotions shall be based on the following procedures:~~

- (1) ~~The Division shall send a notice of available facilities to all operators and licensees on the last 10 working day of the month. The notice shall provide a description of the vacancy and who to contact for more information.~~
- (2) ~~All applications shall be post marked by the 10th of the month following the notice and mailed to the office of the Chief of Business Enterprises.~~
- (3) ~~The Interview Committee shall interview all applicants on the second Friday of the month which follows the application deadline.~~
- (4) ~~At least 10 working days prior to the interview, the Business Enterprises Counselor who works with the applicant shall calculate the applicant's points for sanitation, seniority, Financial Analysis/Operating Standards [Subparagraphs (d), (1), (2), (3) of this Rule] and inform the applicant of his point total. The applicant shall have five working days to review the point total and request any adjustments.~~
- (5) ~~After adding together the points from the sanitation, seniority, Financial Analysis/Operating Standards, Customer Relations and Oral Exam/Interview Sections [Subparagraphs (d), (1), (2), (3), (4), (5), (6), (7) of this Rule] for each applicant, the applicant with the highest point total (if above 60 points) shall be awarded the vacancy. If the applicant with the highest point total declines to accept the location, it shall be offered to the next highest applicant (if above 60 points) and so on. In the case of an exact tie, the applicant with the~~

- most time in the Business Enterprises Program shall be awarded the location.
- (6) Applicants shall be notified as soon as possible after their interview whether or not they have been awarded a location. This notification shall be by telephone and followed up in writing.
 - (7) Upon being awarded a location, the applicant shall have 30 days to fill the vacancy. The Division shall agree to a different time frame if adhering to the 30 day time frame would cause a hardship to the applicant awarded the facility. The location shall not be filled for 15 working days following the award to allow time for administrative appeals to be filed. If an appeal is filed, the location shall not be filled until the appeal is resolved. If there is only one applicant for a location, the 15 day waiting period shall not apply.
 - (8) If an applicant is awarded a facility and has not had an Operator Agreement with the Agency in the last two years, and the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect, the applicant shall repeat the necessary on the job training. The Interview Committee may also recommend refresher course training to assure qualified management.
 - (9) Licensees/operators not selected may file an administrative appeal as provided for in Subchapter 63C Section .0400. The fifteen day limit to file an appeal shall begin from the date the licensee/operator is informed by telephone of the results of the award.
 - (10) An applicant must have operated a Business Enterprises location for six months prior to the cut off date for calculating financial performance according to standards to be considered an operator, otherwise, the operator shall be in licensee status. The cut off date is defined as the 12 month period ending with the last day of the same month in which the vacancy is advertised.
 - (11) If an operator leaves the Business Enterprises Program and then applies for a location within 12 months of leaving, his financial performance according to standards for the 12 months prior to his leaving shall be used to calculate points in the Financial Performance Section.
 - (12) Financial analyses of facilities shall be done every two years. The analysis shall be on the facility not the operator; however, an operator may request a new analysis after at least four months in the new facility. If an applicant's financial analysis is less than two years old and the applicant's performance is neither above 100 percent nor below 85 percent on either measure, the financial analysis is current.
 - (13) ~~An applicant who does not hold the required level of license for the vacancy may be awarded the facility contingent upon successfully completing the required training. Applicants who hold the required level of license but have not operated a facility at that level for at least two years shall complete refresher on the job training if the applicant did not meet his financial analysis and operating standards for the last 12 months that his agreement was in effect.~~
 - (14) ~~An operator may not sit on the Interview Committee for a location for which he/she is applying or if a member of his/her immediate family has applied for a vacant facility. For this purpose immediate family is defined as spouse, parent, child, brother and sister. Also included are the step, half and in law relationships. If the Vice Chairman and the Chairman of the Elected Committee of Vendors and the Chairman of the sub committee on Transfer and Promotion are all restricted from sitting on the Interview Committee under this Rule, those three must pick another Elected Committee of Vendors member to sit on the Interview Committee.~~
 - (15) ~~The schedule for awarding vacancies may be changed to accommodate holidays, too many applications to process in one day, or at any time necessary due to program conflicts as determined by the chief of Business Enterprises and the Vice Chairman of the Elected Committee of Vendors. All applicants shall be notified in writing of the date, time and place of their interview.~~
 - (16) ~~Applicants shall be reimbursed for their expenses to come to the interview at the state's per diem rates. The Business Enterprises Program shall only reimburse for two interviews per year. After that, applicants shall bear their own expenses for coming to interviews. Licensees who have active rehabilitation cases shall be reimbursed through the rehabilitation program.~~
- (d) The Division shall use the following criteria in determining points:
- (1) Sanitation:
 - (A) Ten point maximum;
 - (B) One point for each sanitation grade point above ninety;
 - (C) Sanitation grade to be arrived at by averaging all sanitation scores received during last two years;
 - (D) Five points shall be subtracted for any adjusted B grade in the last two years;
 - (E) The Business Enterprises Counselor shall determine an adjusted grade by adding back in any points subtracted for deficiencies over which the

- ~~operator has no control. The operator shall inform Business Enterprises Counselor when an inspection has occurred so he can review the inspection and adjust the grade if needed. The operator shall make sure the Business Enterprises Counselor has copies of every sanitation inspection form from the relevant period so that he or she can calculate an accurate grade.~~
- (2) ~~Seniority:~~
- ~~(A) Five point maximum;~~
- ~~(B) Seniority points shall be awarded as follows:~~
- ~~Years in Business Enterprises Program Points~~
- ~~0 to 4.99 0 points~~
- ~~5 to 9.99 1 point~~
- ~~10 to 14.99 2 points~~
- ~~15 to 19.99 3 points~~
- ~~20 to 24.99 4 points~~
- ~~25 and over 5 points~~
- ~~(C) Seniority is defined as the amount of time in yearly increments an individual has been working in the Business Enterprises Program as an operator. An operator must work 51 percent of the working days in a month to receive credit for that month. The cutoff date for accruing time in the Program is the end of the month when the vacancy is advertised. Business Enterprises operators shall receive credit for one year of seniority for any combined 12 month period.~~
- (3) ~~Performance According to Financial Analysis/Operating Standards: Operating standards are determined by tabulating all the invoices for purchases for resale for each facility for a period of three months. The optimum sales and gross profit percentage is determined by computing the maximum potential for sales and gross profit without consideration for theft, waste or poor management. Each operator is required to maintain 85 percent of the optimum standard established for each facility for sales and gross profit. Eighty five percent of the optimum sales and gross profit percentage is considered the operating standard for each facility.~~
- ~~(A) 50 Points Maximum;~~
- ~~(B) Applicants shall receive 20 points for meeting or exceeding 85 percent of their sales standard;~~
- ~~(C) Applicants shall receive 20 points for meeting or exceeding 85 percent of their gross profit percentage standard;~~
- ~~(D) Applicants shall receive five points for meeting or exceeding 92.5 percent of their sales optimum;~~
- ~~(E) Applicants shall receive five points for meeting or exceeding 92.5 percent of their gross profit percentage optimum.~~
- (4) ~~Customer and Building Management Relations:~~
- ~~(A) Five points shall be deducted for each written site management complaint in the past two years, up to a maximum of 10 points.~~
- ~~(B) If the applicant has more than three written site management complaints, he shall not be considered for the award. No site management complaint that is more than three years old may be used against an operator. Site management is defined as the property official for the property on which a BEP facility is located.~~
- (5) ~~Oral Exam/Interview:~~
- ~~(A) 30 points maximum.~~
- ~~(B) Interview shall be face to face (no conference calls).~~
- ~~(C) All applicants shall be interviewed.~~
- ~~(D) The Interview Committee shall consist of:~~
- ~~(i) The Chief of Business Enterprises, or Deputy Chief or Assistant Director of Programs and Facilities as designated by Chief;~~
- ~~(ii) The Area Rehabilitation Supervisor or B.E. Counselor for the area in which the vacancy occurs, and~~
- ~~(iii) The Vice Chairman of the Elected Committee of Vendors or the Chairman in his absence, or in the absence of the Chairman, the Chairman of the Transfer and Promotion subcommittee.~~
- ~~(E) The Oral Exam part shall consist of 10 questions drawn either from a pool of standard questions or developed by the Interview Committee prior to the interview. The oral exam questions shall relate to any special needs of the vacant facility as well as to standard responsibilities and knowledge areas of Business Enterprises operators. Each member of the Interview Committee shall evaluate the applicant's response to each question in the oral exam. The applicant shall receive one point by demonstrating basic knowledge, the applicant shall receive one and one half points for~~

demonstrating above average knowledge, and the applicant shall be awarded two points for demonstrating exceptional knowledge for each interview question. There shall be at least one question involving a calculation and a talking calculator shall be provided, although applicants may bring their own. The oral exam shall yield a possible 20 points.

(F) The interview part shall consist of a variety of questions in a give and take format. Each member of the Interview Committee shall evaluate the applicant's response to the interview questions and shall award up to 10 additional points based on the applicant's previous food service experience, knowledge and financial performance. If the applicant meets the requirements for the facility, the applicant shall receive five additional points. If the applicant's qualifications exceed the requirements of the facility, he may be awarded up to ten additional points. The interview shall include the following elements: questions related to business philosophy to promote general discussion to enable the interview panel to evaluate the applicant's expertise, maturity, experience and ability; a discussion of any related work experience outside the Business Enterprises Program; at least two business math questions. Since points are awarded for seniority, time in the Business Enterprises Program shall not be considered as a reason to award points; however, relevant work experience in the Business Enterprises Program may be discussed and taken into consideration. Applicants may bring letters of recommendation, certificates, and other documents that would aid the Interview Committee in awarding its discretionary points.

(G) Each interviewer shall award discretionary points individually and the total score of Oral Exam and Interview points from each interviewer shall be averaged and added to the applicant's points from the other Sections.

(6) Licensees and trainees:

(A) A licensee who has no previous experience in the North Carolina Business Enterprises Program shall be assigned 35 points in the Financial

Analysis/Operating Standards category. If the licensee scores 90 percent or above on the National Restaurant Association's ServSafe exam, he/she shall be awarded three points in the sanitation category.

(B) A licensee with previous Business Enterprises experience shall be assigned 35 points in the Financial Analysis/Operating Standards category. Previous sanitation records shall be considered, if available; or the applicant may take the National Restaurant Association's ServSafe exam. If the licensee scores 90 percent or above on the ServSafe exam, he/she shall be given three points in the Sanitation Section.

(C) Applicants shall have satisfactorily completed Level I training or have a Level I license to be interviewed. The four levels of Business Enterprises facilities are defined as follows: Level I has no cooking or on site food preparation and includes only service via vending machines or over the counter service including snacks, candy, pre packaged sandwiches, coffee, and assorted beverages. Level II service is similar to a deli operation where hot and cold food is prepared on site. Level III service includes all of the above with the addition of a grill and fryer. Level IV service consists of full service cafeteria style facilities. An applicant shall score at least 60 total points to be awarded a location. If the applicant scores at least 55 points but less than 60 points, the interview panel may make a conditional award if the panel agrees it is in the best interest of the Business Enterprises Program.

(a) The Division shall send a notice of vacant facilities to all operators and licensees within the last 10 business days of the month. The notice shall provide a description of the vacancy, who to contact for more information, the address where the application may be submitted, and the deadline for receipt of application. The deadline specified in the notice shall be no earlier than that 10th day of the following month, or the first business day thereafter. In the event of an emergency vacancy, including death or illness of an operator, the schedule for sending notices of vacant facilities, conducting interviews, and awarding vacancies set forth in this Rule may be changed as determined by the Chief of Business Enterprises and the chairman of the Elected Committee of Blind Vendors or his or her designee.

(b) An individual shall be eligible to apply for a vacancy if the individual currently possesses the license level required by the vacant facility or, if the training is not currently provided by the

Division or otherwise available for the license level required for the vacant facility, the individual shall be eligible to apply if the applicant holds the next lower license level.

(c) An individual shall not be eligible to apply for a vacancy if either of the following conditions exist:

- (1) the individual has received written notice from the Division that the individual owes money to the Business Enterprises Program and that money is still owed, unless there is a pending grievance as set forth in Section .0400 of this Subchapter; or
- (2) the individual has failed to appear for a scheduled interview twice during the preceding 12 months. In this instance, the individual will not be eligible to apply for a vacancy for 24 months from the date of the last scheduled interview. This provision shall not apply if the applicant withdrew from the interview by providing notice to the Division 48 hours prior to the scheduled appearance or if prior to the interview, the individual provides information to the Division documenting that the individual is unable to attend due to health reasons.

(d) Operators and licensees who wish to apply for any vacancy shall submit an application to the address contained in the notice or to office of the Chief of Business Enterprises via electronic mail, personal delivery, the United States Postal Service, or commercial delivery services.

(e) The application shall include the applicant's name, address, telephone number, the name of the current BEP facility assigned to the applicant if applicable, the name of the facility that the applicant is applying for, the applicant's signature, and the date the application is signed.

(f) All applications shall be received by the Division no later than the deadline date identified in the notice. "Received" for the purpose of this Paragraph means that the application is in the possession of the Division. If the application is not received by the Division by the deadline, the applicant shall not be eligible to interview for the vacancy. However, if the Division does not receive the application by the deadline, an applicant may demonstrate compliance with this Paragraph by demonstrating he or she submitted the application in compliance with Paragraph (d) and any failure or delay in the delivery was due to causes beyond the applicant's control.

(g) At least 10 business days prior to the interview, the Business Enterprises Consultant who works with the applicant shall calculate the applicant's points for sanitation, seniority, and financial performance as set forth in Subparagraphs (h)(1), (2), and (3) of this Rule and inform the applicant of his or her point total in writing and shall include with that communication a description of any ways in which the Business Enterprises Consultant noted that the applicant failed to provide the information required by Subparagraphs (h)(1), (2), and (3) of this Rule. The applicant shall have five business days from his or her receipt of the notice from the Business Enterprises Consultant to request any adjustments to the point total. As part of the request, the applicant must provide to the Business Enterprise Consultant all supporting information with the request, including documents required to complete a new financial analysis and operation

standard tool (FAOS) if another FAOS is requested by the applicant. The applicant's points for sanitation, seniority, and FAOS shall be shared with all members of the interview committee.

(h) The Business Enterprises Consultant shall assign points to each applicant for sanitation, seniority, and financial performance as follows:

- (1) Five sanitation points may be awarded based on the sanitation grades for the Business Enterprises facilities that were operated by an applicant, as follows:
 - (A) The applicant shall verify with the Business Enterprises Consultant that he or she has copies of every sanitation inspection form from the specified period so that the points can be calculated.
 - (B) One point shall be awarded for each sanitation grade point above 90, which shall be determined by averaging all sanitation scores received during the previous 24 months.
 - (C) Any points deducted on the sanitation review reports for deficiencies that are the responsibility of facility management, pertaining to the condition of bathrooms, floors, ceilings and walls, shall be added in the calculations by the Business Enterprises Consultant.
 - (D) An applicant who is a licensee with a score of 90 percent or greater on his or her most recent National Restaurant Association's ServSafe exam shall be assigned three sanitation points.
- (2) A maximum of five seniority points may be awarded based on the number of years an applicant has worked as an operator in the Business Enterprises Program. The applicant shall be awarded 0.2 points for each 12 months worked as an operator in the Business Enterprises Program. The cutoff date for accruing time in the facility shall be the end of the month when the vacancy is advertised.
- (3) A maximum of 50 financial performance points may be awarded. Financial performance for applicants who are operators shall be based on the facilities assigned to the operator. Financial performance shall be calculated by analyzing the average monthly sales and average gross profit percentage for sales during the 12-month period ending with the last day of the month preceding the month in which the vacancy is advertised. The cut-off date for calculating financial performance shall be the 12-month period ending with the last day of the month in which the vacancy is advertised. The FAOS shall be utilized to help determine the financial performance of the facility. A FAOS shall be

completed by the Business Enterprises Consultant for a facility every three years to determine the optimum sales percentage and optimum gross profit percentage without consideration for theft or waste. Eighty-five percent of the optimum sales percentage and optimum gross profit percentage shall be the standard for each Business Enterprises facility.

(A) If an applicant who is not currently operating a Business Enterprises facility applies for a vacancy within 12 months of leaving a facility, the FAOS for the applicant's prior facility shall be used for the calculations in this Subparagraph if the FAOS was completed within the required two-year period.

(B) The applicant's Business Enterprises Consultant shall determine the FAOS points by tabulating all the invoices for purchases for resale for that facility for the 12-month period ending with the last day of the preceding month in which the vacancy is advertised. The Business Enterprises Consultant shall calculate the month sales average for each of the 12 months for the numbers identified in the following Subparts and using those monthly averages, determine the three months that are closest to the monthly average to allocate points as follows:

- (i) applicants shall receive 20 points for meeting or exceeding 85 percent of their sales standard;
- (ii) applicants shall receive 20 points for meeting or exceeding 85 percent of their gross profit percentage standard;
- (iii) applicants shall receive 5 points for meeting or exceeding 92.5 percent of their optimum sales percentage;
- (iv) applicants shall receive 5 points for meeting or exceeding 92.5 percent of their optimum gross profit percentage;
- (v) applicants who are operators of a Business Enterprises military facility at the time of application shall be assigned 50 FAOS points;
- (vi) applicants who are licensees at the time of application

shall be assigned 40 FAOS points; and

(vii) applicants who have operated a Business Enterprises facility for less than 6 months prior to the cut-off date for calculating financial performance shall be assigned 40 FAOS points.

(i) The Interview Committee shall consist of:

- (1) the Chief of the Business Enterprises Program or his or her designee;
- (2) a Business Enterprises Program Consultant or Business Enterprises Program designee;
- (3) the vice-chair of the Elected Committee of Vendors (ECBV) or ECBV designee; and
- (4) the chair of the ECBV transfer and promotion subcommittee or ECBV designee.

(j) The Interview Committee shall interview all eligible applicants who present for the scheduled interview. The Interview Committee shall select 15 questions developed by the Interview Committee prior to the interview. A maximum of two points per question may be awarded for a maximum total of 30 points by each Interview Committee member participating in the interview. The interview questions shall relate to any special needs of the vacant facility as well as to standard responsibilities and knowledge areas of Business Enterprises operators. There shall be at least two math questions. A calculator shall be provided by the Interview Committee, although applicants may bring their own calculator.

(k) An applicant shall not sit on the Interview Committee for a location where he or she is applying or if a member of his or her immediate family has applied for a vacant facility. For the purpose of this Rule, "immediate family" means a spouse, parent, or child, as well as siblings, and step, half and in-law relationships. If the vice-chair of the ECBV or the chair of the ECBV transfer and promotions committee are disqualified from serving as a result of this Rule, the vice-chair of the ECBV and the chair of the ECBV transfer and promotions committee shall jointly select two members of the Elected Committee of Blind Vendors to sit on the Interview Committee.

(l) The interview shall be conducted and evaluated as follows:

- (1) all applicants shall be notified in writing of the date, time, and place of their interview;
- (2) the interview shall be face-to-face. For the purposes of this Rule, a conference call shall not be considered face-to-face; and
- (3) each member of the Interview Committee shall evaluate the applicant's response to each interview question. The applicant shall receive up to two points per question as determined by committee members.

(m) The Interview Committee shall calculate the point total under this Rule for each applicant, which shall equal the sum of the points awarded to the applicant for sanitation, seniority, FAOS, the interview score pursuant to Paragraphs (h) and (j) of this Rule. The applicant with the highest point total shall be awarded the vacancy. If the applicant with the highest point total declines to accept the location, it shall be offered to the applicant with the

next highest point total. In the case of an exact tie, the Division shall award the location to the applicant that has worked the longest period of time as an operator in a Business Enterprises facility.

(n) The Division shall notify each applicant by telephone after the conclusion of interviews whether the applicant was awarded the location and shall confirm the notification in writing.

(o) The location shall not be filled for 10 business days following the Division's providing notice to all applicants pursuant to G.S. 150B-23(f) of the results of the award process, in order to allow time for administrative appeals to be filed. If an appeal is filed, the location shall be filled on a conditional basis until the appeal is resolved. For the purposes of this Rule, "conditional basis" means that the operator may manage the location until the appeal has been resolved. If there is only one applicant for a location, the 20 business days waiting period shall not apply.

(p) Upon being awarded a location, the applicant shall have 20 business days to assume the responsibilities for the operation of the vacant facility. The Division shall agree to a different time frame if adhering to the 20 business days' timeframe would cause a hardship to the applicant awarded the facility.

(q) Applicants shall be reimbursed for their expenses to come to the interview at the State's per diem rates. Applicants who are receiving vocational rehabilitation services shall be reimbursed through the vocational rehabilitation program. The Business Enterprises Program shall only reimburse an applicant for three interviews per year. After three interviews, applicants shall bear their own expenses.

(r) Applicants not selected may file an administrative appeal as provided for in Section .0400 of this Subchapter. The time limit to file an appeal shall be 10 business days from the date that the applicant receives a notice of the results of the award process that conforms to the requirements of G.S. 150B-23(f).

Authority G.S. 111-27; 111-27.1; 143B-157; 20 U.S.C. sec. 107.

SECTION .0400 - ADMINISTRATIVE APPEAL PROCEDURE

10A NCAC 63C .0403 PROCEDURE

(a) The operator/licensee shall discuss the problem with the Division staff person taking the action with which the operator is dissatisfied and request specific action in writing to resolve the grievance. This discussion shall be held within 15 working days of the occurrence of the action challenged by the operator. The operator/licensee shall receive a response within five working days following the discussion. Any decision made by agency personnel at this step shall be subject to supervisory review and approval.

(b) If the complaint is not resolved and the operator/licensee is not satisfied with the outcome of Paragraph (a) of this Rule, he shall have 15 working days to ask for a review by the operator relations committee in writing. Within five working days after asking for a review, the operator/licensee shall be notified of the date of the hearing, which shall be held within 25 working days after the operator's/licensee's request for a hearing. The committee shall render its decision within 20 working days after the hearing.

(c) If the decision reached in step of Paragraph (b) of this Rule is not satisfactory to the operator/licensee or the Division staff person responsible for the initial action, the matter may be referred by the operator/licensee or the Division staff person to the director of the Division. Any request for review shall be submitted within 15 working days after the operator relations committee has presented its recommendation. The party requesting the referral shall provide a written summary of the specific facts of the complaint and request for specific action to resolve the grievance, copies of which shall be provided at the same time to all other parties concerned. The director shall make the decision for the Division within 15 working days, and his decision shall be announced immediately to all parties concerned.

(d) If the complaint is not resolved and the operator/licensee is not satisfied with steps of Paragraphs (a) through (c) of this Rule, then the operator/licensee may file a complaint with the Division requesting a full evidentiary hearing.

(e) If a blind operator/licensee requests a full evidentiary hearing, such request shall be made within 15 working days after the director's adverse direction rendered through the procedures in this Rule.

(f) A blind operator/licensee shall request a full evidentiary hearing in writing. This request shall be transmitted to the director of the Division personally or by certified mail, return receipt requested, transmitted through the Elected Committee of Vendors in accordance with 34 C.F.R. 395.14(b)(2). This hearing shall be held in accordance with G.S. 150B, Article 3, the extent that such article does not conflict with these Rules pertaining to grievance procedures or any federal law or regulation.

(g) A blind operator/licensee shall be entitled to legal counsel or other representation in a full evidentiary hearing. The Division shall reimburse the operator for costs of legal counsel at a rate of 50% of the total amount not to exceed a total expenditure by the Division of one thousand five hundred dollars (\$1,500). This expenditure is based on the availability of funds.

(h) Reader services or other communication services shall be arranged for the blind operator/licensee should he so request. Transportation costs and per diem shall be provided also to the blind operator/licensee during the pendency of the evidentiary hearing, if the location of the hearing is in a city other than the legal residence of the operator/licensee.

(i) The hearing shall be held at a time and place convenient and accessible to the blind operator/licensee requesting a full evidentiary hearing. The blind operator/licensee shall be entitled to have the hearing held in the county of his residence unless he waives this right. A hearing held during regular Division working hours shall be deemed among the convenient times. The hearing shall be scheduled by the Division within 15 working days of its receipt of such a request, unless the Division and the blind operator/licensee mutually, in writing, agree to some other period of time. The Division shall notify the blind operator/licensee in writing of the time and place fixed for the hearing and of his right to be represented by legal or other counsel. The Division shall provide the blind operator/licensee a copy of the hearing procedures and other relevant information necessary to enable him to prepare his case for the hearing.

(j) The presiding officer at the hearing, to be appointed by the Secretary of the Department of Health and Human Services, shall be impartial, unbiased, have knowledge in conducting hearings,

and have no involvement either with the Division action which is at issue in the hearing or with the administration or operation of the Randolph Sheppard Business Enterprises Program.

(k) The presiding officer shall conduct a full evidentiary hearing, avoid delay, maintain order, and make sufficient record of the proceedings for a full and true disclosure of the facts and issues. To accomplish these ends, the presiding officer shall have all powers authorized by law and may make all procedural and evidentiary rulings necessary for the conduct of the hearing.

(l) Both the blind operator/licensee and the Division shall be entitled to present their case by oral or documentary evidence, to submit rebuttal evidence and to conduct such examination and cross examination of witnesses as may be required for a full and true disclosure of all facts bearing on the issue.

(m) All papers and documents introduced into evidence at the hearing shall be filed with the presiding officer and provided to the other party. All such documents and other evidence submitted shall be open to examination by the parties, and opportunities shall be given to refute facts and arguments advanced on either side of the issues.

(n) A transcript shall be made of the oral evidence and shall be made available to the parties. The Division shall pay all transcript costs and shall provide the blind operator/licensee with at least one copy of the transcript.

(o) The transcript of testimony, exhibits, and all papers and documents filed in the hearing shall constitute the exclusive record for decision.

(p) The decision of the presiding officer shall set forth the principal issues and relevant facts adduced at the hearing, and the applicable provisions in law, federal regulations, and state rules. It shall contain findings of fact and conclusions with respect to each of the issues, and the reasons and basis therefor. The decision shall also set forth any remedial action necessary to resolve the issues in dispute. The decision shall be made within 15 working days after the receipt of the official transcript. The decision shall be mailed promptly to the blind operator/licensee and the division.

(q) If the dispute(s) is not resolved to the satisfaction of a blind operator/licensee after provision of a full evidentiary hearing, an appeal may be made to the Secretary of the U. S. Department of Education for the convening of an arbitration panel.

(r) The results of the arbitration shall be considered the final agency action and the operator/licensee shall have exhausted his administrative remedies.

(a) A licensee, operator, or the ECBV dissatisfied with any action or inaction taken by the Division related to the Business Enterprises Program may request a request an informal review by the Operator Relations Committee. Participation in an informal review is not required to obtain a full evidentiary hearing, nor does participation in such an informal review waive any right to obtain a full evidentiary hearing.

- (1) When a licensee, operator, or the ECBV wishes to request an informal review by the Operator Relations Committee, the licensee, operator, or ECBV shall submit a written request to the Business Enterprises Program Chief. The licensee, operator, or the ECBV shall have 20 business days after the action or inaction taken by the Division that they are dissatisfied with to request an informal review.

- (2) The written request of the licensee, operator, or ECBV shall include:
 - (A) their name, address, and preferred means of receiving written communication with the Division;
 - (B) a statement that they are requesting an informal review;
 - (C) a statement explaining the actions or inactions with which they are dissatisfied; and
 - (D) a statement explaining the resolution sought by the licensee, operator, or ECBV.

This request shall be transmitted to the Business Enterprises Program Chief personally, electronically, or by certified mail, return receipt requested.

- (3) The licensee, operator, or the ECBV shall be notified of the date and location of the informal review at least 5 business days in advance of the informal review. The informal review shall be conducted within 25 business days of receipt of the request. The Operator Relations Committee shall issue a written decision within 10 business days after the informal review is conducted and mailed to the licensee, operator, or ECBV and the Division.

- (4) The Division shall review the decision of the Operator Relations Committee and shall notify the licensee, operator or ECBV in writing whether the Division affirms or overrules the decision within 5 business days of receipt of the decision.

- (5) A request for an informal review under this rule shall have the effect of suspending the time limitation for filing a petition for contested case hearing pursuant to G.S. 150B-23 and other provisions of Chapter 150B, Article 3 until the later of the following:

- (A) the licensee, operator, or the ECBV receives written notice of the Division's final decision regarding the informal review; or
- (B) the licensee, operator, or the ECBV withdraws its request for informal review

(b) Notwithstanding any other provision in this rule, a licensee, operator, or the ECBV dissatisfied with any action or inaction taken by the Division related to the Business Enterprises Program may request a full evidentiary hearing by filing a petition for contested case hearing with the Office of Administrative Hearings. Such a request for a full evidentiary hearing should be filed within the time limitation contained in G.S. 150B-23(f).

- (1) This hearing shall be held in accordance with G.S. 150B, Article 3.
- (2) If the dispute(s) is not resolved to the satisfaction of the licensee, operator, or the ECBV after the conclusion of a full evidentiary hearing, an appeal may be made to the Secretary of the U. S. Department of Education

for the convening of an arbitration panel in accordance with 34 C.F.R. 395.13.

Authority G.S. 111-27; 111-27.1; 143B-157; 150B-23; 20 U.S.C. 407; 20 U.S.C. 107b-1; 20 U.S.C. 107d-1.

SECTION .0600 - RESPONSIBILITIES OF LICENSED OPERATORS

10A NCAC 63C .0601 GENERAL RESPONSIBILITIES

(a) ~~The A Business Enterprises operator must~~ shall:

- (1) ~~perform faithfully and to the best of his ability the necessary duties in connection with [to] ensure the operation of the a Business Enterprises facility in accordance with the rules of the Commission for the [Blind] Blind, and standards issued pursuant thereto and the contractual agreement between the Division and the operator, and the terms and conditions of the permit or contract with the building or property on which the host [facility,] facility including any amendments if provided to the operator. facility is located; This requirement shall not mandate the physical presence of the operator at the facility at all times of its operation;~~
- (2) operate the facility in accordance with all applicable public health laws and Rules;
- (3) ~~assume such responsibilities as purchasing needed supplies and merchandise, pricing, merchandising the facility, and control of inventory; purchase merchandise, price goods for [sale,] sale as set forth in Rule .0608 of this Subchapter, purchase supplies for the [facility] facility, rotate stock, and control inventory in the Business Enterprises facility;~~
- (4) ~~devote his full managerial attention to the responsibilities of operating the facility in accordance with the agreement between him and [with] the Division and in accordance with the Rules in this Subchapter. The operator is not required to be on site at all times; and~~
- (5) ~~maintain good [professional relationships with] customer [customers,] relations with his patrons and with the property managing officials at his work site. [the host facility and the Division;]~~
- [(6)] ~~[maintain a neat, business like appearance while working at the Business Enterprises facility, and shall conduct the facility in an orderly, business like manner;]~~
- [(7)] ~~[must assure that the business to be carried on at the facility shall be limited to that specified and authorized in the operator agreement and permit or contract with the sponsor of the building or property where the facility is located. host facility;]~~
- [(8)](4) open and maintain a business bank account [in which funds are maintained to operate] for the

management of funds derived from the Business Enterprises facility;

- [(9)](5) submit an electronic profit and loss report (D-sheet) to the Division by the 15th of the month following the reporting [month;] month. Assistance shall be provided with the electronic submission of the report by the Business Enterprises Consultant upon request from the operator;
 - [(10)](6) submit payment of all monthly [fees] fees, including set-aside and liability fees, health insurance premiums, and phone bill payments, if applicable, to the Controller's Office by the 15th of the month following the month in which the business was transacted;
 - [(11)](7) keep all records supporting the monthly revenue and expense profit and loss report (D-sheet) for three calendar [years:] years, as required by this Subchapter;
 - [(12)](8) provide [all] records for the assigned facility to the Division upon request [for the purpose of business consultation,] [consultation and] for [conducting audits and record keeping reviews;] reviews as required by this Subchapter. That may include cash sales deposit receipts, cash register tapes, monthly bank and credit card statements, invoices and receipts for purchases and expenses, card reader weekly reports, and payroll records;
 - [(13)](9) be available for all appointments with the Division staff [members] members, [to allow inspection, advice, record] [reviews] [reviews, and consultation to support operations,] which will be scheduled at the convenience of both parties;
 - [(14)](10) not subcontract management of the Business Enterprises facility except as approved in writing by the [Division.] Division;
 - [(15)](11) take [appropriate] actions to correct deficiencies noted on Business Enterprises facility audits or reviews within 15 business [days, and] days after receiving notification of the deficiencies and a description of the corrective actions to be taken, unless an extension to this time frame has been agreed to by the Division and operator in writing; and
 - [(16)](12) notify the Division of [any] changes to the following no later than 10 business days after the change occurs:
 - (A) the facility telephone number;
 - (B) the address to which Business Enterprises correspondence [shall be] is delivered; and
 - (C) emergency contact [information] information.
- (b) ~~The operator shall be accountable to the Division for the proceeds of the Business Enterprises facility, facility and shall handle the proceeds, proceeds including payments to suppliers and deposits of funds, in accordance with Division guidelines~~

developed to facilitate the provision of management, accounting, and technical services to operators, and in accordance with the U.S. Department of Education reporting requirements, as set forth in Section .0700 of the Subchapter.

(c) The operator shall maintain a neat, business-like appearance while working at the Business Enterprises facility, and shall conduct the facility in an orderly, business-like manner.

(d) In accordance with Paragraph (b) of this Rule, any rebates, commissions, or bonuses received by the operator from supplier shall be considered as income or a refund of purchases and shall be accounted for accordingly.

(e) The operator must assure that the business to be carried on at the facility shall be limited to that specified and authorized in the permit or contract with the sponsor of the building or property where the facility is located.

Authority G.S. 111-27; 111-27.1; 34 C.F.R. 395.3; 34 C.F.R. 395.7; 20 U.S.C. Sec. 107.

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 rule cited as 12 NCAC 09E .0105.

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: January 1, 2021

Public Hearing:

Date: May 13, 2020

Time: 10:00 a.m.

Location: Wake Technical Community College Public Safety Training Center, 321 Chapanoke Rd, Raleigh, NC 27502

Reason for Proposed Action: Provide annual in-service topics for 2021.

Comments may be submitted to: Charminique D. 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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SUBCHAPTER 09E - IN-SERVICE TRAINING PROGRAMS

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

12 NCAC 09E .0105 MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING

(a) The following topics, specifications, and hours shall be included in each law enforcement officer's annual in-service training courses. For the purposes of this Subchapter, a credit shall be equal to one hour of traditional classroom instruction. All sworn law enforcement officers shall complete a minimum of 24 in-service training credits. The following topics, totaling 48 14 credits, shall be specifically required:

- (1) 2021 2020 Firearms Training and Qualification (minimum 4 credits);
(2) 2021 2020 Legal Update (minimum 4 credits);
(3) 2021 Continue to Make a Difference: Positive Engagement Stories ad Studies 2020 Long-Term Effects of Childhood Adversity (minimum 2 credits);
(4) 2021 School Safety and Responding to School Incidents (minimum 4 credits) 2020 The Signs Within: Suicide Prevention Education and Awareness (2 credits);
(5) 2020 Career Survival: Training and Standards Issues (2 credits);
(6) 2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing (2 credits);
(7) 2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority (2 credits);
(5)(8) Topics of Choice (12 credits);
(A) Officer Awareness: Responding to Victims of Trauma (minimum 4 credits); Hazardous Materials (2 credits);
(B) Patrol Vehicle Operations (minimum 4 credits); Bloodborne Pathogens (2 credits);
(C) Hemp Industry: Overview and Officer Roles (minimum 2 credits);