

REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Natural and Cultural Resources

RULE CITATION: 07 NCAC 02I .0201

DEADLINE FOR RECEIPT: Friday, May 10, 2019

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

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

On the Submission for Permanent Rule form, Box 6, you need to state what part of G.S. 150B-21.5 you are relying upon. I believe it is 150B-21.5(a)(4).

In the Introductory Statement, state: 07 NCAC 02I .0201 is amended without notice or hearing pursuant to G.S. 150B-21.5(a)(4) with changes as follows:

On line 4, you cannot have an (a) without a (b). Please remove the "(a)" altogether.

In (a), line 4, so that I'm clear – how long will the grant last? It appears from line 4 that these are awarded annually, but then why do (a)(8) through (10) speak to annual submission? If the grant is only good for one year, isn't the reference to "annually" redundant elsewhere in the Rule?

On line 5, the APA states that while forms themselves do not belong in rule, the substantive contents of the forms must be stated in rule or law. [See G.S. 150B-2(8a)(d)] Are the contents of this form in Rule or law elsewhere? And how do the libraries get this form?

On line 5, what is "supporting documentation including financial and statistical reports"? What does this entail?

In (a)(1), line 7, what do you mean "consistent with the provisions"? If you want the libraries to established under that law, why not simplify the language and simply state "Be established pursuant to G.S. 153A, Article 14,"?

In (a)(2), line 9, what "applicable" laws are you referring to? Does your regulated public know?

On line 9, please make "Federal" lowercase.

In (a)(2), and elsewhere you use these terms, typically the use of "at least" or "minimum" is not favored in rules, as rules set the minimum. However, I take it you need to retain the terms here?

In (a)(3), line 14, put "Full-time" in quotation marks, since you are defining the term. I suggest stating "For the purpose of this Rule, "full-time" means working..."

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 30, 2018

In (a)(4), line 15, what do you mean by “secure”? Please note the same for (a)(5), line 21.

In (a)(5), line 21, replace “which” with “that”

On line 21, capitalize “State”

In (a)(6), line 23, what is an “unencumbered operational balance”? Does your regulated public know?

On line 24, capitalize “State” assuming you mean NC.

In (a)(7), line 27, established by OSHR where? How will the public know?

In (a)(10), line 33, what is “current”?

On line 33, please put “long-range plan of service” in quotation marks since you are defining the term. And consider stating “For the purpose of this Rule, “long-range plan of service” means...”

On line 34, under what circumstances will this request be made?

On line 35, how will this assessment be conducted?

On Page 2, begin the line numbers at 1. [See 26 NCAC 02C .0108(1)(f)]

In (a)(12), Page 2, line 38, what do you mean by “stipulations”?

In (a)(12)(a), line 40, and (b), line 42, what do you mean by “Section”? Do you mean Rule? Or do you mean this Item within this Rule? I ask because I doubt you mean “Section .0200”

On lines 41, 44, and 45, please capitalize “State” assuming you mean “NC”

On line 43, please put “demonstration year” in quotation marks.

In (a)(12)(c), line 44, what is “full”?

Also on line 44, is this application for State aid the same as the application on line 5? If so, shouldn't “State Aid” be capitalized here as well?

In the History Note, please underline “Amended Eff. June 1, 2019.”

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: April 30, 2018

07 NCAC 02I .0201 is amended pursuant to G.S. 150B-21.5 as follows:

07 NCAC 02I .0201 QUALIFICATIONS FOR GRANT ELIGIBILITY

(a) Libraries requesting funding from the Aid to Public Libraries Fund shall submit annually to the State Library of North Carolina an application for State Aid and supporting documentation including financial and statistical reports and shall meet the following eligibility requirements:

- (1) Be established consistent with the provisions of Article 14, Chapter 153A of the North Carolina General Statutes;
- (2) Provide library services in compliance with applicable State and Federal law to all residents of the political subdivision(s) supporting the library. Public library services shall be provided from at least one designated facility with a cataloged collection that is open to the public a minimum of 40 hours per week;
- (3) Employ a full-time library director having or eligible for North Carolina public librarian certification. Full-time means working a minimum of 35 hours per week;
- (4) Secure operational funds from local government sources at least equal to the average amount budgeted and available for expenditure for the previous three years. A grant to a local library system from the Aid to Public Libraries Fund shall not be terminated but shall be reduced proportionately by the Department if the amount budgeted and available for expenditure by local government is below the average of the previous three fiscal years. State funds shall not replace local funds budgeted and available for expenditure for public library operations;
- (5) Secure aggregate operational funds from local sources which are at least equal to state aid;
- (6) Expend funds as authorized in the budget adopted by the Board of Trustees of a Regional Library, a County, or a Municipality. Any library having an unencumbered operational balance of more than 17 percent of the previous year's operating receipts shall have the difference deducted from its state allocation;
- (7) Pay salaries for professional positions funded from the Aid to Public Libraries Fund at least at the minimum rate of a salary grade of ~~69-GN10~~, or equivalent, as established by the Office of State ~~Personnel~~; Human Resources;
- (8) Provide to the State Library of North Carolina an annual audit of the political subdivision(s) funding the library consistent with generally accepted accounting principles;
- (9) Submit annually to the State Library of North Carolina a copy of the bylaws of the library system's Board(s) of Trustees;
- (10) Submit annually a current long-range plan of service to the State Library of North Carolina. A long-range plan of service is a plan of at least five years. Upon request, the library shall submit an assessment of a community's library needs to the State Library of North Carolina;
- (11) Submit a copy of the agreement establishing the library system, if composed of more than one local governmental unit; and

(12) Meet the following stipulations when establishing a new library or re-establishing eligibility for the Aid to Public Libraries Fund:

- (a) meet all requirements of this Section on July 1 of the year prior to the fiscal year that the library plans to receive state aid;
- (b) continue to meet all requirements of this Section from July 1 to June 30 of that year, which shall be known as the demonstration year; and
- (c) file a full application for state aid by the June 30 deadline at the close of the demonstration year in order to receive state aid in the next fiscal year.

History Note: Authority G.S. 125-7;

Eff. April 1, 2011;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 22, 2017;

Amended Eff. June 1, 2019.