

REQUEST FOR TECHNICAL CHANGE

AGENCY: Veterans Affairs Commission

RULE CITATION: 1 NCAC 26B .0104

DEADLINE FOR RECEIPT: August 11, 2015

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Generally, this rule refers to forms that scholarship applicants are required to use and instructions that they must follow. Such instructions and forms are rules which must be promulgated through rulemaking in compliance with G.S. 150B-18 et seq. Thus, the requirements of these instructions and forms, such as the application deadlines set out in the Instruction Sheet and the specific information that must be provided on each form, should be prescribed in a rule or statute. In addition, it is not clear whether this rule lists all forms that the Commission requires of scholarship applicants – all such forms must be promulgated through rulemaking unless they meet the exception described below.

Pursuant to G.S. 150B-2(8a)d., a form is excluded from the definition of a rule, and need not be promulgated through rulemaking, only if the form's "contents or substantive requirements ... are prescribed by rule or statute." If the contents or substantive requirements of the forms are not prescribed in another rule or statute, please add a detailed list of the contents or substantive requirements of the each form to this rule, perhaps in subparts to each subparagraph. In addition, the rule should also state, with specificity, where the forms may be obtained; for instance, website addresses may be referenced in the rule.

Paragraph (1), lines 6-8, describes the Instruction Sheet. Among other things, this sheet sets out application deadlines, lists mandatory forms, and states other requirements with which all applicants must comply. It appears that only some of these requirements are prescribed in 1 NCAC 26 .0106.

(<http://www.doa.nc.gov/vets/documents/scholarship/NCDVA-16InstructionSheet.pdf>).

The contents or substantive requirements of the Instruction Sheet must be prescribed in this rule or in another rule or statute. Failing this, staff will recommend that the RRC object to this rule.

Jason S. Thomas
Commission Counsel

Date submitted to agency: July 28, 2015

Paragraph (2), lines 9-14, describes the Application Form. This form requires the applicant to provide certain information, only some of which is prescribed in 1 NCAC 26.0106. (<http://www.doa.nc.gov/vets/documents/scholarship/NCDVA-17Application.pdf>). The contents or substantive requirements of the Application Form must be prescribed in this rule or in another rule or statute. Failing this, staff will recommend that the RRC object to this rule.

Paragraph (3), lines 20-24, describes the Financial Questionnaire. This form requires the applicant to provide certain financial information, only some of which is prescribed in 1 NCAC 26.0106. (<http://www.doa.nc.gov/vets/documents/scholarship/NCDVA-18Financial%20Questionnaire.pdf>). The contents or substantive requirements of the Financial Questionnaire must be prescribed in this rule or in another rule or statute. Failing this, staff will recommend that the RRC object to this rule.

Paragraph (4), lines 25-27, describes the Essay Questionnaire. This form requires the applicant to provide information, none of which is prescribed in 1 NCAC 26.0106. ([http://www.doa.nc.gov/vets/documents/scholarship/NCDVA-23B\(2\)EssayQuestionnaire.pdf](http://www.doa.nc.gov/vets/documents/scholarship/NCDVA-23B(2)EssayQuestionnaire.pdf)). The contents or substantive requirements of the Essay Questionnaire must be prescribed in this rule or in another rule or statute. Failing this, staff will recommend that the RRC object to this rule.

Paragraph (5), lines 28-33, describes the Recommendation Form. This form requires the applicant to provide information, none of which is prescribed in 1 NCAC 26.0106. ([http://www.doa.nc.gov/vets/documents/scholarship/NCDVA-23B\(3\)ScholarshipRecommendation%20Form.pdf](http://www.doa.nc.gov/vets/documents/scholarship/NCDVA-23B(3)ScholarshipRecommendation%20Form.pdf)). The contents or substantive requirements of the Recommendation Form must be prescribed in this rule or in another rule or statute. Failing this, staff will recommend that the RRC object to this rule.

Please delete the citation to G.S. 143B-252(4) as Authority in your History Note, because that statute no longer authorizes the Commission to take any action.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: July 28, 2015

1 01 NCAC 26B.0104 is amended as published in 29:13 NCR 1602 as follows:

2
3 **01 NCAC 26B .0104 FORMS AND INSTRUCTIONS**

4 The following forms and instructions are used by the Veterans Affairs Commission ~~commission~~ (the “Commission”
5 for purposes of this Subchapter 26B):

- 6 (1) Instruction Sheet. This form describes requirements for application for scholarships administered
7 by the Commission ~~commission~~ and tells when to apply, what forms and information to submit and
8 where they are to be submitted.
- 9 (2) Application Form. This form requests information about the applicant including date of birth, length
10 of residence in North Carolina, high school attended and college, university, or technical institute
11 in North Carolina the applicant plans to attend as well as information about the veteran such as his
12 or her present legal residence, and other information relative to the veteran's current status.
13 Questions about accomplishments of the applicant or special honors or awards received during his
14 or her high school career (and post-high school) are also asked.
- 15 (3) ~~Financial Questionnaire to Accompany Application for Scholarship. This form contains questions~~
16 ~~about the value of real and personal property owned by the applicant's parents and income received~~
17 ~~by the parents from rental property and employment, their disabilities, if any, number of persons in~~
18 ~~the applicant's immediate family, and other information pertaining to the ability of the applicant's~~
19 ~~family to contribute to his further education. Questions about accomplishments of the applicant or~~
20 ~~special honors or awards received during his or her high school career are also asked. This form~~
21 contains questions about the applicant's and applicant's parents' liquid assets, liabilities, income
22 and marital status along with information about applicant's disabilities (if any), immediate family
23 member(s) and other information pertaining to the ability of the applicant and applicant's family to
24 contribute to educational expenses.
- 25 (4) Essay Questionnaire to Accompany Application for Scholarship for Children of War Veterans. This
26 form contains questions designed to elicit input from the applicant on reasons he or she should be
27 awarded a scholarship.
- 28 (5) Recommendation Form to Accompany Application for Scholarship for Children of War Veterans.
29 This form requests input from the applicant's recommenders regarding the length of time the
30 recommender has known the applicant, relationship to the applicant, academic standing, disciplinary
31 record, character (such as courage, honesty, kindness, dedication, work ethic) and potential for
32 successful completion of college course of study. Applicants must submit two of these completed
33 recommendation forms, at least one of which must be completed by a teacher or guidance counselor.

34
35 *History Note: Authority G.S. 143B-252(4); 143B-399(4);*
36 *Eff. February 1, 1976;*
37 *Readopted Eff. February 27, 1979.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Veterans Affairs Commission

RULE CITATION: 1 NCAC 26B .0105

DEADLINE FOR RECEIPT: August 11, 2015

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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In line 6, please add the website address where the forms may be obtained electronically.

Please delete the citation to G.S. 143B-252 as Authority in your History Note, because that statute no longer authorizes the Commission to take any action.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: July 28, 2015

1 01 NCAC 26B.0105 is amended as published in 29:13 NCR 1603 as follows:

2

3 **01 NCAC 26B .0105 WHERE TO OBTAIN FORMS**

4 ~~All forms are on file in and may be obtained from the office of the division of veterans affairs, all district offices, and~~
5 ~~county veterans service offices.~~ All forms are on file and may be obtained from the Office of the Division of Veterans
6 Affairs or electronically.

7

8 *History Note: Authority G.S. 143B-252; 143B-399;*

9 *Eff. February 1, 1976;*

10 *Readopted Eff. February 27, 1979;*

11 *Amended Eff. September 1, 2015.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Veterans Affairs Commission

RULE CITATION: 01 NCAC 26B .0106

DEADLINE FOR RECEIPT: August 11, 2015

NOTE WELL: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.

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

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Paragraph (1), line 12: Please state where the electronically-available forms and instruction sheet can be found, perhaps by citing the appropriate web address.
(<http://www.doa.state.nc.us/vets/benefitslist.aspx?pid=scholarships>)*

*Paragraph (1), line 12: Please consider stating where a list of the veterans service offices can be found, perhaps by citing an appropriate web address.
(<http://www.doa.state.nc.us/vets/vso-map.aspx>)*

Paragraph (2), lines 16-23: Please be sure that all documents required by the Commission are listed in this rule or in another rule or statute – for clarity, please consider listing all such documents in one rule. To further assure clarity, please consider revising this paragraph into a list, perhaps as follows:

- (2) The following documents shall be received by the Assistant Secretary's Office on or before February 14:
 - (a) Completed application, together with a copy of the public record of applicant's birth;
 - (b) evidence of veteran's biological or adoptive relationship to applicant (which may be shown on birth certificate, court documents, payment of child support or DNA test);
 - (c) copy of veteran's discharge or notice of separation from the armed services (if available);
 - (d) authorization for release of information
 - (e) financial questionnaire;
 - (f) most recent federal income tax return filed
 - (g) high school transcript and college transcript (through junior year of high school or if already graduated for all semesters attended of high school and college);
 - (h) recommendations; and
 - (i) essay submissions.

In Paragraph (2), line 22, change "must" to "shall"

Jason S. Thomas
Commission Counsel
Date submitted to agency: July 28, 2015

In Paragraph (3), line 24, change “must” to “shall”

In Paragraph (3), line 25, what “necessary information” will the Assistant Secretary’s Office request? Paragraph (4) suggests that it is a certification. In any event, please describe this “necessary information” in Paragraph (3).

In Paragraph (4), line 27, change “will” to “shall”

In Paragraph (4), line 27, please delete the word “carefully”

Paragraph (4), lines 26-28, states that certain documents will be checked but fails to state who will check. Please revise this paragraph to state who will check the documents to assure eligibility.

In Paragraph (5), line 2 (page 2), change “must” to “shall” twice in this line of text.

Paragraph (5), lines 35 (page 1) - 2 (page 2), states that the applicant and district service office “will be so informed” but fails to state who will provide the information. Please revise this paragraph to state who will provide the information referenced in Paragraph (5).

In Paragraph (6), lines 12-20, please consider breaking this into two paragraphs, the first from lines 12-14 and the second from lines 14-20.

In Paragraph (6), line 12, change “must” to “shall”

Paragraph (6), lines 12-14, is confusing and unclear. Does this mean that an application that has been submitted will not be processed until the tax return and Selective Service registration acknowledgement has been submitted? Whatever the intention, please revise this sentence to make it clear who will do what.

In Paragraph (6), lines 14-19, please consider revising this as a new Paragraph (7), listing the required documents, perhaps as follows:

- (7) On or before June 30, applicants must provide to the Assistant Secretary’s Office:
 - (a) a copy of their high school diploma;
 - (b) NCDVA-11 (Affidavit-School Declaration);
 - (c) a letter of acceptance for the school that applicant seeks to attend; and
 - (d) a complete scholastic record (including but not limited to list of high school and college courses taken with corresponding grades earned, cumulative weighted and unweighted grade point average, and attendance and disciplinary records).

Is Paragraph (6), lines 19-20 (beginning with The Instruction Sheet...) necessary? If not, please delete this sentence. If it is needed, please change “applicant is” to “applicant shall be” at the end of line 19.

In Paragraph (7), line 22, change “will” to “shall”

In Paragraph (7), line 34, please clarify whether the “service connected disability” is the disability of the applicant or of the veteran who is related to the applicant.

Jason S. Thomas
Commission Counsel
Date submitted to agency: July 28, 2015

In Paragraph (8), line 36, what does “confirmation” mean? If it means “decision,” please consider using that word instead.

In Paragraph (8), line 37, change “will” to “shall”

In Paragraph (8), line 1 (page 3), change “is” to “shall be”

In Paragraph (8), line 3, change “are” to “shall be”

In Paragraph (8), line 4, please add “following the award by the Assistant Secretary” to the end of the sentence to assure clarity.

Please delete the citation to G.S. 143B-252(4) as Authority in your History Note, because that statute no longer authorizes the Commission to take any action.

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

Jason S. Thomas
Commission Counsel
Date submitted to agency: July 28, 2015

1 01 NCAC 26B.0106 is amended as published in 29:13 NCR 1603 as follows:

2

3 **01 NCAC 26B .0106 DELEGATION OF AUTHORITY**

4 The Veterans Affairs Commission delegates to the Assistant Secretary for Veterans Affairs the responsibility for
5 obtaining information and making recommendations of applications for scholarship awards which the Commission
6 ~~commission~~ administers. The following procedure has been set by the Commission ~~commission~~ for use by the
7 Assistant ~~assistant~~ Secretary ~~secretary~~ in reviewing applications:

8 (1) ~~Interested parties may obtain application for scholarship blanks from district service officer, county~~
9 ~~service officer, or the assistant secretary's office. A sheet of instructions is given to each applicant~~
10 ~~for a scholarship and assistance is available from the service officer.~~Interested parties may obtain
11 application for scholarship blank forms and an instruction sheet from the Assistant Secretary's
12 Office or electronically. Assistance is available from veterans service offices.

13 (2) ~~Completed application, together with a copy of the public record of applicant's birth, a copy of~~
14 ~~veteran's discharge or notice of separation from the armed service (if available) and letters of~~
15 ~~recommendation must be mailed to the assistant secretary's office, preferably prior to May first.~~
16 Completed application, together with a copy of the public record of applicant's birth, evidence of
17 veteran's biological or adoptive relationship to applicant (which may be shown on birth certificate,
18 court documents, payment of child support or DNA test), copy of veteran's discharge or notice of
19 separation from the armed services (if available), authorization for release of information, financial
20 questionnaire, most recent federal income tax return filed, high school transcript and college
21 transcript (through junior year of high school or if already graduated for all semesters attended of
22 high school and college), recommendations and essay submissions, must be received by the
23 Assistant Secretary's Office on or before February 14.

24 (3) Upon receipt of application, the Assistant ~~assistant~~ Secretary's ~~secretary's~~ Office ~~office~~ will request
25 necessary information from the appropriate Veterans Administration office.

26 (4) Upon receipt of Veterans Administration's certification, such certification, birth certificate and
27 discharge from armed services and other information will be carefully checked to determine if
28 eligibility requirements of the law are met. For purposes of G.S.165-20(3), applicant must be under
29 age 25 at the time of application for scholarship which is the earlier of either:

30 (a) the date received in the NCDVA Assistant Secretary's Office as evidenced by
31 NCDVA date stamp or,

32 (b) the US Postal Service date identification or,

33 (c) the processing date identification from any other federal or state recognized mail
34 carrier system that delivers mail.

35 (5) If the Veterans Administration certification and other information indicates that residential
36 requirements of the law or the necessary degree of disability is not met, the applicant and district

1 service ~~office officer~~ will be so informed and the applicant will be offered the assistance of the
2 service ~~office officer~~ in submitting further evidence.

3 ~~(6)~~ A report of information and investigation will then be requested from the ~~district service officer~~.
4 The ~~district service officers~~ will be instructed as to what types of information their reports should
5 contain.

6 ~~(7)~~ Reports from ~~district service officers~~ will be sent to the assistant secretary's office.

7 ~~(6)~~ 8) The sheet of instructions which is sent to each applicant with application for scholarship forms
8 makes it clear that each applicant is responsible for ensuring that his complete scholastic record is
9 received at the Assistant Secretary's Office, North Carolina Division of Veterans Affairs, Raleigh,
10 North Carolina, as soon as possible after his graduation from high school to be considered in
11 connection with possible scholarship awards. (This applies to all types of scholarship
12 applications.) For further processing of applications, upon completion, each applicant must provide
13 to the Assistant Secretary's Office a copy of the previous year's federal income tax return and, if
14 male, copy of Selective Service registration acknowledgment. Also, on or before June 30, applicants
15 must provide to the Assistant Secretary's Office a copy of their high school diploma, NCDVA-11
16 (Affidavit-School Declaration), letter of acceptance for the school that applicant seeks to attend, and
17 complete scholastic record (including but not limited to list of high school and college courses taken
18 with corresponding grades earned, cumulative weighted and unweighted grade point average,
19 attendance and disciplinary records). The Instruction Sheet makes it clear that each applicant is
20 responsible for ensuring the Assistant Secretary's Office receives these documents timely.

21 ~~(79)~~ In making recommendations for the awarding of scholarships in the competitive categories, the
22 ~~Assistant assistant Secretary secretary~~ will consider the disability and other eligibility requirements
23 of each application in accordance with the standards enumerated in G.S. 165-22 and make his or her
24 recommendations to members of the ~~Commission commission~~ based on the following criteria, and
25 importance shall attach in the order named:

26 (a) Need. Preference shall be given to the eligible child with the greater financial
27 need. (In cases where the parent has considerable property, attention of the
28 ~~Commission commission~~ shall be called to this fact, if such application is
29 recommended for a scholarship award.)

30 (b) Scholastic Ability. Preference shall be given the eligible child with the higher
31 scholastic award.

32 (c) Consideration shall be given to the character, reputation, industry,
33 accomplishments, and handicaps (if any) of the eligible child.

34 (d) All other things being equal, the degree of service connected disability shall be
35 given preference.

36 ~~(840)~~ Upon confirmation of the members of the ~~Commission commission~~, the applicant and other
37 interested parties will be notified as to the disposition made of their application. The Assistant

1 Secretary for Veterans Affairs is authorized to award class I and IV (unlimited scholarships) to any
2 other applicant who meets all ~~eligibility~~ eligibility requirements under class I or IV -twice annually,
3 on or about January 1 and July 1 ~~between meetings of the commission~~. These awards are then
4 ratified by the Commission ~~commission~~ at its next meeting.

5

6 *History Note: Authority G.S. 143B-252(4); 143B-399(4); 165-22.1(a);*

7 *Eff. February 1, 1976;*

8 *Readopted Eff. February 27, 1979;*

9 *Amended Eff. September 1, 2015.*