

REQUEST FOR TECHNICAL CHANGE

AGENCY: Local Government Commission

RULE CITATION: 20 NCAC 03 .0409

DEADLINE FOR RECEIPT: Thursday, October 11, 2017

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

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

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

In the Introductory Statement, line 1, please state "20 NCAC 03 .0409 is adopted as published in 31:24, page 2481, with changes as follows:" (See Rule 26 NCAC 02C .0404)

In (a)(2), line 10, please put the period inside the quotation marks.

Also on line 10, please capitalize "Rule"

In (a)(3), line 14, you state the policy shall include procedures. On line 15, however, you refer to the policy and "any procedures." Isn't the policy required to include these procedures, such that "any" is unnecessary? Should it be "the"? If these aren't the same procedures, what procedures are these?

In (a)(3)(B), line 18, how is sufficiency determined? Is this going to be done by the unit?

In (a)(5), line 25, consider stating "Each quarter, the unit shall provide its governing board with a..."

Just so I know – is "budget to actual statement" a term of art understood by your regulated public?

In (b), since you defined "unit" as a "local government, public authority, or local school administrative unit" in (a) on line 6, why not just state on line 31, "Units that comply..."

On lines 31-32, state "comply with Paragraph (a) of this Rule"

On line 33, should "as follows" with "with:"?

In (b)(1) through (3), you have three exceptions. But both statutes define electronic payments to include more than those listed in the Rule.

G.S. 159-28 states:

Amanda J. Reeder
Commission Counsel
Date submitted to agency: September 27, 2017

- (f) The certifications required by subsections (a1) and (d1) of this section shall not apply to any of the following:
 - (1) An obligation or a document related to the obligation has been approved by the Local Government Commission.
 - (2) Payroll expenditures, including all benefits for employees of the local government.
 - (3) Electronic payments, as specified in rules adopted by the Local Government Commission.
- (g) As used in this section, the following terms shall have the following meanings:
 - (1) Electronic funds transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.
 - (2) Electronic payment. – Payment by charge card, credit card, debit card, gas card, procurement card, or electronic funds transfer.

G.S. 115C-441 states:

- (f) The certifications required by subsections (a1) and (d1) of this section shall not apply to any of the following:
 - (1) An obligation or a document related to the obligation has been approved by the Local Government Commission.
 - (2) Payroll expenditures, including all benefits for employees of the local government.
 - (3) Electronic payments, as specified in rules adopted by the Local Government Commission.
- (g) As used in this section, the following terms shall have the following meanings:
 - (1) Electronic funds transfer. – A transfer of funds initiated by using an electronic terminal, a telephone, a computer, or magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an account.
 - (2) Electronic payment. – Payment by charge card, credit card, debit card, gas card, procurement card, or electronic funds transfer.

Shouldn't the Rule include all of the statutory payment option exclusions?

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: September 27, 2017

1 20 NCAC 03 .0409 is proposed for adoption as follows:

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3 **20 NCAC 03 .0409 EXEMPTION FROM PREAUDIT CERTIFICATE REQUIREMENT FOR**
4 **ELECTRONIC TRANSACTIONS**

5 (a) To qualify for an exemption from the preaudit certificate requirement in G.S. 159-28(a) or G.S. 115C-441(a) for
6 electronic transactions, a local government, public authority, or local school administrative unit, herein referred to as
7 “the unit,” shall do the following:

8 (1) The unit’s governing board shall adopt a resolution authorizing the unit to engage in electronic
9 transactions as defined by G.S. 159-28 or G.S. 115C-441;

10 (2) The unit shall have an “encumbrance system”. As used in this rule, an “encumbrance system” means
11 a system of written policies and procedures for tracking obligations. The system may be manual,
12 maintained as part of the unit’s accounting system, or a combination of the two;

13 (3) The unit’s governing board, or finance officer if authorized by the unit’s governing board, shall
14 adopt a written policy outlining procedures for preauditing obligations that will be incurred by
15 electronic transactions. The written policy and any procedures shall provide internal controls that
16 shall ensure the following:

17 (A) there is a budget, project, or grant ordinance appropriation authorizing the expenditure;

18 (B) that sufficient budgeted monies remain within the appropriation to cover the amount that
19 is expected to be paid out during the current fiscal year if accounted for in the budget
20 ordinance, or to cover the entire amount if accounted for in a project or grant ordinance;
21 and

22 (C) that the amount of the transaction is recorded in the unit’s encumbrance system;

23 (4) The unit shall provide training to all personnel about the written policy and the procedures that shall
24 be followed before undertaking an electronic transaction; and

25 (5) The unit shall provide its governing board, each quarter, a budget to actual statement that includes
26 the following:

27 (A) budgeted accounts;

28 (B) actual payments made;

29 (C) amounts encumbered, including electronic obligations; and

30 (D) the amount of the budget that is unobligated for all major funds.

31 (b) Local government, public authority, or local school administrative units that comply with Subparagraphs (a)(1)
32 through (5) of this Rule shall not be required to affix the preaudit language required in G.S. 159-28 (a1) or G.S. 115C-
33 441 (a1) to electronic transactions transacted as follows:

34 (1) credit cards;

35 (2) procurement cards; or

36 (3) fuel cards.

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1 History Note: Authority G.S. 159-28(f)(3); 115C-441(f)(3);
2 Eff. November 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Local Government Commission

RULE CITATION: 20 NCAC 03 .0410

DEADLINE FOR RECEIPT: Thursday, October 11, 2017

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:

In the Introductory Statement, line 1, please state "20 NCAC 03 .0410 is adopted as published in 31:24, pages 2481 - 2482, with changes as follows:" (See Rule 26 NCAC 02C .0404)

In (a)(2), line 11, you state the policy shall include procedures. On line 12, however, you refer to the policy and "any procedures." Isn't the policy required to include these procedures, such that "any" is unnecessary? Should it be "the"? If these aren't the same procedures, what procedures are these?

In (a)(2)(D), line 18, how is sufficiency determined? Is this going to be done by the unit?

In (b), since you defined "unit" as a "local government, public authority, or local school administrative unit" in (a) on line 7, why not just state on line 19, "Units that comply..."

On lines 19-20, state "comply with Paragraph (a) of this Rule"

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: September 27, 2017

1 20 NCAC 03 .0410 is proposed for adoption as follows:
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3 **20 NCAC 03 .0410 EXEMPTION FROM DISBURSEMENT CERTIFICATE REQUIREMENT FOR**
4 **ELECTRONIC TRANSACTIONS**

5 (a) To qualify for an exemption from the disbursement certificate requirement in G.S. 159-28(d1) and G.S. 115C-
6 441(d1) for electronic transactions, a local government, public authority, or local school administrative unit, herein
7 referred to as “the unit,” shall do the following:

8 (1) The unit’s governing board shall adopt a resolution authorizing the unit to engage in electronic
9 transactions as defined by G.S. 159-28 or G.S. 115C-441; and

10 (2) The unit’s governing board, or finance officer if authorized by the governing board, shall adopt a
11 written policy outlining procedures for disbursing public funds by electronic transaction. The
12 written policy and any procedures shall provide internal controls that shall ensure the following:

13 (A) that the amount claimed is payable;

14 (B) that there is a budget, project, or grant ordinance appropriation authorizing the expenditure;

15 (C) that monies remain within the appropriation to cover the amount that is due during the
16 current fiscal year if accounted for in the budget ordinance, or to cover the entire amount
17 if accounted for in a project or grant ordinance; and

18 (D) that the unit has sufficient cash to cover the payment.

19 (b) Local government, public authority, or local school administrative units that comply with Subparagraphs (a)(1)
20 and (2) of this Rule shall not be required to affix the disbursement certificate required in G.S. 159-28 (d1) or G.S.
21 115C-441 (d1) to any electronic transactions.

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23 History Note: Authority G.S. 159-28(f)(3); 115C-441(f)(3);

24 Eff. November 1, 2017.
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