



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6714

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

December 19, 2013

Karen E. Waddell
APA Coordinator
1201 Mail Service Center
Raleigh, NC 27699-1201

Re: 11 NCAC 08 .1202, .1203, .1204, .1205

Dear Ms. Waddell:

At its December 19, 2013 meeting, the Rules Review Commission extended the period of review on the above-captioned rules in accordance with G.S. 150B-21.13. The Commission extended the period of review to allow the Home Inspector Licensure Board additional time to review staff's Request for Technical Changes.

If you have any questions regarding the Commission's action, please do not hesitate to contact me directly at (919) 431-3076.

Sincerely,

Abigail M. Hammond
Commission Counsel

Attachment: 11 NCAC 08 .1202, .1203, .1204, .1205

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

1 **11 NCAC 08 .1202 IS AMENDED AS PUBLISHED IN 28:04 NCR 322 AS FOLLOWS:**

2
3
4 **11 NCAC 08 .1202 COMPLAINTS**

5 (a) Anyone who believes that a licensee is or has been engaged in any conduct set out in G.S. 143-151.56(a) may file a
6 written complaint against that licensee. ~~The Board may, upon its own motion, initiate an investigation of a licensee.~~ The
7 Board shall not consider complaints about a home inspection that are received by the Board more than three years from
8 the dates of the inspection.

9 (b) An information memo containing instructions for filing the complaint shall be mailed to anyone requesting complaint
10 information from the Board.

11 (c) The complaint shall specifically identify the licensee and describe the conduct complained about.

12 (d) Supporting information shall be included to justify the complaint. Supporting information shall refer to specific
13 violations of the Board's rules or of the General Statutes. If the complaint involves items included in the Standards of
14 Practice that the licensee did not observe, a list of those items must be submitted with the complaint. This information
15 may be provided by the complainant, an architect, professional engineer, licensed contractor, another licensed home
16 inspector, or other person with knowledge of the Standards of Practice. A copy of the contract agreement, the inspection
17 report, and any reports made by other consultants shall be included with the complaint.

18 (e) The complaint shall be in writing, signed by the complainant, and dated. The complaint shall include the
19 complainant's mailing address and a daytime phone number at which the complainant may be reached. The street address
20 of the structure must be ~~included.~~ included if the complaint pertains to an inspection of a structure.

21 (f) The Board shall not consider services that are under the jurisdiction of other regulatory agencies or licensing boards,
22 such as termite ~~inspections, appraisals, inspections; appraisals; or~~ services rendered by licensed architects, engineers, or
23 general contractors, unless the persons rendering those services claim to be home inspectors.

24 (g) The Board has no jurisdiction over persons who make specialized inspections as part of their repair or maintenance
25 businesses, such as roofing repair contractors, chimney sweeps, duct cleaning, and interior environment specialists.

26 (h) The Board members or the Board staff may initiate an investigation without a written complaint when there is cause
27 to believe that a licensee is or has been engaged in any conduct set out in G.S. 143-151.56(a).

28
29 *History Note: Authority G.S. 143-151.58(d); 143-151.56(a); 143-151.49; 150B-38(h);*
30 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
31 *1996;*
32 *Temporary Adoption Eff. October 24, 1996;*
33 *Eff. July 1, 1998;*
34 *Amended Eff. February 1, 2014; April 1, 2006.*
35

1 **11 NCAC 08 .1203 IS REPEALED AS PUBLISHED IN 28:04 NCR 322 AS FOLLOWS:**

2

3 **11 NCAC 08 .1203 BOARD STAFF**

4

5 *History Note: Authority G.S. 143-151.49; 150B-38(h);*

6 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15,*
7 *1996;*

8 *Temporary Adoption Eff. October 24, 1996;*

9 *Eff. July 1, 1998;*

10 *Amended Eff. April 1, 2005.*

11 *Repealed Eff. February 1, 2014.*

12

13

1 **11 NCAC 08 .1204 IS AMENDED AS PUBLISHED IN 28:04 NCR 322 AS FOLLOWS:**

2
3 **11 NCAC 08 .1204 INVESTIGATION**

4 (a) On receipt of a complaint conforming to this Section, the Engineering and Codes Division shall ~~make an investigation of~~
5 ~~the charges and issue a report. The report shall address each item alleged to be a violation of these Rules or of the General~~
6 ~~Statutes.~~ conduct an investigation.

7 (b) A copy of the complaint shall be mailed to the home inspector. The inspector shall submit a written response to the
8 Engineering and Codes Division within two weeks after receipt of the copy of the complaint.

9 ~~(c) A copy of the report shall be mailed to the complainant and to the inspector.~~

10 ~~(d) The report shall state that the complaint either has or lacks sufficient evidence to support the allegations in the complaint.~~

11 ~~(e) If the report states that the allegations lack sufficient evidence, the Engineering Division shall:~~

12 ~~(1) Advise the complainant in writing that the evidence was insufficient to support the allegations in the~~
13 ~~complaint.~~

14 ~~(2) Advise the complainant that the complaint may be reviewed by a committee of Board members appointed~~
15 ~~by the Chairman to determine whether the finding of the Engineering Division is correct.~~

16 ~~(3) Advise the complainant that the complainant must make a written request for the review and must state in~~
17 ~~the request the reasons why the complainant is of the opinion the Engineering Division's determination is~~
18 ~~incorrect.~~

19 ~~(4) If the complainant makes a written request for review by a committee of Board members, the chairman~~
20 ~~shall appoint the committee. The committee shall review the report and the complainant's documentation.~~
21 ~~If the committee finds that the allegations are unsupported by the evidence, the Engineering Division shall~~
22 ~~advise the complainant in writing that the committee has concurred with the Engineering Division's~~
23 ~~conclusion that the complaint lacks sufficient evidence to support the allegations in the complaint.~~

24 (c) Upon completion of the investigation, the Board's Investigation Review Committee ("Committee") shall make a
25 determination of whether there is sufficient evidence to support a violation of G.S. 143-151.56(a). Based on its determination,
26 the Committee may:

27 (1) dismiss the complaint;

28 (2) dismiss the complaint with a letter of caution to the home inspector;

29 (3) recommend to the Board that the complaint be resolved by consent agreement, if the home inspector agrees
30 to the terms of the consent agreement; or

31 (4) establish a time and place for a disciplinary hearing and give notice to the licensee. Prior to the matter's
32 being heard and determined by the Board, it may be resolved by consent agreement with the approval of the
33 Board.

34 (d) The Committee shall notify the complainant and the home inspector of its determination but shall not be required to notify
35 the parties of its reasons in making its determination.

36
37 *History Note: Authority G.S. 143-151.49; 150B-38(h);*

1
2
3
4
5
6
7

Codifier determined that agency findings did not meet criteria for temporary rule
Eff. October 15, 1996;
Temporary Adoption Eff. October 24, 1996;
Eff. July 1, 1998;
Amended Eff. February 1, 2014.

1 **11 NCAC 08 .1205 IS AMENDED AS PUBLISHED IN 28:04 NCR 323 AS FOLLOWS:**

2

3 **11 NCAC 08 .1205 DISCIPLINARY HEARING**

4 ~~If there are findings in the report or by the review committee that there is sufficient evidence to support the allegations in the~~
5 ~~complaint, the Board shall fix a time and place for a disciplinary hearing and give notice to the licensee.~~ The disciplinary
6 hearing shall be held in accordance with G.S. 150B, Article 3A and this Section.

7

8 *History Note: Authority G.S. 143-151.49; 150B-38(h);*
9 *Codifier determined that agency findings did not meet criteria for temporary rule Eff. October 15, 1996;*
10 *Temporary Adoption Eff. October 24, 1996;*
11 *Eff. July 1, 1998;*
12 *Amended Eff. February 1, 2014.*

13

14