

Burgos, Alexander N

Subject: FW: REMINDER: Important dates for your agency's rules

From: Katie Cornetto [<mailto:Katie.Cornetto@dpi.nc.gov>]

Sent: Monday, February 08, 2016 1:53 PM

To: Burgos, Alexander N <alexander.burgos@oah.nc.gov>

Cc: Robert Orr <bob@csedlaw.com>; Drew Erteschik <DErteschik@poynerspruill.com>; Reeder, Amanda J <amanda.reeder@oah.nc.gov>; Hammond, Abigail M <abigail.hammond@oah.nc.gov>; May, Amber Cronk <amber.may@oah.nc.gov>; Thomas, Jason S <jason.thomas@oah.nc.gov>; Brincefield, Julie <julie.brincefield@oah.nc.gov>; Masich, Molly <molly.masich@oah.nc.gov>

Subject: Re: REMINDER: Important dates for your agency's rules

Mr. Burgos,

Given the Superior Court's July 2, 2015 order in *State Board of Education v. Rules Review Commission*, 14-CVS-14791 (Wake County Superior Court), the Board of Education will not be making a filing with the Rules Review Commission.

Sincerely,

Katie G. Cornetto
NC State Board of Education Attorney
919-807-3406

On Dec 15, 2015, at 6:58 AM, "Burgos, Alexander N" <alexander.burgos@oah.nc.gov> wrote:

Good morning:

This email is to serve as a reminder that the following portions of the North Carolina Administrative Code are scheduled for the Rules Review Commission to review the agency's report in **April 2016**:

16 NCAC 01
16 NCAC 02
16 NCAC 03

The filing deadline for the report is March 15, 2016.

Please remember that the following steps must be taken prior to **March 15, 2016**.

1. The rulemaking body, the Board, Commission, or agency head, must make initial determinations.
2. G.S. 150B-21.3A(c)(1) requires the agency to file the report on its website and the OAH website for 60 days and accept public comments during that time.
3. At the close of the 60 day comment period, the Board, Commission or agency head must review all comments received, prepare a response to put in the report for each public comment, and make a final determination for each rule.

If your agency does not complete the process and submit a final report by March 15, 2016 , all rules in the report will automatically expire at the meeting the following month. The agency's rules will be removed from the North Carolina Administrative Code. Further, G.S. 150B-21.3A requires the Rules Review Commission to report any agency that fails to conduct the review to the General Assembly's Joint Legislative Administrative Procedure Oversight Committee.

If your agency cannot complete the posting and review requirements of G.S. 150B-21.3A by **March 15, 2016**, you may request a waiver of the deadlines pursuant to Rule 26 NCAC 05 .0204. The Rules Review Commission will schedule the waiver request on an upcoming agenda for review.

If your report is ready to be posted, please submit the report and the filing form to oah.rules@oah.nc.gov. This will ensure that the report is forwarded to the correct people for posting. You will receive an automatic reply that your email has been received. If you do not receive a reply, please contact the Rules Division.

If you have any questions or concerns, please let me know. In addition, please feel free to review the Rules Review Commission's website on the existing rules review process at <http://www.ncoah.com/rules/H74PeriodicReviewandExpirationofRules.html> for more information to assist you in the process.

Thank you,
Alex

Alexander Burgos
Paralegal
Office of Administrative Hearings
(919) 431-3080
Alexander.burgos@oah.nc.gov

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law N.C.G.S. Chapter 132 and may be disclosed to third parties.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Visit us on the web at www.ncpublicschools.org. All e-mail correspondence to and from this address is subject to the North Carolina Public Records Law, which may result in monitoring and disclosure to third parties, including law enforcement.

G.S. 150B-21.3A Report for 16 NCAC Chapter 01, DEPARTMENTAL RULES

Agency - State Board of Education

Comment Period - Filled in by Agency

Date Submitted to APO - April 25, 2016

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
SUBCHAPTER 1A - ORGANIZATIONAL RULES	16 NCAC 01A .0101	DEFINITIONS	Amended Eff. April 1, 1997		Select One	Select One		Select One	Select One	Select One	Select One	Select One
	16 NCAC 01A .0104	PERSONNEL ALLOTMENTS	Eff. July 1, 1986		Select One	Select One		Select One	Select One	Select One	Select One	Select One
	16 NCAC 01A .0105	SALARY SCHEDULES	Eff. July 1, 1986		Select One	Select One		Select One	Select One	Select One	Select One	Select One
	16 NCAC 01A .0106	PETITIONS FOR RULE-MAKING	Eff. July 1, 1993		Select One	Select One		Select One	Select One	Select One	Select One	Select One

CHAPTER 1 - DEPARTMENTAL RULES

SUBCHAPTER 1A - ORGANIZATIONAL RULES

16 NCAC 01A .0101 DEFINITIONS

As used in this Title:

- (1) "Basic Education Program" (BEP) means that comprehensive program developed by the SBE and implemented by each LEA in accordance with the provisions of G.S. 115C-81.
- (2) "Certificate" means that document issued by the Department to professional public school employees that indicates that they have met the minimum criteria for serving in a professional position.
- (3) "Certificate of attendance" means that document issued by LEAs to students pursuant to 16 NCAC 6D .0103(a).
- (4) "Department" means the Department of Public Instruction.
- (5) "Graduation certificate" means that document issued by LEAs to students pursuant to 16 NCAC 6D .0103(c).
- (6) "Local Education Agency" (LEA) means local board of education. As used in 16 NCAC 6H .0005 - .0010, LEA includes the Departments of Human Resources and Correction.
- (7) "State Board of Education" (SBE) means the head of the Department of Public Instruction.
- (8) "Superintendent" means the Superintendent of Public Instruction.

History Note: Authority N.C. Constitution, Article IX, Section 5;
Eff. February 1, 1976;
Amended Eff. April 1, 1997; January 1, 1993; August 1, 1991; July 1, 1986.

16 NCAC 01A .0102 ADMINISTRATIVE PROCEDURES

History Note: Authority G.S. 115C-2; N.C. Constitution, Article IX, Section 5;
Eff. February 1, 1976;
Amended Eff. July 1, 1986;
Repealed Eff. July 16, 1988 in accordance with G.S. 150B-59(c).

16 NCAC 01A .0103 ORGANIZATION OF DEPARTMENT

History Note: Authority G.S. 115C-12(3); N.C. Constitution, Article IX, Sec. 5;
Eff. July 1, 1986;
Repealed Eff. April 1, 1997.

16 NCAC 01A .0104 PERSONNEL ALLOTMENTS

The department allots personnel to LEAs in accordance with its Administrative Policy Manual for Allotments of Personnel and Funds, which the SBE adopts annually.

History Note: Authority G.S. 115C-301(c);
Eff. July 1, 1986.

16 NCAC 01A .0105 SALARY SCHEDULES

The department provides state salary funds to LEAs in accordance with the State Salary Schedule for Public School Personnel and State Salary Conversion Tables, which the SBE adopts annually.

History Note: Authority G.S. 115C-12(9)a;
Eff. July 1, 1986.

16 NCAC 01A .0106 PETITIONS FOR RULE-MAKING

(a) Any person wishing to submit a petition requesting the adoption, amendment or repeal of a rule by the State Board of Education shall address a petition to Superintendent of Public Instruction, 301 North Wilmington Street, Raleigh, North Carolina 27601-2825. The container of the petition shall clearly bear the notation: RULEMAKING PETITION RE: and then the subject area.

(b) The petition must contain the following information:

- (1) an indication of the subject area to which the petition is directed;
- (2) either a draft of the proposed rule or a summary of its contents;
- (3) reasons for proposal;
- (4) effect on existing rules or orders;
- (5) any data supporting the proposal;
- (6) effect of the proposed rule on existing practices in the area involved, including cost factors;
- (7) names or a description of those most likely to be affected by the proposed rule; and
- (8) name and address of petitioner.

(c) The Superintendent will transmit the petition to the State Board of Education within 60 days after receiving the petition. The State Board makes the decision whether to grant or deny the petition.

History Note: Authority G.S. 150B-20;
Eff. July 1, 1993.