

**RULES REVIEW COMMISSION MEETING
MINUTES
November 19, 2020**

The Rules Review Commission met on Thursday, November 19, 2020 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive Orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioners present via teleconference were Bobby Bryan, Anna Baird Choi, Margaret Currin, Jeanette Doran, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell.

Staff members present were Commission Counsel Amanda Reeder and Alex Burgos. Commission Counsel Amber May, Ashley Snyder, and Karlene Turrentine were present via WebEx.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the October 15, 2020 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The Chair notified the Commissioners that the following items on the agenda would be taken up out of order at the end of the agenda: Follow up matters Tabs B, C, and D – State Board of Education.

FOLLOW UP MATTERS

Coastal Resources Commission

15A NCAC 07H .0301, .0302, .0303, .0304, .0305, .0306, .0308, .0309, .0310, .0311, .0312 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

State Board of Education

16 NCAC 06B .0112 - The Commission reviewed the rewritten rule submitted in response to the September 17, 2020 objections. The Commission continued its objection only on the grounds of failure to comply with the APA and ambiguity. Upon the call of the Chair, the Commission objected to the rule in accordance with G.S. 150B-21.9 and 150B-21.12(c) by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

16 NCAC 06B .0113 – At the September meeting, the Commission objected to 16 NCAC 06B .0113. The agency responded in accordance with the provisions of G.S. 150B-21.12 and requested the rule be returned to the agency. No further action was taken by the Commission.

16 NCAC 06B .0114 – Upon the call of the Chair, the Commission voted to object to the rewritten rule in accordance with G.S. 150B-21.9 for lack of statutory authority and clarity by roll-call vote, ayes 4, noes 4 as follows: Voting in the affirmative: Bobby Bryan, Jeanette Doran, Garth Dunklin,

and Jeff Hyde – 4. Voting in the negative: Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell – 4. The motion failed.

Upon the call of the Chair, the Commission voted to approve the rule subject to the technical change of adding G.S. 115C-248(a) to the history note by roll-call vote, ayes 4, noes 4 as follows: Voting in the affirmative: Anna Baird Choi, Margaret Currin, Randy Overton, and Paul Powell – 4. Voting in the negative: Bobby Bryan, Jeanette Doran, Garth Dunklin, and Jeff Hyde – 4. The motion failed.

Pursuant to G.S. 150B-21.12(d), the rule remains under review by the Commission.

Tom Ziko, General Counsel with the agency, addressed the Commission.

State Board of Education

16 NCAC 06D .0310 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

16 NCAC 06E .0107 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Prior to the review of the rules from the State Board of Education 16 NCAC 06G, Commissioner Hyde recused himself and did not participate in any discussion or vote concerning these Rules because he is a member of two North Carolina Charter School Boards and the rules pertain to charters.

16 NCAC 06G .0315, .0505, .0506, .0507, .0509, .0514, .0518, .0520, .0521, and .0522 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Randy Overton, and Paul Powell – 6 Voting in the negative: None.

16 NCAC 06G .0508 - The Commission reviewed the rewritten rule submitted in response to the September 17, 2020 objections. The rewritten version of this Rule was approved, but the Commission determined the changes were substantial in accordance with G.S. 150B-21.12, requiring the rule to be re-published and reviewed in accordance with the procedure in G.S. 150B-21.1(a3) and (b). Upon the call of the Chair, the rule was approved and found to contain substantial change by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Randy Overton, and Paul Powell – 6 Voting in the negative: None.

16 NCAC 06G .0314 and .0519 - The Commission reviewed the rewritten rules submitted in response to the September 17, 2020 objections. At this meeting, the Commission continued its objection solely on the grounds of statutory authority in accordance with G.S. 150B-21.9 and 150B-21.12(c). The Commission determined the rewritten version of 16 NCAC 06G .0519 satisfied the Commission's objection entered September 17, 2020. However, the Commission objected to 16 NCAC 06G .0519 for lack of statutory authority for adding a cross-reference to the accountability models underlying the continuing objection for lack of statutory authority in 16 NCAC 06G .0314. Upon the call of the Chair, the Commission objected to both rules in accordance with G.S. 150B-21.9 and 150B-21.12(c) by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Randy Overton, and Paul Powell – 6 Voting in the negative: None.

16 NCAC 06D .0211; 06G .0316, .0503, and .0517 - In response to September objections, the agency responded in accordance with the provisions of G.S. 150B-21.12 and requested the Rules be returned to the agency. No further action was taken by the Commission.

The Commission received over 10 letters of objection to 16 NCAC 06D .0310; 06G .0315, .0505, .0506, .0507, .0508, .0509, .0514, .0518, .0520, .0521, and .0522. Pursuant to G.S. 150B-21.3, these Rules are subject to legislative review and a delayed effective date.

The Commission took no action on 16 NCAC 06D .0307, .0308, .0309, .0311; 06E .0204, and .0206.

Tom Ziko, General Counsel with the agency, addressed the Commission.

State Board of Education

16 NCAC 06H .0115, .0116, .0117; 06K .0104, and .0105 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 1, as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Randy Overton, and Paul Powell – 6. Voting in the negative: Jeff Hyde.

The Commission unanimously waived Rule 26 NCAC 05 .0103 and allowed written comments opposing Rule 16 NCAC 06H .0117 that were submitted after the deadline. Upon the call of the Chair, the waiver was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The Commission received over 10 letters of objection to 16 NCAC 06H .0117. Pursuant to G.S. 150B-21.3, the rule is subject to legislative review and a delayed effective date.

16 NCAC 06H .0113; 06K .0101 and .0103 - In response to the Commission's September objection, the agency responded in accordance with the provisions of G.S. 150B-21.12 and requested the rules be returned to the agency. No further action was taken by the Commission.

Tom Ziko, General Counsel with the agency, addressed the Commission.

Department of Transportation

19A NCAC 02E .0201, .0202, .0203, .0204, .0206, .0207, .0208, .0209, .0210, .0212, .0213, .0214, .0215, .0224, .0225, and .0226 - The agency is addressing the technical change requests from the October meeting. No action was required by the Commission.

Addictions Specialist Professional Practice Board

21 NCAC 68 .0216, .0227, .0228, and .0708 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

LOG OF FILINGS (PERMANENT RULES)

Industrial Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Sheriffs' Education and Training Standards Commission

12 NCAC 10B .2005 - Upon the call of the Chair, was approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Department of Labor

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

13 NCAC 15 .0704 was withdrawn at the request of the agency. No action was required by the Commission.

Building Code Council

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

LOG OF FILINGS (TEMPORARY RULES)

Commission for Public Health

10A NCAC 41A .0107 and .0212 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

Board of Massage and Bodywork Therapy

21 NCAC 30 .0704 was withdrawn at the request of the agency. No action was required by the Commission.

COMMISSION BUSINESS

Review of the 2021 RRC meeting dates - The Commission approved the 2021 RRC meeting dates.

Amendment of the September 2020 minutes – Upon the call of the Chair, the September minutes were amended to reflect the following changes:

State Board of Education

16 NCAC 06C .0343, .0345, .0347, .0348, ~~.0355~~, .0356, .0368, .0377, and .0701 were withdrawn at the request of the agency.

The changes were approved by roll-call vote, ayes 7, noes 0 as follows: Voting in the affirmative: Bobby Bryan, Anna Baird Choi, Margaret Currin, Garth Dunklin, Jeff Hyde, Randy Overton, and Paul Powell – 7. Voting in the negative: None.

The meeting adjourned at 10:37 a.m.

The next regularly scheduled meeting of the Commission is Thursday, December 17, 2020 at 9:00 a.m.


Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

**Rules Review Commission Meeting November 19, 2020
Held Via WebEx**

First Name	Last Name	Agency
Deanna	Townsend-Smith	Board of Education
Carmella	Fair	Board of Education
Kevin	Harrison	Board of Education
Thomas	Ziko	Board of Education
Virginia	Niehaus	DHHS
Ryan	Boyce	Board of Education
Lou	Martin	Board of Education
Tammy	Howard	Board of Education
Carl	Martin	Fire Marshall
Carla	Rose	Labor
LaTricia	Townsend	Board of Education
Ashley	Baquero	Board of Education
Jill	Cramer	Labor
Gina	Cammarano	Industrial Commission
John	Barkley	Commission for PH
Lisa	Phillips	
Jean-Marie	Maillard	
Eskabonna	Henderson	Kinetic Minds, LLC
Laura	R	
Melinda	Hemphill	Ortiz & Schick
Danice	Henderson	Kinetic Minds, LLC
Jonathan	Puryear	Revenue
Anna	Szamosi	