Burgos, Alexander N

From: Wiggs, Travis C
Sent: Friday, October 30, 2026 3:43 PM
To: Snyder, Ashley B
Cc: Burgos, Alexander N; Julie B. Eddins; Liebman, Brian R
Subject: Objections to Repeal of 13 NCAC 19 .0101-.0702

Ashley,

The RRC has received written objections from 10 or more persons clearly requesting review by the Legislature of the proposed repeals of 13 NCAC 19 .0101, .0102, .0201, 0301, .0302, .0401, .0402, .0501, .0601-.0605, .0701, and .0702. Pursuant to G.S. 150B-21.3A, 13 NCAC 19 .0502 expired on August 1, 2018.

Since the RRC approved the repeal of these rules, the repeals will be subject to a delayed effective date pursuant to 150B-21.3(b1).

Pursuant to 150B-21.3(b2), please accept this email as the RRC's notification to your agency that the repeal of the listed rules "is subject to legislative disapproval."

Please let me know if you have questions. Thank you.

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
Telephone: 984-236-1929
Email: travis.wiggs@oah.nc.gov

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Burgos, Alexander N

From: Snyder, Ashley B
Sent: Tuesday, October 6, 2026 1:02 PM
To: Wiggs, Travis C
Cc: Burgos, Alexander N; Rules, Oah
Subject: RE: DOL Rule Submissions-October RRC Meeting

Thanks, Travis.

Ashley Snyder
General Counsel
NC Department of Labor

General Counsel's Office: 919-707-7713
Direct: 919-707-7715

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Ashley.Snyder@labor.nc.gov

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Tuesday, October 6, 2026 11:28 AM
To: Snyder, Ashley B <ashley.snyder@labor.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Subject: Re: DOL Rule Submissions-October RRC Meeting

Ashley,

Thank you for answering my questions. Please consider adding definitions to be repealed in 13 NCAC 19 .0201 to Chapter 13 during the upcoming readoption of rules process. At least a few of the terms (e.g., Complainant, Employee, and Interview) in .0201 are used elsewhere in Chapter 13 but are not defined.

I plan to recommend that the submitted rules be approved for repeal at the RRC meeting on October 29, 2026.

These rules can be placed on October's agenda. Please let me know if you have questions.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
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Email: travis.wiggs@oah.nc.gov

From: Snyder, Ashley B <ashley.snyder@labor.nc.gov>
Sent: Monday, October 5, 2026 5:13 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: DOL Rule Submissions-October RRC Meeting

Travis,

In response to your questions:

If repealed, where will the definitions listed in Rule .0201 be located? The definitions reference different G.S.'s for each term. Will the public have to look up each G.S for these definitions if .0201 is repealed? All of the rules are being repealed. We do not need definitions for a Chapter of rules that no longer exists.

Is it DOL's position that rules .0301-.0302 and .701-.702 are now encompassed by, or inconsistent with, S.L. 2026-13? Yes for .0301 and .0302. The statute now fully governs this process. For .0701, the Commissioner is not a party to settlements. The DOL acts as conciliator in these disputes and is therefore not a party; this is simply outdated and not needed. For .0702, I suppose that actually falls under 150B-2(8a)g as well since it relates to "the defense, prosecution, or settlement of cases."

If .0601 is repealed, is there a rule or G.S that authorizes DOL to handle administrative closings of complaints that are deemed incomplete? This is now irrelevant due to SL 2026-13. A complaint must contain all statutory requirements. If it does not, a notice is sent to complainant, and the complainant has 30 days to file a full complaint. If they do not, a complain has not been filed.

If .0603 is repealed, is there a rule or G.S that authorizes DOL to dismiss complaints due to insufficient evidence or a complainant's failure to cooperate with the investigation? There is no longer any "dismissal" of complaints. A complaint must contain all statutory requirements. If it does not, a notice is sent to complainant, and the complainant has 30 days to file a full complaint. If they do not, a complain has not been filed. Any complaint submitted will be investigated. If a complainant does not cooperate, that impacts the information gathered in the investigation. There is no automatic dismissal or administrative closure.

§ 95-242. Complaint; investigation; conciliation.

(a) An employee allegedly aggrieved by a violation of G.S. 95-241 may file a written complaint with the Commissioner of Labor alleging the violation. A complaint must contain all of the following:

(1) The name, phone number, address, and email address, if known, of the complainant.
(2) The name and address of the respondent.
(3) The name, phone number, and email address, if known, of the human resources manager or other point of contact for the respondent.
(4) The name, phone number, and email address, if known, of the supervisor of the complainant at the time of the alleged retaliatory action.
(5) Identification of the protected activity listed in G.S. 95-241(a)(1) engaged in by the complainant prior to the alleged retaliatory action.
(6) Form 18 from any relevant workers' compensation claim, if one exists.
(7) A statement of the facts outlining the protected activity engaged in by the complainant prior to the alleged retaliatory action.

(8) A description of the alleged retaliatory action and any relevant facts known to plaintiff that would explain a legitimate, nondiscriminatory reason for the adverse employment action.

(9) The date of the most recent alleged retaliatory action.

(10) The signature of the complainant.

If the complaint is filed by anyone other than the complainant, except an attorney, the filer shall submit a written authorization dated and signed by the complainant allowing the person to file the complaint on the complainant's behalf. The complaint shall be filed through a form on the Department's website, by mail, or by email within 180 days of the alleged violation. If a complainant files a partial complaint within 180 days, the Department shall notify the complainant of any deficiencies and the complainant shall have 30 days to submit a full complaint. Within 20 days following receipt of the complaint, the Commissioner shall forward a copy of the ~~complaint~~ full complaint to the person alleged to have committed the violation and shall initiate an investigation. Any extraneous materials submitted along with the complaint shall not be considered in the investigation and shall be destroyed. Notwithstanding G.S. 132-6 or any other provision of law, extraneous materials shall not be deemed public records and shall not be subject to inspection or examination. Within seven days of receipt of the complaint, the respondent may submit a position statement outlining affirmative defenses. Nothing in this subsection shall be construed to prevent the Commissioner from initiating an investigation prior to receiving a response from the respondent. If the Commissioner determines after the investigation that there is not reasonable cause to believe that the allegation is true, the Commissioner shall dismiss the complaint, promptly notify the employee and the respondent, and issue a right-to-sue letter to the employee that will enable the employee to bring a civil action pursuant to G.S. 95-243. If the Commissioner determines after investigation that there is reasonable cause to believe that the allegation is true, the Commissioner shall attempt to eliminate the alleged violation by informal methods which may consist of conference, conciliation, and persuasion. The Commissioner shall make a determination as soon as possible and, in any event, not later than 90 days after the filing of the complaint.

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From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Monday, October 5, 2026 3:43 PM
To: Snyder, Ashley B <ashley.snyder@labor.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: DOL Rule Submissions-October RRC Meeting

Thank you, Ashley. Rule .0502 appears to have expired on 8/1/18, pursuant to G.S. 150B-21.3A. I will recommend that .0502 be repealed.

I have a few additional questions below.

If repealed, where will the definitions listed in Rule .0201 be located? The definitions reference different G.S.'s for each term. Will the public have to look up each G.S for these definitions if .0201 is repealed?

Is it DOL's position that rules .0301-.0302 and .701-.702 are now encompassed by, or inconsistent with, S.L. 2026-13?

If .0601 is repealed, is there a rule or G.S that authorizes DOL to handle administrative closings of complaints that are deemed incomplete?

If .0603 is repealed, is there a rule or G.S that authorizes DOL to dismiss complaints due to insufficient evidence or a complainant's failure to cooperate with the investigation?

Please reply at your earliest convenience.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
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Email: travis.wiggs@oah.nc.gov

From: Snyder, Ashley B <ashley.snyder@labor.nc.gov>
Sent: Friday, October 2, 2026 3:03 PM
To: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RE: DOL Rule Submissions-October RRC Meeting

Hi Travis,

13 NCAC 19 .0401 and .0402 govern the conduct of investigations. To the extent those provisions establish criteria or guidelines for Department staff in conducting investigations and interviews, they fall within G.S. 150B-2(8a)g., which excludes from the definition of a "rule" statements setting forth criteria or guidelines used by agency staff in performing investigations. For example, this applies to 13 NCAC 19 .0401(a) and (c) and .0402(a), which prescribe how Department staff conduct an investigation.

There are also independent reasons to repeal portions of these rules. Section .0401(b), for example, is inconsistent with the timeline now established by G.S. 95-242(a), which provides that a respondent may submit a position statement within seven days after receipt of the complaint and expressly permits the Commissioner to initiate the investigation before receiving that response.

Likewise, .0401(c)'s requirement that the parties "cooperate" is unnecessary. To the extent information is necessary to the investigation, the Department has statutory authority under G.S. 95-242(f) to compel the production of relevant information. Otherwise, the Department may conduct the investigation based on the evidence available to it and determine whether reasonable cause exists under G.S. 95-242(a).

With respect to .0402, provisions prescribing how Department investigators conduct fact-finding interviews similarly concern criteria and procedures used by agency staff in conducting investigations and therefore fall within G.S. 150B-2(8a)g. To the extent .0402 addresses participation by counsel during investigative interviews, the Department does not believe it is necessary to establish that subject by rule; the scope of any right to counsel in a nonadjudicative administrative investigation is governed by applicable caselaw and the circumstances of the investigation.

Hope this information is helpful. Please let me know if you need any additional information.

Ashley Snyder

General Counsel

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Ashley.Snyder@labor.nc.gov

From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Wednesday, September 30, 2026 11:08 AM
To: Snyder, Ashley B <ashley.snyder@labor.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: DOL Rule Submissions-October RRC Meeting

Good morning, Ashley,

I'm the attorney assigned to review your agency's proposal to repeal specific rules in 13 NCAC 19. Form 0400 submitted with these rules indicates "some rules are unnecessary given G.S. 150B-2(8a)g." Which rules does your agency contend are unnecessary?

Please reply with a list of the unnecessary rules and an explanation as to why each rule should be repealed pursuant to 150B-2(8a)g.

Thanks,

Travis C. Wiggs

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