

# NORTH CAROLINA REGISTER

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November 15, 2006

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### PUBLISHED BY

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## **Contact List for Rulemaking Questions or Concerns**

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

### **Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.**

Office of Administrative Hearings

Rules Division

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### **Rule Review and Legal Issues**

Rules Review Commission

1307 Glenwood Ave., Suite 159

(919) 733-2721

Raleigh, North Carolina 27605

(919) 733-9415 FAX

contact: Joe DeLuca Jr., Staff Director Counsel

joe.deluca@ncmail.net

Bobby Bryan, Staff Attorney

bobby.bryan@ncmail.net

Lisa Johnson, Administrative Assistant

lisa.johnson@ncmail.net

### **Fiscal Notes & Economic Analysis**

Office of State Budget and Management

116 West Jones Street

(919) 733-7061

Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

contact: Nathan Knuffman

nathan.knuffman@ncmail.net

### **Governor's Review**

Reuben Young

reuben.young@ncmail.net

Legal Counsel to the Governor

(919) 733-5811

116 West Jones Street (919) 733-5811

Raleigh, North Carolina 27603

### **Legislative Process Concerning Rule-making**

Joint Legislative Administrative Procedure Oversight Committee

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney

karenc@ncleg.net

Jeff Hudson, Staff Attorney

jeffreyh@ncleg.net

### **County and Municipality Government Questions or Notification**

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Jim Blackburn or Rebecca Troutman

jim.blackburn@ncacc.org

Rebecca Troutman

rebecca.troutman@ncacc.org

NC League of Municipalities

(919) 715-4000

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Anita Watkins

awatkins@nclm.org

**NORTH CAROLINA REGISTER**  
 Publication Schedule for January 2006 – December 2006

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule (first legislative day of the next regular session)	270 <sup>th</sup> day from publication in the Register
20:13	01/03/06	12/08/05	01/18/06	03/06/06	03/20/06	05/01/06	05/09/06	09/30/06
20:14	01/17/06	12/21/05	02/01/06	03/20/06	04/20/06	06/01/06	01/07	10/14/06
20:15	02/01/06	01/10/06	02/16/06	04/03/06	04/20/06	06/01/06	01/07	10/29/06
20:16	02/15/06	01/25/06	03/02/06	04/17/06	04/20/06	06/01/06	01/07	11/12/06
20:17	03/01/06	02/08/06	03/16/06	05/01/06	05/22/06	07/01/06	01/07	11/26/06
20:18	03/15/06	02/22/06	03/30/06	05/15/06	05/22/06	07/01/06	01/07	12/10/06
20:19	04/03/06	03/13/06	04/18/06	06/02/06	06/20/06	08/01/06	01/07	12/29/06
20:20	04/17/06	03/24/06	05/02/06	06/16/06	06/20/06	08/01/06	01/07	01/12/07
20:21	05/01/06	04/07/06	05/16/06	06/30/06	07/20/06	09/01/06	01/07	01/26/07
20:22	05/15/06	04/24/06	05/30/06	07/14/06	07/20/06	09/01/06	01/07	02/09/07
20:23	06/01/06	05/10/06	06/16/06	07/31/06	08/21/06	10/01/06	01/07	02/26/07
20:24	06/15/06	05/24/06	06/30/06	08/14/06	08/21/06	10/01/06	01/07	03/12/07
21:01	07/03/06	06/12/06	07/18/06	09/01/06	09/20/06	11/01/06	01/07	03/30/07
21:02	07/17/06	06/23/06	08/01/06	09/15/06	09/20/06	11/01/06	01/07	04/13/07
21:03	08/01/06	07/11/06	08/16/06	10/02/06	10/20/06	12/01/06	01/07	04/28/07
21:04	08/15/06	07/25/06	08/30/06	10/16/06	10/20/06	12/01/06	01/07	05/12/07
21:05	09/01/06	08/11/06	09/16/06	10/31/06	11/20/06	01/01/07	01/07	05/29/07
21:06	09/15/06	08/24/06	09/30/06	11/14/06	11/20/06	01/01/07	01/07	06/12/07
21:07	10/02/06	09/11/06	10/17/06	12/01/06	12/20/06	02/01/07	05/08	06/29/07
21:08	10/16/06	09/25/06	10/31/06	12/15/06	12/20/06	02/01/07	05/08	07/13/07
21:09	11/01/06	10/11/06	11/16/06	01/01/07	01/22/07	03/01/07	05/08	07/29/07
21:10	11/15/06	10/24/06	11/30/06	01/15/07	01/22/07	03/01/07	05/08	08/12/07
21:11	12/01/06	11/07/06	12/16/06	01/30/07	02/20/07	04/01/07	05/08	08/28/07
21:12	12/15/06	11/22/06	12/30/06	02/13/07	02/20/07	04/01/07	05/08	09/11/07

## EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

### GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

**COMPUTING TIME:** In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

### FILING DEADLINES

**ISSUE DATE:** The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

**LAST DAY FOR FILING:** The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

### NOTICE OF TEXT

**EARLIEST DATE FOR PUBLIC HEARING:** The hearing date shall be at least 15 days after the date a notice of the hearing is published.

**END OF REQUIRED COMMENT PERIOD**  
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

**DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION:** The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

**FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY:** This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

*Note from the Codifier: This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.*

U.S. Department of Justice

Civil Rights Division

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JKT:MSR:TGL:par  
DJ 166-012-3  
2006-5557

*Voting Section – NWB.  
950 Pennsylvania Ave., NW  
Washington, D.C. 20530*

October 11, 2006

Michael Crowell, Esq.  
Tharrington Smith  
P.O. Box 1151  
Raleigh, North Carolina 27602-1151

Dear Mr. Crowell:

This refers to Session Law 2006-171, as it pertains to the use of residency districts for the election of school board members in Bertie County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 15, 2006.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

John Tanner  
Chief, Voting Section

**Note from the Codifier:** The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days.  
 Statutory reference: G.S. 150B-21.2.

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Secretary of the Department of Health and Human Services intends to amend the rules cited as 10A NCAC 06Q .0101 and .0201.*

**Proposed Effective Date:**

**10A NCAC 06Q .0101** – July 1, 2007  
**10A NCAC 06Q .0201** – March 1, 2007

**Public Hearing:**

**Date:** December 5, 2006  
**Time:** 10:00 am  
**Location:** DAAS, 693 Palmer Drive, Raleigh, NC 27603, Room 301

**Reason for Proposed Action:**

**10A NCAC 06Q .0101** - Adult Day Care Standards are being updated to include the addition of 06S rules governing adult day health programs. Other changes are made for update purposes only.  
**10A NCAC 06Q .0201** – Maximum Reimbursement Rates has not been updated since 1992. Since that time, legislation has passed (S.L. c. 591, s. 2(1); S.L. 1997-443; S.L. 2004-14, s. 5.1(a) and 2005-276, s.2.1 increasing the daily rate. The transportation rate was increased to \$1.50 per one way trip in either 2001 or 2002. These changes were made to rules under the authority of the social services commission, however since the process of changing rules under the authority of the DHHS secretary was unknown; this rule was not updated simultaneously. The fiscal impact of all but the latest change was previously reported.

**Procedure by which a person can object to the agency on a proposed rule:**

*By phone or writing to Shannon Crane, Adult Day Services Consultant, 2101 Mail Service Center, Raleigh, NC 27699-2101, phone (919) 733-0440 Ext. 210, email shannon.crane@ncmail.net.*

**Comments may be submitted to:** Shannon Crane, Adult Day Services Consultant, DAAS, 2101 Mail Service Center, Raleigh, NC 27699-2101, phone (919) 733-0440, fax (919) 715-0868, email shannon.crane@ncmail.net

**Comment period ends:** January 15, 2007

**Procedure for Subjecting a Proposed Rule to Legislative Review:**

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the

Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

**Fiscal Impact: A copy of the fiscal note can be obtained from the agency.**

- State
- Local
- Substantive (≥\$3,000,000)
- None

**CHAPTER 06 – AGING: PROGRAM OPERATIONS**

**SUBCHAPTER 06Q - ADULT DAY CARE**

**SECTION .0100 - ADULT DAY CARE STANDARDS**

**10A NCAC 06Q .0101 ADULT DAY CARE STANDARDS**

Agencies and individuals providing ~~Adult Day Care~~ adult day care services with funds administered by the North Carolina Division of Aging shall comply with the North Carolina Division of Social Services Aging and Adult Services Certification Standards for Adult Day Care and Day Health as established by the North Carolina Social Services Commission in 10A NCAC ~~06R, 06R and 06S~~ which ~~is~~ are adopted by reference pursuant to G.S. 150B-21.6. The incorporation of these Rules by reference includes subsequent amendments and editions to 10A NCAC ~~06R, 06R and 06S~~ is and are available for review at the Division of Aging and Adult Services website, <http://www.dhhs.state.nc.us/aging/adcsvc.htm>, or at the Division of Aging, Aging and Adult Services, ~~693 Palmer Drive, 2101 Mail Service Center, Raleigh, North Carolina 27626-0534, 27699-2101.~~ The Division of Aging and Adult Services will ~~shall~~ provide copies of these Rules upon request at no cost.

Authority G.S. 143B-181.1(c).

**SECTION .0200 - REQUIREMENTS**

**10A NCAC 06Q .0201 MAXIMUM REIMBURSEMENT RATES**

(a) The maximum reimbursement rate for adult day care services is ~~twenty one thirty-three dollars and seven cents (\$21.00) (\$33.07) per day-day, per client, and shall not exceed four hundred and fifty five dollars (\$455.00) per month, per client.~~ The maximum reimbursement rate for adult day health services is forty dollars (\$40.00) per day, per client.

(b) The maximum reimbursement rate for transporting an adult day care client to an adult day care ~~center-program~~ shall not exceed one dollar and ~~four-fifty cents (\$1.04) (\$1.50)~~ for a one-way trip. The maximum reimbursement rate for round-trip transportation of an adult day care client to an adult day care ~~center-program~~ shall not exceed ~~two-three dollars and eight cents (\$2.08) (\$3.00) per day, per client, client not to exceed forty five dollars (\$45.00) per month.~~

Authority G.S. 143B-181.1(c); S.L. 2004-124, s. 5.1(a); S.L. 2005-276, s.2.1.

\*\*\*\*\*

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to amend the rule cited as 10A NCAC 06T .0201.

Proposed Effective Date: April 1, 2007

**Public Hearing:**

Date: January 17, 2007

Time: 10:00 a.m.

Location: Room 832, Albemarle Building, 325 N. Salisbury Street, Raleigh, NC

**Reason for Proposed Action:** This rule is being updated to reflect a rate increase pursuant to legislation (S.L. 2005-276, s. 2.1). The monthly maximum has been replaced by the daily rate for consistency with 10A NCAC 06Q .0201 Maximum Reimbursement Rates. Furthermore, the monthly maximum was deleted per a recommendation made to the Study Commission on Aging as a result of a special provision [Section 10.21(a) S.L. 2004-124] in order to increase consistency in rule interpretation from county to county. It is not anticipated to have a fiscal impact since counties each get a finite amount of funding every year, regardless of how those funds are dispersed. Furthermore, the current practice by county departments of social services is to reimburse programs on a daily basis, not a monthly one.

**Procedure by which a person can object to the agency on a proposed rule:** Susan Dail, NC Division of Social Services, 325 N. Salisbury Street, 2401 Mail Service Center, Raleigh, NC 27699-2401, phone (919) 733-3055, email Susan.dail@ncmail.net

**Comments may be submitted to:** Susan Dail, NC Division of Social Services, 325 N. Salisbury Street, 2401 Mail Service Center, Raleigh, NC 27699-2401, phone (919) 733-3055, fax (919) 733-9386, email Susan.dail@ncmail.net

Comment period ends: January 17, 2007

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

**Fiscal Impact:**

- State
- Local
- Substantive (≥\$3,000,000)
- None

**CHAPTER 06 – AGING: PROGRAM OPERATIONS**

**SUBCHAPTER 06T – STATE ADULT DAY CARE FUNDING**

**SECTION .0200 - STATE ADULT DAY CARE FUND**

**10A NCAC 06T .0201 NATURE AND PURPOSE OF STATE ADULT DAY CARE FUND**

(a) The State Adult Day Care Fund shall be used for adult day care and adult day health services provided through county departments of social services for the purpose of enabling people to remain in or return to their own homes.

(b) The fund shall be used to increase state financial participation in the costs of this service.

(c) The maximum rate for the purchase of adult day care services under a ~~vendor agreement contract~~ shall not exceed thirty-three dollars and seven cents (\$33.07) per day, per client. ~~six hundred seventy three dollars (\$673.00) per month, of which six hundred eight dollars (\$608.00) shall be for the purchase of daily care and sixty five dollars (\$65.00) shall be for transportation.~~ The maximum rate for the purchase of adult day health services under a ~~vendor agreement contract~~ shall not exceed forty dollars (\$40.00) per day, per client. ~~eight hundred twenty three dollars (\$823.00) per month, of which seven hundred fifty eight dollars (\$758.00) shall be for the purchase of daily care and sixty five dollars (\$65.00) shall be for transportation.~~ Adult day health services may only be purchased for an individual following a preadmission health assessment as specified in 10A NCAC 06S .0204 (b)(2)(A) and a determination that the individual needs one or more services delineated in 10A NCAC 06S .0402(a)(1) through (3).

Authority G.S. 143B-153; S.L. 1993, c. 591, s. 2(a); S.L. 1997-443; S.L. 2004-124, s. 5.1(a); S.L. 2004-14, s. 5.1(a); S.L. 2005-276, s. 2.1.

\*\*\*\*\*

None

SUBCHAPTER 17A – RULEMAKING PROCEDURES

SECTION .0100 – RULEMAKING

10A NCAC 17A .0101 PETITIONS

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Division of Services for the Deaf and the Hard of Hearing (hereinafter referred to as the Division) shall make his request in a petition addressed to:

Director  
Division of Services for the Deaf and the Hard of Hearing  
2301 Mail Service Center  
319 Chapanoke Road Suite 108  
Raleigh, N.C. 27699 2301

(b) The petition shall contain the following information:

- (1) ~~either a draft of the proposed rule or a summary of its contents;~~
- (2) ~~the statutory authority for the agency to promulgate the rule;~~
- (3) ~~the reasons for the proposal;~~
- (4) ~~the effect of existing rules or orders;~~
- (5) ~~any data supporting the proposal;~~
- (6) ~~the effect of the proposed rule on existing practices in the area involved, including cost factors;~~
- (7) ~~the names and addresses, if known, of those most likely to be affected by the proposed rule; and~~
- (8) ~~the names and address of the petitioner.~~

(c) The Division Director or his designee shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. The Division Director or his designee shall consider all the contents of the submitted petition, plus any additional information he deems relevant.

(d) ~~Within 30 days of submission of the petition, the Division Director or his designee shall render a decision. To deny the petition, the Division Director or his designee shall notify the petitioner in writing, stating the reasons for the denial. If the decision is to approve the petition, the Division Director or his designee shall initiate a rulemaking proceeding by issuing a rulemaking notice, as provided in these Rules.~~

Authority G.S. 143B-10(1)(2); 143B-216.33(d); 150B-16.

10A NCAC 17A .0102 NOTICE

(a) ~~Upon a determination to hold a rulemaking proceeding, either in response to a petition or otherwise, the Division Director or his designee shall give notice to all interested parties in accordance with G.S. 150B-12.~~

(b) ~~Any person or agency desiring information in addition to that provided in a particular rulemaking notice may contact:~~

Director  
Division of Services for the Deaf and the Hard of Hearing  
2301 Mail Service Center  
319 Chapanoke Road Suite 108  
Raleigh, NC 27699 2301

Notice is hereby given in accordance with G.S. 150B-21.2 that the Division of Services for the Deaf and the Hard of Hearing intends to adopt the rules cited as 10A NCAC 17C .0201-.0205; 17D .0219-.0221, .0301-.0305, amend the rules cited as 10A NCAC 17B .0201; 17C .0101, .0103-.0104, .0108; 17D .0202-.0215 and repeal the rules cited as 10A NCAC 17A .0101-.0109; 17B .0101; 17C .0102, .0105-.0107, .0109-.0110; 17D .0101-.0105.

Proposed Effective Date: March 1, 2007

Public Hearing:

Date: Wednesday, December 13, 2006

Time: 8:30 am

Location: DSDHH Conference Room, Woodoak Bldg; GL-3, 1100 Navaho Dr., Raleigh, NC 27609

Reason for Proposed Action: Many of the current rules are outdated and have not been amended to reflect statutory changes. Therefore, the Division wishes to amend its rules to reflect those statutory changes and current Division programs, practices and procedures.

Procedure by which a person can object to the agency on a proposed rule: A person can object to the agency on a proposed rule by sharing comments at the public hearing or by contacting the Division's rule-making coordinator (Chris McCain) or director (Jan Withers) by e-mail, postal mail, or telephone.

Comments may be submitted to: Chris McCain, Program Planner/Evaluator, 2301 Mail Service Center. Raleigh, NC 27699-2301, phone (919)874-2229 (V/TTY), fax (919)855-6872, email chris.mccain@ncmail.net

Comment period ends: January 15, 2007

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)



Authority G.S. 143B-10; 143B-216.33(d); 150B-11; 150B-12.

**10A NCAC 17A .0103 HEARING OFFICER**

The Director, or one or more hearing officers designated and authorized by the Director, shall be hearing officers in a rulemaking hearing.

Authority G.S. 143B-10(j)(3); 143B-173; 143B-216.33(d); 150B-12.

**10A NCAC 17A .0104 HEARINGS**

(a) Any person desiring to make an oral presentation at a public hearing is encouraged to submit a written copy of the presentation to the hearing office prior to or at the public hearing.

(b) Presentations may not exceed ten minutes unless, upon request made either before or at the hearing, the hearing officer grants an extension of time for good cause.

(c) Any person may file a written submission containing data, comments, or arguments after publication of a rulemaking notice up to and including the day of the hearing. A submission must clearly state the rule or proposed rule to which the comments are addressed and must also include the name and address of the person submitting it. Written submissions must be sent to:

Director

Division of Services for the Deaf and the Hard of Hearing  
2301 Mail Service Center  
319 Chapanoke Road Suite 108  
Raleigh, NC 27699-2301

(d) The presiding officer at the hearing shall have complete control over the rulemaking hearing, including:

- (1) the responsibility of having a record made of the proceedings,
- (2) extension of any time allotments,
- (3) recognition of speakers,
- (4) prevention of repetitious presentation, and
- (5) general management of the hearing.

The hearing officer shall assure that each person at the hearing is given a fair opportunity to present views, data, and comments.

Authority G.S. 143B-10; 143B-216.33(d); 150B-11; 150B-12.

**10A NCAC 17A .0105 STATEMENT OF REASONS FOR AND AGAINST RULEMAKING DECISION**

(a) Any interested person who desires from the Division Director a concise written statement of the principal reasons for and against the decision by the Division Director to adopt or reject a rule may, either prior to the decision or within 30 days thereafter, submit a request to:

Director

Division of Services for the Deaf and the Hard of Hearing  
2301 Mail Service Center  
319 Chapanoke Road Suite 108  
Raleigh, NC 27699-2301

(b) An "interested person" shall be defined as any person, as defined in G.S. 150A-2(7), whose rights, duties, or privileges might be affected by the adoption of the rule.

(c) The request must be made in writing, must contain a statement showing that the requesting person is an interested person, and must identify the rule or proposed rule involved.

(d) The Division Director shall issue the statement of reasons for and against his decision within 45 days after receipt of the request.

Authority G.S. 143B-10(j)(2); 143B-216.33(d); 150B-11; 150B-12.

**10A NCAC 17A .0106 RECORD OF RULEMAKING PROCEEDINGS**

A record of all rulemaking proceedings conducted by the Division Director or his designee, including responses to petitions for rulemaking, shall be maintained by the Division Director or his designee and shall be available for public inspection during regular office hours. This record shall include:

- (1) the original petition, if any;
- (2) the notice,
- (3) written presentation or information submitted,
- (4) any written minutes or audio tapes of the oral hearing, and
- (5) a final draft of the adopted rule.

Authority G.S. 143B-10; 143B-216.33(d); 150B-11.

**10A NCAC 17A .0107 FEES**

A fee may be charged by the Division Director to persons requesting material from hearing records. The fee will cover the cost of meeting the request.

Authority G.S. 12-3.1; 143B-10; 143B-216.33.

**10A NCAC 17A .0108 DECLARATORY RULINGS**

(a) The director of the division or his designee, shall have the power to make declaratory rulings. All requests for declaratory rulings shall be by written petition and shall be submitted to:

Director

Division of Services for the Deaf and the Hard of Hearing  
2301 Mail Service Center  
319 Chapanoke Road  
Raleigh, NC 27699-2301

(b) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner,
- (2) the statute or rule to which the petition relates,
- (3) a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him, and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the Division Director or his designee believes for a good reason that the issuance of a declaratory ruling is undesirable he may refuse to issue one. Such refusal shall be followed, by the issuance of written notification to the petitioner and to the Staff Attorney for administrative procedures. The notice shall state the decision and the reasons therefor. The Division Director or his designee may refuse to consider the validity of a rule and issue a declaratory ruling.

- (1) ~~unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;~~
- (2) ~~unless the rulemaking record evidences a failure by the agency to consider specified relevant factors;~~
- (3) ~~if there has been a similar controlling factual determination in a contested case, or if the factual context being raised for a declaratory ruling was specifically considered upon adoption of the rule being questioned as evidenced by the rulemaking record; or~~
- (4) ~~if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would presently be appropriate.~~

~~(d) Where the Division Director or his designee does not deem undesirable the issuance of such a ruling, the declaratory ruling shall be issued within 60 days after the receipt of the petition.~~

~~(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be deemed appropriate, in the discretion of the Division Director or his designee in the particular case.~~

~~(f) The Division Director or his designee may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.~~

~~(g) A record of all declaratory ruling proceedings shall be maintained by the Staff Attorney for administrative procedures and shall be available for public inspection during regular business hours. This record shall contain:~~

- ~~(1) the original request;~~
- ~~(2) the reasons for refusing to issue a ruling when the request is denied;~~
- ~~(3) all written memoranda and information submitted;~~
- ~~(4) any written minutes or audio tape or other record of the oral hearing; and~~
- ~~(5) a statement of the ruling.~~

*Authority G.S. 143B-10(j)(2); 143B-216.33; 150B-11; 150B-17.*

**10A NCAC 17A .0109 CONTESTED CASES**

All contested cases arising under the rules contained in this Chapter, shall be held in accordance with the rules found in 10 NCAC 1B.

*Authority G.S. 143B-10; 143B-216.33; 150B-22.*

**SUBCHAPTER 17B - ADMINISTRATION**

**SECTION .0100 - GENERAL**

**10A NCAC 17B .0101 RELATIONSHIP TO THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

The Division of Services for the Deaf and the Hard of Hearing is a division within the Department of Health and Human Services which functions under the authority of the Department of Health

and Human Services and the Secretary of the Department of Health and Human Services.

*Authority G.S. 143B-216.33.*

**SECTION .0200 - REGIONAL RESOURCE CENTERS**

**10A NCAC 17B .0201 FUNCTION AND RESPONSIBILITIES**

(a) The purpose of the respective regional community service centers for the hearing-impaired deaf, hard of hearing, and deaf-blind is to promote the accessibility of community services to hearing-impaired deaf, hard of hearing, and deaf-blind persons, to inform hearing-impaired deaf, hard of hearing, and deaf-blind persons of their right to services offered locally, to advocate for the rights and needs of deaf, hard of hearing, and deaf-blind persons with hearing impairments, persons, and to coordinate interpreter services for deaf, and hard of hearing hearing, and deaf-blind individuals.

(b) It is the responsibility of the community service regional centers for the hearing-impaired deaf, hard of hearing, and deaf-blind to provide services to hearing-impaired such persons without regard to age, income, or employability.

*Authority G.S. 143B-216.33(a)(3).*

**SUBCHAPTER 17C - SERVICES AVAILABLE**

**SECTION .0100 - NORTH CAROLINA INTERPRETER CLASSIFICATION SYSTEM**

**10A NCAC 17C .0101 MAINTENANCE OF CLASSIFICATION RECORDS**

(a) All classifications shall be valid for two years and all except that of Trainee and Novice Class may be renewed provided the candidate presents evidence of skill maintenance. The Division will be responsible for maintaining the records for all interpreters who hold a quality assurance North Carolina Interpreter Classification System level A or B classification in effect on January 1, 2000. Maintaining such records will assist the Board in assessing the qualifications of those individuals who apply to be licensed as an interpreter or a transliterator.

(b) N.R.I.D. certified individuals shall be expected to meet the maintenance requirements in order to continue to be recognized as qualified interpreters until such time the NRID has implemented a maintenance of certification program.

(c) Skill maintenance shall be determined based upon the awarding of points. A total of 40 points shall be required for renewal of classification. A minimum of 10 of these points shall be earned from documented interpreter experience and a minimum of 10 points shall be earned from professional training. The Division shall award points as follows:

- (1) one point for each ten hours of interpreting experience.
- (2) one point for each one hour of training approved by the Division which is oriented toward enhancement of interpreting practice, values and knowledge. Training may include:
  - (A) continuing education courses;

- (B) ~~workshops,~~
- (C) ~~seminars,~~
- (D) ~~conferences,~~
- (E) ~~lectures,~~
- (F) ~~post secondary courses,~~
- (G) ~~interpreter evaluation team participation.~~

(d) ~~The candidate for reclassification shall submit evidence of skill maintenance to the State Coordinator at least 30 days before expiration of classification.~~

(e) ~~Forms for documentation of classification maintenance shall be available at any office of the Division.~~

*Authority G.S. 8B-1(3); 8B-6; 90D-7(a)(3)(d); 143B-216.33.*

**10A NCAC 17C .0102 RECIPROCITY**

Classification shall be granted without direct evaluation of skills by the following methods:

- (1) ~~Individuals who hold a certification from a certifying body of another state may apply for a temporary classification under the N.C.I.C.S. The State Coordinator shall determine the level of reciprocity for each applicant on a case-by-case basis. The State Coordinator shall determine as accurately as possible the equivalency of the North Carolina interpreter classification to that which the applicant holds and shall award reciprocity one class lower than the equivalency. Individuals shall make application to take the North Carolina interpreter classification within one year of being granted reciprocity.~~
- (2) ~~Individuals holding a Certificate of Interpretation and/or a Certification of Transliteration from N.R.I.D. shall be recognized under the N.C.I.C.S. system as having a correlative relationship with the Class A level and/or Class Advanced respectively.~~

*Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33.*

**10A NCAC 17C .0103 APPLICABILITY**

The rules in this Section ~~establish an~~ describe the interpreter classification system and the Division's responsibility to maintain records of individuals holding classification to reflect the competency of individuals serving as applying to become licensed interpreters for persons who are deaf or hard of hearing.

*Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33.*

**10A NCAC 17C .0104 DEFINITIONS**

For the purpose of Rules ~~.0304~~ .0101 through ~~.0340~~ .0110 of this Section the following terms shall have the meanings indicated:

- (1) "Classifications" means one of the four levels of skill based on the total score given by the evaluators on the classification test.
- (2) "Classification Team" means a group of three evaluators designated to review an NCICS candidate's videotaped performance scoring

~~the performance in accordance with the training received as an evaluator in the NCICS process in which they are participating.~~

- (3) ~~"Critical Situations" means any interpreting assignment which has the potential for altering the quality of someone's life either physically, emotionally or financially.~~
- (4) ~~"Community based Test" means the tract of the NCICS, NCICS-C, which tests the competency of interpreters working in community based settings such as medical, legal and mental health situations.~~
- (5) ~~"D.P.I." means the Department of Public Instruction.~~
- (6) ~~"D.E.C." means the D.P.I.'s Division of Exceptional Children.~~
- (7)(2) "Division" means the North Carolina Division of Services for the Deaf and the Hard of Hearing.
- (8)(3) "Division Director" means the Director of the North Carolina Division of Services for the Deaf and the Hard of Hearing.
- (9) ~~"Educational based Test" means the tract of the NCICS, NCICS-E, which tests the competency of interpreters working in educational settings such as elementary, secondary and post secondary schools.~~
- (10) ~~"Evaluators" are persons who have received formal instruction regarding the NCICS processes from the Division regarding terminology and scoring in an effort to attain the highest level of validity, reliability and consistency possible.~~
- (11) ~~"Interpreter Training" means activities recognized by the Division which are oriented toward the enhancement of interpreting practice, values, skills and knowledge such as continuing education courses, workshops, seminars, conferences, lectures, and post secondary courses.~~
- (12)(4) "N.C.I.C.S." means the North Carolina Interpreter Classification System.
- (13)(5) "N.R.I.D." means the National Registry of Interpreters for the Deaf.
- (14)(6) "Sign Language Interpreter" means a person who performs services for the public in the capacity of an interpreter or transliterator between one or more hearing persons and one or more deaf persons using American Sign Language or manually coded English.
- (15) ~~"NCICS C Standards of Ethical Behavior" are behavioral guidelines for interpreters working primarily in community based settings established by the Texas Commission for the Deaf and adopted by reference under the provisions of G.S. 150B-14(e) to protect the rights of the consumers both hearing and hearing impaired and the interpreters.~~

- (16) ~~"NCICS E Standards of Ethical Behavior" are behavioral guidelines for interpreters working primarily in educational settings developed by the Division and DPI established to protect the rights of the consumers both hearing and hearing impaired and the interpreters.~~
- (17) ~~"State Coordinator" means a person employed by the Division of Services for the Deaf and the Hard of Hearing whose responsibility is to administer and oversee all aspects of the classification process.~~
- (18)(7) ~~"Transliterater" means a person who performs services for the public in the capacity of a transliterater between one or more hearing persons and one or more deaf persons using a form of manually coded English.~~

*Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33.*

**10A NCAC 17C .0105 ELIGIBILITY**

Applicants shall meet one of the following prerequisites:

- (1) ~~current or expired certification from the N.R.I.D., from an organization within another state equivalent to that of the North Carolina Registry of Interpreters for the Deaf or a commission or agency equivalent to that of the Division; or~~
- (2) ~~documentation of 200 hours of verifiable interpreter experience from a representative of any agency, business, organization or church. A maximum of five hours of documented interpreter training experience may be substituted for 50 hours of verifiable interpreter experience at a ratio of one hour of training time equals ten hours of interpreter experience; or~~
- (3) ~~graduation from an interpreter training program from a post secondary institution accredited by a Regional Board of Accreditation of Colleges and Universities. Such training program must have been sponsored by a college, university or community college program.~~

*Authority G.S. 8B-1(3); 8B-6; 143B-216.33.*

**10A NCAC 17C .0106 APPLICATION**

The following shall be the application process for classification:

- (1) ~~Application forms and the dates of classification sessions shall be available at any office of the Division.~~
- (2) ~~Applications shall be completed and sent to the state office of the Division at least 30 days prior to the scheduled classification session. Applicants shall be selected for each classification session in the order that the applications were received. Applicants who cannot be included in any given classification~~

~~session shall be placed on priority for the next session.~~

- (3) ~~Each applicant shall return a signed copy of the applicable, NCICS C and/or NCICS E, Standards of Ethical Behavior and a statement agreeing to maintain the confidentiality of the testing materials.~~

*Authority G.S. 8B-1(3); 8B-6; 143B-216.33.*

**10A NCAC 17C .0107 CLASSIFICATION TEAM AND EVALUATORS**

~~The criteria for the classification team and the classification team members shall be:~~

- (1) ~~The classification team shall be composed of at least three trained evaluators. At least one evaluator shall be hearing and one shall be hearing impaired.~~
- (2) ~~Service terms of active evaluators shall be a maximum of two years with a mandatory one year break between service periods. Retraining by the Division after the one year break shall be required for continued participation on the classification team.~~
- (3) ~~All hearing evaluators shall hold a current Class A classification for participation in the NCICS C process or a current Class Advanced from the NCICS E from the Division or current certification from the N.R.I.D. and all shall have successfully completed the evaluator training offered by the Division.~~

*Authority G.S. 8B-1(3); 8B-6; 143B-216.33.*

**10A NCAC 17C .0108 CLASSIFICATION**

(a) ~~The classification process shall be as follows:~~

- (1) ~~The Division shall conduct at least three classification sessions per year.~~
- (2) ~~All testing for the classification process shall be videotaped. Videotapes shall be maintained within the Division for a period of not less than two years.~~
- (3) ~~A written test covering the Standards of Ethical Behavior shall be administered prior to the skills portion of the N.C.I.C.S. process. An 80 percent passing score shall be required in order to proceed to the skills portion of the process. The Standards of Ethical Behavior consist of the following behavioral guidelines:~~
  - (A) ~~NCICS C:~~
    - (i) ~~Interpreter/transliterater shall keep all assignment-related information strictly confidential;~~
    - (ii) ~~Interpreter/transliterater shall render the message faithfully, always conveying the content and spirit of the speaker, using language~~

- ~~(iii) Interpreter/transliterators shall not counsel, advise or interject personal opinions;~~
  - ~~(iv) Interpreter/transliterators shall accept assignments using discretion with regard to skills, setting and the consumers involved;~~
  - ~~(v) Interpreter/transliterators shall request compensation for services in a professional and judicious manner;~~
  - ~~(vi) Interpreter/transliterators shall maintain high professional standards and shall be expected to function in a manner appropriate to the situation while keeping in mind styles and colors which would enhance the effectiveness of the interpreting;~~
  - ~~(vii) Interpreter/transliterators shall strive to further knowledge and skills through participation in workshops, seminars, professional meetings, interaction with professional colleagues and reading of current literature in the field.~~
- ~~(B) NCICS E:~~
- ~~(i) Interpreters/Transliterators may discuss assignment related information only with teachers and their supervisors who are directly responsible for the educational program of hearing impaired children for whom the interpreter interprets/transliterates.~~
  - ~~(ii) Interpreters/Transliterators shall render the message faithfully, always conveying the content and spirit of the speaker, using language and modality (CUEd SPEECH, ORAL, SIGN LANGUAGE) most readily understood by the student(s) whom they serve.~~
  - ~~(iii) Under the direction of the subject area teacher and as dictated by the individualized education~~
- ~~program, the interpreter/transliterator may tutor hearing impaired students and assist them to better comprehend the presented material. For nonacademic issues, the interpreter/transliterator should direct students to the appropriate professional.~~
  - ~~(iv) Interpreters/Transliterators in the educational setting shall accept only the employment for which they are qualified based on their certification level and consumers involved and should request compensation commensurate with that level.~~
  - ~~(v) Interpreters/Transliterators shall function in a manner appropriate to the situation.~~
  - ~~(vi) Interpreters/Transliterators shall accept assigned responsibility and authority for their role as members of the educational team. They will abide by and enforce federal, state, school district and individual school regulations.~~
  - ~~(vii) Interpreters/Transliterators shall strive to further professional knowledge and skills through participation in workshops, professional meetings, interaction with professional colleagues and reading of current literature in the field.~~
  - ~~(viii) Interpreters/Transliterators are encouraged to support the profession by striving to maintain or improve related skills, knowledge and application of those skills.~~
- ~~(4)(a) Classifications shall be based on the points awarded by evaluators during the classification process. Classifications levels shall be as follows:~~
- ~~(1)(A) NCICS-C:~~
    - ~~(i) "Class Trainee" is a two year temporary classification indicating the interpreter/transliterator exhibited only the minimal entry level skills necessary for becoming classified achieving 61-70 percent of the total possible points. This interpreter shall only be assigned to non-critical, slow-~~

~~paced situations in which there would be the ability to stop the speaker for clarification. This interpreter shall not under any circumstances accept or be placed in any assignment which could be considered critical. This person shall be sent on assignments with an interpreter holding a Class A or N.R.I.D. certification whenever possible.~~

~~(ii)(A) "Class C" means an interpreter/transliterator with intermediate skills scoring 71-80 percent of the total possible points. This interpreter has demonstrated competency in all areas of interpreting and transliterating; however, it shall not be assumed that a Class C interpreter is capable of handling any and all situations. Critical medical and legal assignments shall be performed by Class A or National Registry of Interpreters for the Deaf certified interpreters who have training and experience in these critical areas.~~

~~(iii)(B) "Class B" is an interpreter/transliterator with comprehensive skills scoring 81-90 percent of the total possible points. This interpreter has demonstrated a high level of competency in all areas of interpreting and transliterating and has shown the ability to accurately convey most of the subtleties of emotion, in addition to concepts.~~

~~(iv)(C) "Class A" is an interpreter/transliterator with advanced skills scoring the highest possible 91-100 percent of the total possible points. This interpreter has demonstrated the highest level of competency in all areas of interpreting and transliterating and has shown the ability to accurately convey all aspects of the spoken or signed message including nuances of emotion, content and intricate concepts. Class A interpreters with proven expertise or training shall be used in critical situations. This interpreter is qualified for G.S. 8B-6 assignments.~~

~~(B) NCICS E:~~

~~(i) "Class Novice" is a two year temporary classification indicating the interpreter/transliterator exhibited only the minimal entry level skills necessary for becoming classified~~

~~achieving 61-70 percent of the total possible points. This interpreter shall only be assigned to slow paced, small group or individual situations in which there is an opportunity to preview the material and/or stop the speaker for clarification. This interpreter shall not under any circumstances accept or be placed in any assignment which could be considered critical (e.g., counseling sessions, achievement or psychological testing, medical emergencies.) Ever effort should be made to provide this person with a mentor who holds an "A" classification from the NCICS C, "Advanced" classification from the NCICS E, or certification from the National Registry of Interpreters for the Deaf.~~

~~(ii) "Class Beginner" is an interpreter/transliterator with intermediate skills, scoring 71-80 percent of the total possible points. This interpreter has demonstrated proficiency in interpreting and transliterating; however, it shall not be assumed that a "Beginner" Classified interpreter is capable of handling any and all situations. Caution should be applied when considering highly technical material and critical out of class situations such as counseling sessions or psychological testing situations. An interpreter/transliterator with this level should be able to competently handle situations in which there is an opportunity to stop the student or professional for clarification or repetition.~~

~~(iii) "Class Intermediate" is an interpreter with comprehensive skills scoring 81-90 percent of the total possible points. This interpreter has demonstrated a high level of competency in most areas of interpreting and transliterating and has shown the ability to accurately convey most of the subtleties of emotion, in addition to concepts. This interpreter is qualified to handle most classroom situations with prior experience and some counseling and testing situation. An interpreter with this level should be able to effectively handle difficult, faster paced communication where there may or may not be an~~

~~opportunity to stop for clarification or repetition.~~

~~(iv) "Class Advanced" is an interpreter/transliterater with advanced skills scoring the highest possible 91-100 percent of the total possible points. This interpreter has demonstrated the highest level of competency in all areas of interpreting and transliterating and has shown the ability to accurately convey all aspects of the spoken or signed message including nuances of emotion, content and intricate concepts. An "Advanced" Classification is recommended for interpreting in counseling sessions, medical emergencies and psychological testing situation. An interpreter with this level can proficiently handle a full range of complex communication situations occurring in an educational environment.~~

~~(5) All candidates shall receive written notification of their results within 45 calendar days of the date of their classification session.~~

~~(6) Candidates who do not exhibit skills at the minimum Class Trainee or Novice level may reapply for classification 60 calendar days after receipt of the results of their previous classification session.~~

~~(b) All candidates receiving classification from the N.C.I.C.S. shall have the option of having their names, phone numbers and addresses or their names only printed in the North Carolina Interpreter Directory. This Directory shall provide a reference for all consumers of interpreters. It shall also be a reference for all agencies who must meet the requirements of hiring only qualified interpreters as set forth in G.S. 8B-6.~~

~~(c) Interpreters who hold national certification from the N.R.I.D., Class A, or Class Advanced level from the N.C.I.C.S. with proven experience in the respective area they are being called to interpret are qualified interpreters for the purpose of meeting requirements of G.S. 8B-6.~~

*Authority G.S. 8B-1(3); 8B-6; 90D; 143B-216.33.*

**10A NCAC 17C .0109 REVIEW AND APPEAL OF CLASSIFICATION DECISIONS**

~~(a) There shall be two bases upon which individuals may request a review of their classification: evaluator conduct and classification scoring.~~

~~(1) Evaluator Conduct. Evaluators are expected to conduct evaluations in a professional manner which will include but is not limited to:~~

~~(A) refraining from discussion of the candidate before, during and after the classification process;~~

~~(B) maintaining alertness and attentiveness during the classification process;~~

~~(C) refraining from the display of any behavior which would negatively or positively influence the candidate; and~~

~~(D) maintaining confidentiality of all testing materials.~~

~~(2) Classification Scoring, Results of NCICS candidate's performance are disputed due to dissatisfaction with the results awarded by the classification team.~~

~~(b) Requests for Informal Reviews. Applicants who are dissatisfied with their classification because of evaluator misconduct or classification scoring may request an informal review of their classification. The request shall be a written request sent to the State Coordinator within 30 calendar days of the applicant's receipt of the classification results. The request shall indicate whether it is based on evaluator misconduct or classification scoring.~~

~~(1) If the request is based on evaluator misconduct, the nature of the evaluator's misconduct shall be specified.~~

~~(2) If the request is related to classification scoring, the applicant shall:~~

~~(A) Request a private viewing of the videotaped performance at the mutual convenience of the NCICS candidate and the NCICS State Coordinator. This meeting must be requested in writing not more than 30 calendar days after the applicant's receipt of classification results. This meeting shall be conducted at the administrative offices of the Division.~~

~~(B) Should the candidate after viewing the videotaped performance remain dissatisfied with the results due to classification scoring, the candidate shall request a review of the videotaped classification by a classification review team.~~

~~(c) Review of Evaluator Conduct. If an applicant has requested an informal review that involves evaluator conduct, the State Coordinator shall conduct an investigation of the alleged misconduct and provide a written response to the applicant within 45 calendar days of the Division's receipt of the request. The State Coordinator may request one additional 45 calendar day extension from the Division Director if additional time is needed to conduct the investigation.~~

~~(d) Review of Classification Scoring:~~

~~(1) If an applicant has requested a review of the videotaped classification, the State Coordinator shall appoint a classification review team composed of three members of whom at least one shall be hearing and one hearing impaired.~~

- ~~(2) The applicant shall have the right to reject participation of any classification review team member if the applicant can show that there is a conflict of interest or other situation that might impair the objectivity of the team member.~~
- ~~(3) If the classification level resulting from the review team's classification is the same as that of the original classification team, the original classification level shall be accepted. If a different classification level is selected, the applicant shall be allowed to retest without any waiting period.~~
- ~~(4) The State Coordinator shall provide the applicant a written response regarding the review team's scoring within 90 calendar days of the Division's receipt of the request. The State Coordinator may request one 45-calendar day extension from the Division Director if additional time is needed to conduct the review.~~

~~(e) Appeals Hearing. An applicant who remains dissatisfied with the results of the informal review may request an appeals hearing according to the procedures in G.S. 150B, Article 3, and 10 NCAC 1B .0200. The request must be submitted within the time specified in G.S. 150B 23(f). The Division Director shall make the final agency decision in the appeal.~~

*Authority G.S. 8B-1(3); 8B-6; 143B-216.33; 150B, Article 3.*

**10A NCAC 17C .0110 CHANGE OF NAME OR ADDRESS OF CLASSIFICATION HOLDERS**

The procedure for name or address changes shall be:

- ~~(1) A classification holder shall notify the State Coordinator of changes in name or residential address within 90 calendar days of such change.~~
- ~~(2) Notification of address changes shall be mailed to the Division of Services for the Deaf and the Hard of Hearing, 695 A Palmer Drive, Raleigh, N.C. 27603 and shall include a complete mailing address including zip code and telephone number.~~
- ~~(3) Notification of name changes shall be mailed to the Division office and shall include a notarized copy of a marriage certificate or court decree evidencing such change.~~

*Authority G.S. 8B-1(3); 8B-6; 143B-216.33.*

**SECTION .0200 – INTERPRETER SERVICES**

**10A NCAC 17C .0201 ELIGIBILITY**

- (a) Persons having a communicative disability resulting from a hearing impairment, including persons having additional handicapping conditions, are eligible for interpreter-related services.
- (b) Community agencies and organizations, employers of deaf, hard of hearing, and deaf-blind persons, and family members of

deaf, hard of hearing, and deaf-blind persons are eligible for interpreter-related services of the regional centers. Such services may include but are not limited to information, consultation, and sign language instruction.

*Authority G.S. 143B-216.33.*

**10A NCAC 17C .0202 CONTRACTED INTERPRETER SERVICES**

Interpreter services may be contracted by the Division of Services for the Deaf and the Hard of Hearing in order to facilitate the delivery of human services to deaf, hard of hearing, and deaf-blind persons. Provision of interpreter services on a contractual basis does not supplant other resources available within the community for which the individual is entitled or may be eligible insofar as such benefits are adequate.

*Authority G.S. 143B-216.33(a)(3).*

**10A NCAC 17C .0203 LICENSURE OF INTERPRETERS**

Persons providing interpreter services through the Division of Services for the Deaf and the Hard of Hearing must hold a current North Carolina license in interpreting or transliteration.

*Authority G.S. 90D-4(a); 143B-216.33(a)(8).*

**10A NCAC 17C .0204 INTERPRETER SERVICES: JUDICIAL, LEGISLATIVE AND ADMINISTRATIVE PROCEDURES**

Persons providing interpreter services for judicial, legislative, and administrative proceedings must be considered qualified under standards and procedures established by the North Carolina Interpreter and Transliterator Licensing Board. The procedures by which interpreters may be recognized as qualified for these purposes are established by the Board in order to ensure that deaf persons will be assigned an interpreter possessing skills adequate for the requirements of the situation.

*Authority G.S. 8B-1(3); 90D-4; 90D-6.*

**10A NCAC 17C .0205 INTERPRETER APPLICATION: JUDICIAL, LEG., AND ADMIN. PROC.**

Persons who wish to be considered qualified to serve as an interpreter in certain judicial, legislative, and administrative proceedings must make written application to the North Carolina Interpreter and Transliterator Licensing Board for licensure.

*Authority G.S. 8B-1(3); 90D-4; 90D-6; 143B-216.33(a)(8).*

**SUBCHAPTER 17D - INTERPRETER DIRECTORY AND DEVELOPMENT**

**SECTION .0100 - INTERPRETER SERVICES**

**10A NCAC 17D .0101 ELIGIBILITY**

(a) Persons having a communicative disability resulting from a hearing impairment, including persons having additional handicapping conditions, are eligible for services.



~~(b) Community agencies and organizations, employers of hearing impaired persons, and family members of hearing impaired persons are eligible for services of the community service centers. Such services may include but are not limited to information, consultation, and sign language instruction.~~

*Authority G.S. 143B-216.33.*

**10A NCAC 17D .0102 CONTRACTED INTERPRETER SERVICES**

~~Interpreter services may be contracted by the Division of Services for the Deaf and the Hard of Hearing in order to facilitate the delivery of human services to hearing impaired persons. Provision of interpreter services on a contractual basis does not supplant other resources available within the community for which the individual is entitled or may be eligible insofar as such benefits are adequate.~~

*Authority G.S. 143B-216.33(d).*

**10A NCAC 17D .0103 CERTIFICATION OF INTERPRETERS**

~~Persons providing interpreter services through the Division of Services for the Deaf and the Hard of Hearing must hold a current certification by the National Registry of Interpreters for the Deaf or a current certification by a governmental agency in another state. An ascending reimbursement scale reflecting levels of competence and certification has been established for payment of interpreter services provided on a contractual basis. The reimbursement schedule is available for review at the Division Central Office from 8 a.m. to 5 p.m., Monday through Friday.~~

*Authority G.S. 143B-216.33(a)(8).*

**10A NCAC 17D .0104 INTERPRETER SERVICES: JUDICIAL: LEG. AND ADMIN. PROC.**

~~Persons providing interpreter services for judicial, legislative, and administrative proceedings must be considered qualified under standards and procedures established by the North Carolina Division of Services for the Deaf and the Hard of Hearing. The procedures by which interpreters may be recognized as qualified for these purposes are established in order to ensure that deaf persons will be assigned an interpreter possessing skills adequate for the requirements of the situation.~~

*Authority G.S. 8B-1(3); 143B-216.33(a)(1)(8).*

**10A NCAC 17D .0105 INTERPRETER APPLICATION: JUDICIAL: LEG. AND ADMIN. PROC.**

~~Persons who wish to be considered qualified to serve as an interpreter in certain judicial, legislative, and administrative proceedings may make written application to the Director, Division of Services for the Deaf and the Hard of Hearing at the Division Central Office. Applicants may be considered for one of two statuses available. Status I includes individuals holding certain valid and current certificates awarded by the National Registry of Interpreters for the Deaf and also includes individuals who have been awarded certain classifications~~

~~obtained through an assessment procedure offered by the North Carolina Registry of Interpreters for the Deaf. Status II is available for individuals who do not possess evidence of skill or qualifications granted by those organizations. The application should include:~~

- ~~(1) a request to be placed on the approved list of interpreters for deaf persons for purposes related to G.S. 8B;~~
- ~~(2) the status for which application is being made;~~
- ~~(3) a completed application form which will delineate the interpreting skills of the applicant together with evidence of certification awarded by the National Registry of Interpreters for the Deaf or the North Carolina Registry of Interpreters for the Deaf if Status I is desired;~~
- ~~(4) If Status II is desired the application should include:
 
  - ~~(a) a delineation of the interpreting skills of the applicant together with the names and addresses of four persons who may serve as references, to include at least two hearing impaired persons familiar with the applicant's qualifications and two persons who may be selected from the following: former employers, professionals in the area of interpreting, interpreter trainers or instructors, staff to the Division of Services for the Deaf and the Hard of Hearing;~~
  - ~~(b) information about educational background;~~
  - ~~(c) information about professional and practical training and experience;~~
  - ~~(d) information about the length of time in professional practice;~~
  - ~~(e) detailed information about different settings in which the applicant has served.~~~~

*Authority G.S. 8B-1(3); 143B-216.33 (a)(8).*

**SECTION .0200 – TELECOMMUNICATIONS EQUIPMENT DISTRIBUTION PROGRAM**

**10A NCAC 17D .0202 DEFINITIONS**

The definitions of the terms defined in G.S. 143B-216.30 apply to all the rules in this Section. In addition, the following terms have the meaning specified in this Rule, except where the context clearly indicates a different meaning:

- (1) "Applicant" means an individual who applies for equipment from the Telecommunications Equipment Distribution Program.
- ~~(4)~~(2) "Deaf" means the inability to hear and or understand oral communication, with or without the assistance of amplification devices.

- ~~(2)~~(3) "Deaf-blind person" means a deaf person, as defined in this Rule who is also certified as legally blind.
- ~~(3)~~(4) "Division" means the North Carolina Division of Services for the Deaf and the Hard of Hearing of the Department of ~~Human Resources~~ Health and Human Services or its staff.
- ~~(4)~~(5) "Equipment set" means any one or more of the following:
- (a) ring signaling device as defined in this Rule;
  - (b) telebraille device as defined in this Rule;
  - (c) telecommunications device for the deaf, hard of hearing, or speech-impaired, or TDD, defined as a keyboard mechanism attached to or in place of a standard telephone by some coupling device, used to transmit or receive signals through telephone lines; ~~or~~
  - (d) volume control handset defined as a telephone handset or other telephone listening device which has an adjustable control for increasing the volume of the sound being produced by the telephone receiving ~~unit.~~ unit; or
  - ~~(e)~~ any other equipment, component, or accessories, excluding computers, designed to give deaf, hard of hearing, deaf-blind, and speech-impaired individuals telephone access.
- ~~(6)~~ "Hard of hearing" means having permanent hearing loss which is severe enough to necessitate the use of amplification devices to hear oral communication. The term "hard of hearing" may be substituted for the term "hearing impaired" as used elsewhere within these Rules.
- ~~(5)~~(7) "Program" means the North Carolina Division of Services for the Deaf and the Hard of Hearing ~~Communication Services Program for the Deaf, Hearing and Speech Impaired, Telecommunications Equipment Distribution Program,~~ by which the Division provides equipment sets capable of serving the needs of deaf, ~~hearing-impaired and hard of hearing, deaf-blind, and~~ speech-impaired ~~subscribers~~ individuals as required under G.S. 143B-216.34.
- ~~(6)~~(8) "Recipient" means the user of the equipment set or the parent, person standing in loco parentis, or legal guardian of a minor user who is ~~at least seven years of age but~~ under 18 years of age.

- ~~(7)~~(9) "Regional center" means ~~a regional community service center for the hearing impaired that~~ one of several centers located throughout North Carolina, each of which serves deaf, hard of hearing, and deaf-blind individuals within a defined region, and which is operated by the ~~Department of Human Resources or an independent community service center for the deaf and hearing impaired.~~ Division of Services for the Deaf and Hard of Hearing.
- ~~(8)~~(10) "Ring Signaling Device" means a mechanism such as a flashing light which visually or tactilely indicates that a communication is being received through a telephone line. This phrase also means a mechanism such as adjustable volume ringers and buzzers which audibly and loudly indicate an incoming telephone communication.
- ~~(9)~~(11) "Subscriber unit" means a single dwelling which receives basic telephone service and is subject to a monthly service charge for each access line.
- ~~(12)~~ "TEDP" means the Telecommunications Equipment Distribution Program administered by the Division of Services for the Deaf and the Hard of Hearing.
- ~~(40)~~(13) "Telebraille device" means a TDD which has a modem connected to a braille machine which prints out embossed braille characters on a paper roll for a deaf-blind person to read.
- ~~(41)~~(14) "User" means a deaf, ~~hearing-impaired~~ hard of hearing, or speech-impaired person or deaf-blind person within a subscriber ~~unit.~~ unit, including users with different disabilities who require different equipment to best serve their needs.

*Authority G.S. 62-157; 143B-216.30.*

**10A NCAC 17D .0203 DIVISION RESPONSIBILITIES**

The Division shall:

- ~~(1)~~ promote to eligible recipients throughout North Carolina the availability of equipment sets.
- ~~(4)~~(2) provide equipment sets to recipients as prescribed by the rules in this Section, and
- ~~(2)~~(3) provide training in the use of equipment sets for recipients who desire training.

*Authority G.S. 62-157; 143B-216.34.*

**10A NCAC 17D .0204 INFORMATION CONCERNING THE PROGRAM**

Organizations serving the deaf, ~~hearing-impaired~~ hard of hearing, deaf-blind, and speech ~~impaired~~ impaired; publishers of newsletters for these ~~groups~~ groups; and individuals who wish to

receive written information regarding the program shall contact the Division and request that their names be placed on a mailing list to receive such information.

Authority G.S. 143B-216.33.

10A NCAC 17D .0205 APPLICATION INFORMATION AND PROCEDURES

(a) Interested persons may request an application packet by calling or writing the Division at the Division Central Office, or by requesting one from any of the regional centers or any of the Schools for the Deaf, or downloading one from the Division website.

The application packet shall include:

- (1) written materials which contain:
  - (A) a description of the obligations of the Division to the recipient;
  - (A) an introductory overview of the application process;
  - (B) a list of the types of devices available under the program;
  - (B)(C) a description of the rights and responsibilities of the recipient under eligibility requirements for the program;
  - (C)(D) a detailed description of the application process;
  - (D) a description of the Division and its role as liaison to the deaf, hearing-impaired and speech-impaired community; and
  - (E) office telephone numbers of the regional centers;
- (2) instructions for submitting reports and statements certifying that the applicant is deaf, hearing-impaired, hard of hearing, speech-impaired, or deaf-blind;
- (3) a Conditions of Acceptance form for the recipient to sign indicating that the recipient understands and agrees with the rights and responsibilities of the recipient and desires services of the program; program. This form includes information for recipients acting for minor users to sign indicating their agreement that equipment sets received under this program may be transferred to the user upon the user's 18<sup>th</sup> birthday at the request of the minor user.
- (4) a standard application form calling for the following information:
  - (A) the full name, age, and address address, date of birth, and occupation of the recipient and all users of the equipment set;
  - (B) telephone number, number the name and address of the person to whom the telephone services is billed, and the name and address of the telephone company; of the recipient;

- (C) personal and financial information regarding all family members necessary to determine financial eligibility according to the provisions of Rule ~~.0410~~ .0210 of this Section; and
  - (D) copies of driver's license or other proof of identification and residence of the recipient; and
  - (E) the disability status of the applicant or the intended user.
- (5) ~~a form for recipients acting for minor users to sign indicating their agreement that equipment sets received under this program may be transferred to the user upon the user's 18th birthday, upon the request of the minor user according to the provisions of Rule .0416 .0216 of the Section.~~

(b) To apply for equipment from the TEDP, an eligible applicant must:

- (1) answer all of the questions on the application form, sign it, and date it.
  - (2) make a copy of an item from Rule .0206(b)(1) offering proof of residence in North Carolina to include with the application.
  - (3) make a copy of an item from Rule .0206(b)(5)(D) offering proof of household income to include with the application.
  - (4) read the Conditions of Acceptance form, sign it with the applicant's name, and date, and include it with the application.
  - (5) give the Disability Determination form to a certified person listed in Rule .0206(b)(2) to fill out.
  - (6) read the Equipment Selection form, select the equipment that best fits the applicant's need, and include it with the application.
- (b)(c) Providing false or misleading information on the application shall subject any applicant selected as a recipient to forfeiture of any equipment set provided.
- (e)(d) The regional centers shall provide assistance in completing application forms upon request.
- (d)(e) Applicants shall complete and sign all forms, attach all necessary documentation, and mail the completed application packet, including a self addressed stamped postcard, packet to the address specified on the application.
- (e)(f) Upon receipt of completed application packets, the Division shall acknowledge receipt by returning the applicant's self addressed postcard. The Division shall verify an applicant's eligibility within 45 days following receipt of the completed application, if possible. If the Division cannot verify eligibility within 45 days, it shall inform the applicant in writing as soon as possible within the 45-day period indicating the problem and solicit clarification and additional information in order to determine the applicant's eligibility.

Authority G.S. 62-157; 143B-216.34.

10A NCAC 17D .0206 ELIGIBILITY

~~(a) Equipment sets shall be distributed only to applicants who meet the eligibility criteria specified in Rules .0407 through .0411 of this Section and shall be distributed in the following priority order:~~

- ~~(1) those who do not have the appropriate equipment set, who are 18 years old or older or are an emancipated minor, and who have the most severe hearing impairment;~~
- ~~(2) those who do not have the appropriate equipment set, who are under 18 years of age, and who have the most severe hearing impairment with those who are older within this priority category receiving higher priority according to age;~~
- ~~(3) those who have obsolete electro-mechanical equipment sets which are not feasible to continue to operate, who are 18 years old or older or who are an emancipated minor, and who have the most severe hearing impairment;~~

~~(b)(a) Equipment sets shall be distributed according to the earliest postmark date of each completed application within each priority category set forth in (a) of this Rule. Equipment sets shall be distributed to eligible recipients within the limits of available funding.~~

~~(b) To be eligible for equipment from the TEDP, an individual must meet the following criteria:~~

- ~~(1) be a resident of North Carolina. An individual can establish residency by:
 
  - ~~(A) submitting a copy of a current North Carolina driver's license or North Carolina non-driver identification; or~~
  - ~~(B) submitting a copy of the last three months of utility bills (telephone, electricity, cable, water, sewage or gas).~~~~
- ~~(2) be certified as deaf, hard of hearing, deaf-blind, or speech-impaired. An individual must submit a Disability Determination form authorized and certified by one of the following:
 
  - ~~(A) licensed hearing-aid specialist;~~
  - ~~(B) licensed audiologist;~~
  - ~~(C) licensed physician;~~
  - ~~(D) appropriate state or federal agency representative;~~
  - ~~(E) licensed speech pathologist;~~
  - ~~(F) state certified teacher; or~~
  - ~~(G) disability service center representative.~~~~
- ~~(3) not have another person with a similar disability from the same household receive similar equipment from TEDP. Those applying for hearing aids are exempt from this requirement.~~
- ~~(4) not be eligible to receive new equipment for six years from the time when his/her equipment of the same kind was issued.
 
  - ~~(A) A recipient may apply for new equipment every six years or if~~~~

his/her disability progresses to the point where different equipment may be necessary.

(B) A recipient who continues to meet eligibility requirements and has equipment which exceeds its standard lifespan and is no longer functioning may apply for new equipment prior to the end of the six-year period. Division staff shall verify that the equipment did not expire due to misuse or abuse.

(5) have income limits.

(A) The income limit varies for individuals whose income is 250 percent above the Federal Policy Level based on the number of individuals in the family.

(B) If a minor applicant applies, proof of income for the minor applicant, including the minor's income and the minor's parents' income, is required.

(C) An applicant can show proof of income by submitting a copy of the following forms for each source of income the applicant has: (1) the most recent three months' paycheck stubs; (2) the most recent W-2 form; (3) the most recent local, state, and federal income tax return; (4) the most recent retirement statement; (5) the most recent Social Security statement; (6) the most recent Nursing Home statement; (7) a copy of the applicant's Supplemental Security or Social Security Disability Insurance check or a dated Social Security letter; and/or (8) the most recent bank statement that shows a Social Security direct deposit.

(6) have no age limit. An individual can apply for himself/herself or for a child or dependent adult who lives in the same household.

*Authority G.S. 62-157; 143B-216.34.*

**10A NCAC 17D .0207 CERTIFICATION OF IMPAIRMENT**

(a) A prospective user shall be certified as deaf, ~~hearing impaired, hard of hearing, speech-impaired~~ speech impaired, or deaf-blind to be eligible to receive an equipment set.

(b) To be certified a recipient shall submit a ~~written report or statement from~~ Disability Determination form filled out by a licensed physician, licensed audiologist, licensed hearing-aid specialist, licensed speech pathologist, disability service center representative, or an agent of a state or federal public agency certifying that the person is deaf, ~~hearing-impaired,~~ hard of hearing, speech-impaired, or deaf-blind and stating the nature and degree of the impairment. ~~In addition, deaf-blind recipients~~

~~shall submit a statement from a licensed physician stating the nature and degree of visual impairment.~~

(c) Applicants may submit copies of certification statements or reports that are on file with a state or federal agency if such statements or reports meet the requirements in (b) of this Rule.

(d) The certification reports or statements shall be included with the application when it is submitted.

Authority G.S. 62-157; 143B-216.33(a)(7),(d).

**10A NCAC 17D .0208 AGE REQUIREMENTS**

~~A minor under seven years of age shall not be eligible as a user under the program.~~ There is no age limit. An individual can apply for himself/herself or for a minor child under age 18 or a dependent adult who lives in the same household.

Authority G.S. 62-157; 143B-216.33(a)(7),(d).

**10A NCAC 17D .0209 RESIDENCY REQUIREMENTS**

(a) An applicant shall be a permanent legal resident of the State of North Carolina to be eligible to receive an equipment set ~~except as provided in (e) of this Rule. set.~~

(b) To be permanent legal residents of North Carolina, applicants shall not only live in the state, but also have the intention of making their permanent home in this state to which, whenever absent, they intend to return.

(c) Unemancipated minors have the residency of their parents, person standing in loco parentis, or if the parents are separated or divorced, the residency of the parent with legal custody. For purposes of this Rule, "person standing in loco parentis" refers to one who has put himself or herself in the place of a lawful parent by assuming the rights and obligations of a parent without formal adoption.

(d) Residence continues until a new one is acquired. When a new residence is acquired, all former residences terminate.

~~(e) The residency requirement shall not apply to a student who is 18 years of age or older who attends an accredited North Carolina educational institution or to a child or spouse of a temporary resident of North Carolina who is a member of the United States military if the following requirements are met:~~

- ~~(1) at the time of application, the applicant expects to remain in North Carolina for not less than 270 days;~~
- ~~(2) the applicant submits proof of military or student status by attaching a copy of military I.D. or student I.D. to the application form; and~~
- ~~(3) the Division is able to verify the proof of status submitted.~~

Authority G.S. 62-157; 143B-216.34.

**10A NCAC 17D .0210 FINANCIAL ELIGIBILITY**

(a) An applicant shall meet the Division's financial needs test to be eligible to receive an equipment set.

(b) Applicants for an equipment set who are recipients of public funds such as AFDC, SSDI, SSI, CSHS (Children's Special Health Services), or the Food Stamp Program shall automatically

meet the financial needs test upon submission of documentation of their eligibility for the publicly funded program.

(c) Financial eligibility for applicants not included under (b) of this Rule shall be determined by applying the Federal Poverty Level in effect on the date of application for family size and income of the applicant.

(d) An applicant's family shall include the user and the following persons living in the same household as the user if the user is 18 years of age or older or if the user is less than 18 years of age and is married:

- (1) the users spouse;
- (2) the user's children under 18 years of age;
- (3) other individuals related to the user by blood, marriage, or adoption if the other individuals have no income and do not have a parent or spouse who has income living in the same household; and
- (4) the user's children of any age who are temporarily living away from the household while attending school if they are being claimed as dependents by the user for tax purposes.

(e) An applicant's family shall include the user and the following persons living in the same household as the user if the user is less than 18 years of age and is not married:

- (1) the user's parents, not including step-parents;
- (2) siblings or half-siblings of the user, but not step-siblings, if the siblings are unmarried and less than 18 years of age;
- (3) siblings or half-siblings of the user, but not step-siblings, if the siblings are 18 years of age or older and have no income; and
- (4) other individuals related to the user by blood, marriage, or adoption if the other individuals have no income and do not have a parent or spouse who has income living in the same household.

(f) In (e)(2) and (3) of this Rule, siblings who are temporarily living away from the household while attending school may be considered as living in the same household if they are being claimed as dependents by their parents for tax purposes and the parents are in the same household as the user.

(g) Gross monthly income of the family members shall be considered in the financial needs test. If the applicant is married, the applicant must include his/her spouse's income. If the applicant is a minor, the applicant must include his/her parents' income. Examples of gross income include such items as the following:

- (1) salaries and wages;
- (2) earnings from self-employment, except for income that children may earn from babysitting, lawn mowing, or other miscellaneous tasks;
- ~~(3) earnings from stocks, bonds, savings accounts, rentals, and all other investments;~~
- ~~(4)~~(3) public assistance money;
- ~~(5)~~(4) unemployment compensation;
- ~~(6) alimony and child support payments received;~~
- ~~(7)~~(5) Social Security benefits;

- ~~(8)(6)~~ Veteran's Administration benefits;
- ~~(9)(7)~~ retirement and pension payments;
- ~~(10)~~ ~~worker's compensation; and~~
- ~~(11)(8)~~ supplemental security income benefits.

(h) The following shall be excluded in the computation of gross monthly income:

- (1) combined, available cash in the bank not to exceed six times the gross monthly income for the family size; and
- (2) tax value of property held.

(i) The time period to be used as the basis for computing gross monthly income shall be the month preceding the date of application. For income that is not received on a monthly basis, the monthly pro rata share of the most recent receipt of the income shall be included in the computation.

Authority G.S. 62-157; 143B-216.34.

**10A NCAC 17D .0211 ELIGIBILITY FOR REAPPLICATION**

Recipients who have received equipment sets are not eligible to reapply for new equipment sets until five six years after the date of receipt of the initial equipment set. However, recipients may renew lease agreements on the original equipment set according to Rule ~~.0413(b)~~ .0213(b) of this Section. A recipient may apply for new equipment every six years or if his/her disability progresses to the point where different equipment may be necessary.

Authority G.S. 62-157; 143B-216.33(a)(7),(d).

**10A NCAC 17D .0212 PROVISION OF EQUIPMENT SETS**

(a) Only one equipment set shall be provided per subscriber unit that is the permanent, legal residence of one or more deaf, ~~hearing-impaired,~~ hard of hearing, speech-impaired, or deaf-blind eligible users. In the event that two or more recipients share a common, permanent, legal residence constituting a subscriber unit, equipment in excess of one equipment set shall be returned to the local regional center unless the recipients have different disabilities that necessitate the use of different kinds of equipment.

(b) The equipment set shall be granted in the name of the recipient. There shall be only one recipient per equipment set per subscriber unit, but there may be multiple users per subscriber unit. Recipient status shall be granted to an adult user within the subscriber unit. In the absence of an adult user within the subscriber unit, recipient status shall be granted to the parent, person standing in loco parentis, or legal guardian residing with a minor user in the subscriber unit.

Authority G.S. 62-157; 143B-216.33(a)(7),(d).

**10A NCAC 17D .0213 OWNERSHIP: LEASE: LIABILITIES**

(a) All equipment sets distributed according to the rules in this Section shall remain the property of the State of North Carolina. Each recipient shall sign a form indicating he or she understands

and accepts the requirements of the lease agreement regarding ownership, liability, and responsibilities.

(b) Contingent upon the recipient's compliance with the rules in this Section, all equipment sets shall be leased free of charge to the recipient for a period of ~~five~~ six years. At the end of the ~~five-year~~ six-year period, the recipient may renew the lease agreement for another ~~five-year~~ six-year lease of the equipment set. At such time, the equipment set shall be returned to the nearest regional center for a visual check and records update.

(c) Equipment sets shall not be sold, loaned, or otherwise transferred from the possession of the original recipient. Transfers shall subject the recipient to liability for the full replacement cost of the equipment set.

Authority G.S. 62-157; 143B-216.34.

**10A NCAC 17D .0214 TELEPHONE BILLS: MAINTENANCE: REPORTING LOSS, DAMAGE, OR THEFT**

(a) The recipient shall be responsible for the payment for all telephone services incurred with the use of the equipment set.

(b) ~~While the equipment set is under warranty, the recipient shall report any needed repairs to the Division according to the directions given by the Division at the time the equipment set is leased to the recipient.~~ All equipment sets are property of the state of North Carolina. The recipient should never sell, loan, or transfer the equipment set out of the recipient's possession. Selling, loaning, or transferring the equipment set makes the recipient liable for all costs to replace the equipment.

(c) All ordinary expense of maintenance and repair of the equipment set ~~not covered by warranty or after the warranty expires~~ shall be the responsibility of the recipient. If the equipment set has a warranty, the conditions of the warranty shall be between the vendor and the recipient. If an equipment set is damaged, lost, or destroyed due to negligence of the recipient and not due to ordinary wear and tear, the recipient shall be held responsible for the cost of replacing the lost or destroyed equipment set or restoring the damaged equipment set to its original condition.

(d) The recipient shall immediately inform the regional resource center if the equipment is lost, stolen, or damaged. If equipment is stolen, ~~local police shall be informed and a copy of the police report shall be forwarded by~~ the recipient shall report the theft to the local police and give the police report number to the regional resource center within five 30 days of the date the theft was reported, occurred. The Division may send the recipient replacement equipment after it receives the police report. If the equipment is damaged by a weather-related situation such as lightning, flooding, or a tornado or by fire, the recipient shall notify the regional center and, if possible, send the damaged equipment and other pieces of supporting evidence to the regional center for verification that the equipment was damaged in any of the above-described manner. The Division will send the recipient a replacement equipment set.

Authority G.S. 62-157; 143B-216.34.

**10A NCAC 17D .0215 RELOCATION OR DEATH OF**

**RECIPIENTS**

- (a) If a recipient permanently relocates outside of North Carolina, the recipient shall give the Division written notice and return the equipment set to the nearest regional center prior to the move. If a recipient dies, written notice shall be given by the deceased's estate and the equipment set returned to the nearest regional center within 30 days after the recipient's death.
- (b) If there are other users residing within a subscriber unit where the recipient dies or relocates outside of North Carolina, one of the users shall apply for recipient status according to the procedures specified in Rule ~~.0405~~ .0205 of this ~~Section~~. Section within 10 days after the original recipient dies or relocates.
- (c) If a recipient ~~plans to relocate~~ relocates within North Carolina, the recipient shall give the Division written notice of the new address ~~and the date of the planned move prior to moving~~. within 30 days after moving. If the recipient's phone number changes, the recipient must notify the Division within 30 days of the change.
- (d) The equipment set shall be returned to the regional center if all users permanently depart from the subscriber unit.

Authority G.S. 62-157; 143B-216.34.

**10A NCAC 17D .0219 ADMINISTRATION**

- (a) The Division will administer and oversee the Telecommunications Equipment Distribution Program through the Telecommunications Relay Service program pursuant to G.S. 62-157.
- (b) The Telecommunications Equipment Distribution Program will verify the applicant's income.
- (c) The Telecommunications Equipment Distribution Program will maintain records regarding individuals who received equipment through the program.

Authority G.S. 62-157.

**10A NCAC 17D .0220 MAINTENANCE OF EQUIPMENT RECORDS**

- (a) Recipients will be identified with names, addresses, kinds of equipment, and serial numbers. The vendors must submit information to the TEDP office along with the invoices for payments.
- (b) All records will be maintained on TEDP's central database.
- (c) Each approved application will be filed in the TEDP office.
- (d) All information will be kept confidential.

Authority G.S. 62-157.

**10A NCAC 17D .0221 RIGHTS/CONSUMER APPEALS**

Applicants whose application for telecommunications equipment has been denied by the TEDP may file an appeal using the following procedure for consumer appeals:

- (1) ask any Division staff member for a TEDP Appeal of Decision to Deny Request for Telecommunications Equipment Form. This form may be obtained from any of the Division's regional resource centers throughout North Carolina or from the TEDP

Administration Office of the Division in Raleigh.

- (2) This form must contain an explanation of the reasons for the appeal and must be submitted to the TEDP Administrator within 30 days of the rejection letter.
- (3) The TEDP Administrator will review the appeal and render a decision within two weeks after receiving the formal appeal.
- (4) The individual appealing the decision will be notified of the TEDP Administrator's decision, in writing, within five working days after the decision is made.
- (5) Appeal of the TEDP Administrator's decision may be made in writing to the Director of the Division within two weeks after notification of the TEDP Administrator's decision.
- (6) The Director of the Division will review the appeal and render a final decision within two weeks after notification of appeal to the Division Director.
- (7) The individual submitting the appeal may pursue further appeal by writing to the Director and requesting an Independent Hearing Officer (IHO).
- (8) The decision of the IHO may be appealed to the Department of Health and Human Services (DHHS).
- (9) Appeal of a DHHS decision can be pursued through the Office of Administrative Hearings (OAH).

Authority G.S. 62-157.

**SECTION .0300 – TEMPORARY LOAN PROGRAM**

**10A NCAC 17D .0301 PURPOSE**

The Division of Services for the Deaf and Hard of Hearing administers a Temporary Loan Program to provide equipment sets, including equipment sets from the North Carolina Telecommunications Equipment Distribution Program, to qualified recipients who are deaf, hard of hearing, deaf-blind, or speech-impaired.

Authority G.S. 143B-216.34.

**10A NCAC 17D .0302 SOURCE OF EQUIPMENT**

The equipment for the Temporary Loan Program may come from used equipment sets in the Division's possession and from donations of equipment sets.

Authority G.S. 143B-216.34.

**10A NCAC 17D .0303 ELIGIBILITY REQUIREMENTS**

Individuals eligible to participate in the Temporary Loan Program must be deaf, hard of hearing, deaf-blind, or speech-impaired. There are no income requirements. However, applicants of the Telecommunications Equipment Distribution

Program whose equipment set breaks will receive priority over those individuals who have not applied for equipment from the Telecommunications Equipment Distribution Program.

Authority G.S. 143B-216.34.

**10A NCAC 17D .0304 LOAN PERIOD, LEASE, AND LIABILITIES**

(a) All equipment sets distributed according to the rules in this Section shall remain the property of the State of North Carolina. Each recipient shall sign a form indicating he or she understands and accepts the requirements of the lease agreement regarding ownership, liability, and responsibilities.

(b) Contingent upon the recipient's compliance with the rules in this Section, all equipment sets shall be leased free of charge to the recipient for a period ranging from one month to two years. The agreement form between the recipient and the regional center shall specify the loan period. At the end of the loan period, the equipment set shall be returned to the nearest regional center.

(c) A recipient must report changes in his/her address and/or phone number to the regional center within 30 days of the changes.

(c) Equipment sets are property of the state of North Carolina. The recipient shall not sell, loan, or otherwise transfer the equipment set out of the recipient's possession. Selling, loaning, or transferring the equipment set makes the recipient liable for all costs to replace the equipment.

Authority G.S. 143B-216.34.

**10A NCAC 17D .0305 MAINTENANCE: REPORTING LOSS, DAMAGE, OR THEFT**

(a) The recipient shall be responsible for the payment for all telephone services incurred with the use of the equipment set.

(b) All ordinary expense of maintenance and repair of the equipment set shall be the responsibility of the recipient. If an equipment set is damaged, lost, or destroyed due to negligence of the recipient and not due to ordinary wear and tear, the recipient shall be held responsible for the cost of replacing the lost or destroyed equipment set or restoring the damaged equipment set to its original condition.

(c) The recipient shall immediately inform the regional center if the equipment is lost, stolen, or damaged. If equipment is stolen, the recipient shall report the theft to the local police and give the police report number to the regional center within 30 days of the date the theft occurred. The Division may send the recipient replacement equipment after it receives the police report. If the equipment is damaged by a weather-related situation such as lightning, flooding, or a tornado or by fire, the recipient shall notify the regional center and, if possible, send the damaged equipment to the regional center for verification that the equipment is damaged. The Division will send the recipient a replacement equipment set.

Authority G.S. 143B-216.34.

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*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Health and Human Services/ North Carolina Division of Vocational Rehabilitation Services intends to amend the rules cited as 10A NCAC 89C .0103, .0402, .0502; 89D .0101, .0204.*

**Proposed Effective Date:** March 1, 2007

**Public Hearing:**

**Date:** January 17, 2007

**Time:** 5:00 p.m.

**Location:** Dorothea Dix Campus, Haywood Gym, 805 Ruggles Drive, Raleigh, NC

**Reason for Proposed Action:** *This proposed amendment to 10A NCAC 89D .0101 and 10A NCAC 89D .0204 establishes required standards for all Community Rehabilitation Programs utilized by the North Carolina Division of Vocational Rehabilitation Services. The standards will ensure consistent performance and vendor requirements.*

**Procedure by which a person can object to the agency on a proposed rule:** *Comments may be presented orally or in writing at the hearing. Written comments also may be submitted to Elizabeth Bishop, Division of Vocational Rehabilitation Services, 2801 Mail Service Center, Raleigh, NC 27699-2801. To obtain additional information or indicate need for alternative communication format contact Paula Jones by phone (919) 855-8533 or TTY (919) 855-3579.*

**Comments may be submitted to:** *Elizabeth Bishop, 2801 Mail Service Center, Raleigh, NC 27699-2801, phone (919) 855-3566, Elizabeth.Bishop@ncmail.net*

**Comment period ends:** January 17, 2007

**Procedure for Subjecting a Proposed Rule to Legislative Review:** *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.*

**Fiscal Impact:**

- State
- Local
- Substantive (≥\$3,000,000)
- None



SUBCHAPTER 89C - PROGRAM RULES

SECTION .0100 - GENERAL POLICIES

10A NCAC 89C .0103 RATES OF PAYMENT

(a) Rules governing rates of payment for all purchases, vocational rehabilitation services, and current rates of payment may be reviewed 8 a.m. to 5 p.m., Monday through Friday, at the Division's State office, 805 Ruggles Drive, Dorothea Dix Campus, Raleigh, North Carolina. ~~Carolina or on the Division's internet site.~~ Vendors providing any services authorized by the Division shall agree not to make any charge to, or accept payment from, the individual receiving services from the Division or the individual's family for such services unless the amount for such service charge or payment is previously known to and approved by the Division in accordance with Sections .0200 and .0300 of this Chapter of rules.

(b) The Division's rate of payment for post secondary education, graduate, professional and summer school shall not exceed the Division's fixed rate charged for the public university and professional schools system and the rate charged for the community college system for tuition and fees as approved by the North Carolina General Assembly October 2001.

(c) The Division's rate of payment for proprietary for profit vocational and trade schools or other training programs that offer curriculums comparable to those offered through the community college system shall not exceed the rate for payment established for the community college system.

(d) The Division's rate of payment for proprietary for profit vocational and trade schools or other training programs that offer an accelerated or condensed curriculum or those training programs that offer training in areas not offered through the community college system shall not exceed the Division's fixed rate for the public university system per semester multiplied by two.

(e) The Division's rate of payment for proprietary for profit vocational and trade schools and any other vocational or trade program that does not operate on a semester system or has varying program lengths up to one year shall not exceed a prorated monthly rate based on the Division's fixed rate for the public university system per semester multiplied by two and the Division's fixed rate for a session of summer school in the public university system multiplied by two.

(f) The Division's rate of payment for proprietary for profit vocational and trade schools and any other vocational or trade programs that does not operate on a semester system or has a varying program length that is twelve months or longer shall not exceed the Division's fixed rate for the public university system per semester multiplied by two and the Division's fixed rate for a session of summer school in the public university system multiplied by two.

(g) The Division's rate of payment for proprietary for those individuals who are North Carolina residents and choose to attend training programs out-of-state, the Division's rate of payment is limited to the Division's fixed rate specified in Paragraph (b) of this Rule.

(h) The Division's rate of payment for optional fees at the community college system shall not exceed the amount approved by the local community college boards.

(i) No training or training services in an institution of higher education (universities, colleges, community or junior colleges, vocational schools, technical institutes, or hospital schools of nursing) as noted in Rule .0205, Paragraph (a)(9) of this Subchapter shall be paid for with vocational rehabilitation funds until maximum efforts have been made by the designated state unit and the individual to secure grant assistance in whole or part from other resources to pay for training and such assistance is applied to the cost of training.

(j) Rate of payment for community rehabilitation programs approved for vendorship shall be determined as follows:

(1) Community rehabilitation programs approved by the Division for outcome based payment shall be paid based upon the Division's established benchmark rate. A payment is made for each major benefit or outcome the vendor contracts with the Division to provide.

(2) Community rehabilitation programs approved by the Division for fee for service shall be paid an hourly rate for providing the services authorized by the Division. The rate is established by the Division based on historical and extensive cost finding. The vendor shall be reimbursed based on the number of hours of actual services provided.

(3) Any adjustments to the rate shall be determined by the Division and shall be based on state approved cost of living adjustment standards.

Authority G.S. 143-545.1; 34 C.F.R. 361.50.

SECTION .0400 - METHODS TO ASSURE NONDISCRIMINATION

10A NCAC 89C .0402 VENDOR COMPLIANCE

(a) The Division shall use only those training vendors, treatment vendors, community rehabilitation program vendors, and room and board vendors who have been approved by the Division and determined to be in compliance with Title VI of the Civil Rights Act of 1964. Vendors may request approval or the Division may request that a vendor or facility consider serving Division clients. In either case, a staff member of the Division shall conduct an on-site vendor review to determine that the vendor is in compliance with Title VI of the Civil Rights Act of 1964. In addition, the vendor shall sign an assurance of compliance form indicating that services will be provided in compliance with Title VI of the Civil Rights Act of 1964.

(b) Out-of-state vendors may be added to the Division's list of approved vendors upon certification from the respective state's Division of Vocational Rehabilitation Services that the vendor is in compliance with Title VI of the Civil Rights Act of 1964.

(c) Vendors who wish to be added to the Division's list of those in compliance with Title VI of the Civil Rights Act of 1964 shall contact:

Chief of ~~Support Services~~ Program Policy, Planning, and Evaluation  
Division of Vocational Rehabilitation Services  
805 Ruggles Drive  
2801 Mail Service Center  
Raleigh, North Carolina 27699-2801

Authority G.S. 143-546; 34 C.F.R. 76.500.

**SECTION .0500 - SUPPORTED EMPLOYMENT SERVICES**

**10A NCAC 89C .0502 ELIGIBILITY AND MOST SIGNIFICANT DISABILITY**

The Supported Employment Program shall serve only those individuals with the most ~~severe~~ significant disabilities as defined in 10A NCAC 89A.0102.

Authority G.S. 143-545; 143-546; 34 C.F.R. 363.3.

**SUBCHAPTER 89D - STANDARDS FOR FACILITIES AND PROVIDERS**

**SECTION .0100 - GENERAL POLICIES**

**10A NCAC 89D .0101 GENERAL POLICIES**

The Division maintains minimum standards for providers of services and the various types of facilities utilized by the agency in providing vocational rehabilitation services. It is the general policy of the Division to use, whenever feasible, facilities and providers of services who are accredited by appropriate public authority or professional organizations. Providers of community rehabilitation program services shall be accredited by an entity approved by the Division. In other cases, facilities are selected on the condition that they appear upon investigation to be best adapted to render the specific services required. Questions from the general public with regards to these standards should be directed in writing to:

~~Deputy Director~~  
Division of Vocational Rehabilitation Services  
805 Ruggles Drive  
2801 Mail Service Center  
Raleigh, North Carolina 27699-2801

Authority G.S. 143-546; 34 C.F.R. 361.45.

**SECTION .0200 - STANDARDS FOR FACILITIES**

**10A NCAC 89D .0204 COMMUNITY REHABILITATION PROGRAM STANDARDS**

(a) The following definitions apply to the terms as used in this Rule:

- (1) "Community rehabilitation program" means a program that provides directly or facilitates the provision of one or more of the following vocational rehabilitation services to individuals with disabilities to enable those individuals to maximize their opportunities for employment, including career advancement:

- (A) Medical, psychiatric, psychological, social, and vocational services that are provided under one management.
- (B) Testing, fitting, or training in the use of prosthetic and orthotic devices.
- (C) Recreational therapy.
- (D) Physical and occupational therapy.
- (E) Speech, language, and hearing therapy.
- (F) Psychiatric, psychological, and social services, including positive behavior management.
- (G) Assessment for determining eligibility and vocational rehabilitation needs.
- (H) Rehabilitation technology.
- (I) Job development, placement, and retention services.
- (J) Evaluation or control of specific disabilities.
- (K) Orientation and mobility services for individuals who are blind.
- (L) Extended employment.
- (M) Psychosocial rehabilitation services.
- (N) Supported employment services and extended services.
- (O) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome.
- (P) Personal assistance services.
- (Q) Services similar to the services described in Parts (A) through (P) of this Subparagraph.
- (R) Trial Work
- (2) "Outcome -Based Performance Client Services and Reimbursement means payment is made to the vendor based upon the Division's established benchmark rate. A payment is made for each major benefit or outcome the vendor contracts with the Division to provide.
- (3) "Fee for service funding" means an hourly rate, fee for service method of funding in which an hourly cost of providing the service is identified and the program is reimbursed based on the number of hours of actual services provided.
- (4) "Vendor" means a provider of services which has met the Division's standards and other approval process, and is authorized to provide services to clients of the Division.
- (5) "Qualified Personnel" means staff who demonstrate competency in performing the primary job functions and who are adequately trained to perform the job tasks. Qualified personnel or staff for a provider applying for vendorship with the Division is further defined as having a minimum of three years

experience in the area of service for which the provider is applying for vendorship or other required business areas of the services.

- (6) "Noncompliance" means a consistent failure by a vendor to comply with relevant standards and requirements as determined by the Division.
- (7) "Serious findings" means those areas of noncompliance that may affect the safety, health or well-being of clients; those that appear to be violations of the law; and those which deny the client quality services in accordance with the law, regulations, and rules.
- (8) "Conflict of Interest" means an actual or perceived interest by a staff member of the Division or the vendor or potential vendor, aboard member, or immediate family for either party in an action that results in, or has the appearance of resulting in, personal, organizational, or professional gain. A conflict of interest occurs when any individual as defined has a direct or fiduciary interest in another relationship. The definition of conflict of interest shall include any bias or the appearance of bias in a decision-making process that would reflect a dual role played by a member of the organization or group.

**(b) Statement of Policy:**

- (1) The Division shall promote the quality of community rehabilitation services by providing standards for its direct client service providers.
- (2) Approved community rehabilitation program vendors shall meet and adhere to the standards in terms of management, operations and client service delivery.
- (3) Community rehabilitation program providers shall be determined through a vendor approval process as defined in this Rule.
- (4) The inclusion of a provider of community rehabilitation services on the Division's list of approved vendors does not commit the Division to utilize the available services.
- (5) The Division does not provide any provider of community rehabilitation services with a guarantee of a total dollar commitment or number of total client referrals during any specific time frame except if determined as a condition of a federal grant or a contract.
- (6) Any provider approved as a new vendor shall agree to a fee for service rate of payment.
- (7) An existing or newly approved vendor shall have to meet the following criteria for Division consideration to change payment from fee for service to performance reimbursement:
  - (A) Accreditation as defined in this Rule.

- (B) A five year business relationship with the Division.
- (C) Adherence to all standards for community rehabilitation programs set forth in this rule without documentation of serious findings.
- (D) A three year average of revenues at or above the Division determined expenditure level.
- (E) Service and program outcome levels as determined by the Division.
- (F) Letter of support from the Division Regional Director.
- (G) Joint agreement by the Division and vendor to move the vendor to performance based funding.

- (8) The provider, if providing supported employment services, shall provide for extended services, ongoing support services and continuous or periodic job skill training services provided at least twice monthly at the work site unless the consumer's Individualized Plan for Employment provides for off-site monitoring. Other support services provided at or away from the work site, such as transportation, personal car services, and counseling to family members, if skill training services are also needed by, and provided to, that individual at the work site. The provider shall make known the plan for extended services to the Division.
- (9) The standards shall ensure that community rehabilitation programs and other providers of rehabilitation services have qualified personnel, a safe and accessible environment, have obtained applicable state and federal licenses, meet the program accessibility and special communication requirements specified in 34 C.F.R. 361.51, and provide quality services designed to enable individuals with disabilities to have access to employment.
- (10) A vendor shall not subcontract any of the services under the approved vendorship without prior written approval from the Division. Any approved subcontract shall be subject to all conditions of the vendorship. The vendor shall be responsible for the performance of any subcontractor. The Division shall not be responsible to pay for work performed by unapproved subcontractors.

**(c) The following standards shall apply to existing and potential providers of community rehabilitation program services:**

- (1) Accreditation: The Division shall utilize only those community rehabilitation programs that meet the following accreditation options:
  - (A) Existing vendors as of the date of the last amendment to this rule must be accredited by an entity approved by

- the Division. In lieu of current accreditation or pending approval for accreditation, a vendor shall provide evidence of training regarding accreditation within one year of the last rule amendment and; be granted accreditation within three years.
- (B) Community rehabilitation programs applying for new vendorship must be accredited by an entity approved by the Division. In lieu of current accreditation or pending approval for accreditation at the time of application for vendorship, a vendor shall provide evidence of training regarding national accreditation before approval as vendor or; evidence of training regarding national accreditation is required within one year of vendor application/approval with accreditation rendered within three years.
- (2) The community rehabilitation program that is an approved vendor shall maintain accreditation in the area of approved vendorship. A copy of the accreditation shall be submitted to the Division.
- (3) Accessibility and nondiscrimination standards.
- (A) Each community rehabilitation program shall comply with the accessibility and nondiscrimination standards set forth in federal and state law. The agency may deny funding to and refuse to contract with any community rehabilitation program which fails to comply with such provisions.
- (B) Provides services in an environment that meets accessibility requirements, is free of known health or safety hazards and in a site(s) which serves to support the accomplishment of its defined purpose(s).
- (4) Compliance with applicable laws;
- (A) The provider is a legally constituted entity under appropriate federal, state, and/or local statute(s). The nature of the entity is described in its constitution and its operating principles are prescribed by its bylaws.
- (B) The provider shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of business, including those of federal, state, and local agencies having jurisdiction or authority.
- (C) Affirmative action. The State plan must assure that community rehabilitation programs that receive assistance under part B of Title I of the Rehabilitation Act as amended take affirmative action to employ and advance in employment qualified individuals with disabilities covered under and on the same terms and conditions as in section 503 of the Act.
- (5) Health and Safety Standards:
- (A) The community rehabilitation program shall assure that every individual served receives services in an environment that is free of recognized health and safety hazards.
- (B) With respect to substances which have been identified by federal or state agencies to be toxic or hazardous, but for which no level of safe exposure to such substances has been determined, the program shall not permit the use or storage of such substances within its premises.
- (C) In situations in which a community rehabilitation program uses locations, other than those of the program, for trial work, for transitional employment, or for any other purpose, it shall assure that such location is in compliance with the provisions of this Rule.
- (D) Meets all applicable governmental requirements, including OSHA standards for the Department of Labor; secures regular inspections and consultations (if applicable) from persons with expertise; and, has an organized internal health and safety program (if applicable).
- (6) Work Standards:
- (A) Establishes production and payment practices for individuals with disabilities which maximize earning potential; assures fair and equitable wages; meets minimum expectations for working hours and conditions.
- (B) Maintains all applicable certification and documentation for the Wage and Hour Division, U.S. Department of Labor.
- (7) Insurance Standard.
- (A) Maintain required workers' compensation insurance.
- (B) Maintain applicable levels of vehicle, general and (if required) professional liability insurance protection, adequate to compensate staff and

- workers with disabilities for injuries and damages for which the organization may be liable.
- (8) Physical Accessibility Standard:
- (A) Complies with Section 504 of the Rehabilitation Act, the Architectural Barriers Act of 1968, the Uniform Accessibility Standards and their implementing standards in 41 CFR Part 101-19.6, the American National Standards Institute No. A117-1-1986; and
- (B) Applicable sections of the Americans with Disabilities Act (ADA).
- (9) Organizational Standard:
- (A) The community rehabilitation program is structured to achieve its stated mission, secure all licenses or permits to do business within its jurisdiction(s) and scope of operation, plan;
- (B) Maintains written policy and administrative records, which are available for review by designated Division staff;
- (C) Monitor the efficiency and effectiveness of services, and maintain records and reports that reflect the operation and provision of services and the organization's status;
- (D) Providers of service applying for new vendorship shall have a minimum of three years of experience as a provider in the area of service delivery for which the provider is seeking approval; and/or
- (E) Qualified staff defined as having a minimum of three years experience in the area of service for which the provider is applying for vendorship or other required business areas of services;
- (F) Ensures that real or apparent conflict of interest between a member of the organization is disclosed and remedied as determined by the Division and that failure to disclose or remedy may result in termination of the vendor approval.
- (10) Fiscal Management Standard:
- (A) Fiscal affairs relative to provision of rehabilitation services are managed in a manner consistent with its stated purposes and in accordance with a standard of sound business practices and legal requirements, including assurances that any state or federal audit and reporting requirements are met.
- (B) The community rehabilitation program shall operate under an annual budget approved by its governing body.
- (C) Community rehabilitation programs providing supported employment services shall provide the Division with information regarding the funding source for each individual's extended services program.
- (11) Personnel Standard:
- (A) As applicable, maintains competent qualified staff and written organizational personnel policies which support the provision of services essential to the achievement of defined individual and program goals.
- (B) Maintains pertinent professional and business licensure or certification as appropriate to the type of program or service(s) provided to clients.
- (12) Program Management Standard.
- (A) Ensures that services provided are individually tailored and coordinated in order to enhance each client's employment independence, integration, and/or productivity as identified within each Individualized Plan for Employment and through client participation in service planning, implementation and evaluation.
- (B) Committed to client involvement and the right of individuals to self-determination; therefore, it has policies and follows procedures designed to promote and document client input in program development and each client's involvement in planning their own program.
- (C) In recognition of every individual's dignity and right to respect and privacy, shall maintain the confidentiality of all medical, psychological, and other consumer information shared with it by the Division.
- (D) Provides for periodic staffings inclusive of admission or pre admission staffings as appropriate, with Division staff to review the client's progress.
- (E) Provides reports of services and results to the Division at completion or as otherwise agreed upon.
- (F) Uses language or mode of communication most compatible with

the individual client's abilities and culture.

(G) Community rehabilitation programs explicitly designed to serve those people with the most significant disabilities such as supported employment shall provide ongoing support services over an extended period of time to maintain their employment, with no end date or time limit placed on this assistance.

(H) Providers seeking approval as a new vendor shall demonstrate a record of success as determined by the Division and defined in this Rule in the area of service delivery for which the provider is seeking approval.

(13) Program Evaluation Standard:

(A) Utilizes an approved method to enable it to identify the results of services to individuals with disabilities against established goals.

(B) Is committed to improving the quality and efficiency of the organization and service provision and, therefore, has established a program evaluation and reporting system which is used to measure both effectiveness and efficiency and which helps to monitor the effects of program.

(C) Provides timely reports to the Division of such information, and by such means, as the Division may require for evaluation of ongoing program effectiveness, costs, and appropriateness of services provided by the provider.

(d) A vendor approval process for providers of community rehabilitation services shall evaluate each provider's ability to ensure compliance with each of the standards that, for the purposes of these Rules, apply to the provider and type of service provision being evaluated for approval.

(e) Any vendor approved prior to the effective date of this amended Rule shall not have to submit a new vendor application.

(f) Any service provider interested in providing community rehabilitation program services after the effective date of this amended Rule shall adhere to the following procedures:

(1) The provider shall obtain a vendor application packet from the Division's website or shall request the vendor application packet from the Division.

(2) The vendor application packet shall include:  
(A) the application for vendorship  
(B) the criteria and procedures for review and approval

(3) The provider shall complete the vendor application forms and submit all required

documentation to the Division. This shall include a recommendation from Division staff or other viable source such as a local management entity (LME), other vendors, or professional organizations.

(4) Once the application has been reviewed and checked for accuracy and completion, an on site vendor review shall be conducted by staff of the Division.

(5) Within 30 days, the vendor will be contacted either to provide additional information or clarification or to complete the process.

(6) If the application is disapproved, a letter of explanation will be sent to the vendor. Applications may be disapproved for such reasons as failure to submit required information, or failure of the vendor to agree to the standards and requirements set forth in this Rule to provide quality services to the Division's clients.

(g) The vendor is also responsible for providing accurate information describing vendored services and for maintaining accurate documentation of the costs of delivery of each service.

(h) The vendor shall have record keeping capabilities to identify each consumer as an individual, how many units of a service during any given month that consumer received, and provide accurate bills and reports that reflect the actual services delivered to that consumer.

(i) The vendor shall submit to the Division invoices for Division authorized services on approved Division form(s) according to the schedule established by the Division.

(j) The vendor shall report to the Division any significant changes in the proposed delivery of services from that stated in the approved application. These include, but are not limited to, changes in key personnel and ability to deliver anticipated volumes of services. All substantial budgetary changes must also be reported as they occur.

(k) Vendors shall be monitored at a minimum of annually by the Division for assurance of compliance with the standards. Written reports shall be submitted to Division management and to the vendor outlining the findings of monitoring.

(l) Noncompliance:

(1) For findings of noncompliance as determined by Division staff responsible for monitoring, the vendor must submit a written corrective action plan including timelines which must be approved by the Division.

(2) Serious findings may result in suspension of use of the vendor by the Division until the vendor has completed appropriate corrective action.

(3) When all corrective actions are completed, the provider shall be informed in writing of acceptance of the actions, closing out the plan.

(4) Within 120 days of the original monitoring, the services provided by the vendor shall be reviewed by Division staff to ensure services are being provided in compliance with applicable standards. The vendor may appeal

any disputes which cannot be settled by submitting a written statement of appeal describing the situation and submitted to the Division director. After investigating the dispute, the Division Director shall send a written decision to the provider and retain a copy for the file along with all documents related to the appeal. The decision shall be final though the provider retains rights under law.

(m) Either the vendor or the Division may terminate the vendor relationship upon a minimum of a 30 day written notice by either party or immediately upon notice for cause.

(a) The Division shall utilize only those community rehabilitation programs that are accredited according to the provisions of this Rule.

(b) The following definitions apply to the terms as used in this Rule:

(1) "Fee for service funding" means an hourly rate, fee for service method of funding in which an hourly cost of providing the service is identified and the program is reimbursed based on the number of hours of actual services provided.

(2) "Fixed level annual reimbursement process" means a funding method in which the Division reimburses the program for expenditures monthly at a rate of one twelfth of a negotiated annual budget.

(c) Community rehabilitation programs that apply for a fixed level annual reimbursement process shall be accredited by the Rehabilitation Accreditation Commission (CARF), the Accreditation Council, or the International Center for Clubhouse Development.

(d) Community rehabilitation programs providing evaluation, adjustment, or supported employment services which are not accredited by any of the accreditation bodies specified in Paragraph (C) of this Rule may apply for fee for service funding if they are certified under the process established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

(e) Any program accredited by one of the specified accrediting bodies or certified under the process established by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall submit to the Division a copy of its accreditation or certification report within 30 days after the program receives its report each time it is surveyed. The program shall notify the Division of any action taken that affects its accreditation or certification status, either temporarily or permanently. The Division may conduct annual validation surveys to assure compliance.

*Authority G.S. 143-545A; 34 C.F.R. 361.45.*

**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 22 - HEARING AID DEALERS AND FITTERS BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina State Hearing Aid Dealers and Fitters Board intends to amend the rule cited as 21 NCAC 22B .0603.*

**Proposed Effective Date:** *March 1, 2007*

**Public Hearing:**

**Date:** *December 12, 2006*

**Time:** *12:00 p.m.*

**Location:** *333 Fayetteville Street, Capital Bank Building, 2<sup>nd</sup> floor Conference Room, Raleigh, NC*

**Reason for Proposed Action:** *The Board is increasing the examination fee from \$50.00 to \$75.00.*

**Procedure by which a person can object to the agency on a proposed rule:** *The Board will accept written objections to the proposed rule amendment until the expiration of the comment period on January 15, 2007.*

**Comments may be submitted to:** *Shanon Gerger, PO Box 966, Raleigh, NC 27602*

**Comment period ends:** *January 15, 2007*

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

**Fiscal Impact:**

- State
- Local
- Substantive (≥\$3,000,000)
- None

**SUBCHAPTER 22B - RULE MAKING PROCEDURES**

**SECTION .0600 - FEES**

21 NCAC 22B .0603 FEE SCHEDULE

The Board hereby establishes the following fees:

Table with 2 columns: Description of fee and Amount. Includes items like continuing education make-up class, license examination preparation course, and annual license renewal.

Authority G.S. 12-3.1; 93D-3.

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Front Street, Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-1131, email david.henderson@ncmedboard.org

CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

Comment period ends: January 17, 2007

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to amend the rule cited as 21 NCAC 32M .0112.

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission.

Proposed Effective Date: April 1, 2007

Public Hearing:

Date: January 17, 2007

Time: 1:00 p.m.

Location: N.C. Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action: To expand the disciplinary grounds and disciplinary options the Board of Nursing and the Medical Board can take in regard to a Nurse Practitioner's approval to practice.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

Procedure by which a person can object to the agency on a proposed rule: Person may submit objections to this Rule by contacting R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, fax (919) 326-1131 or email info@medboard.org

Comments may be submitted to: David Henderson, Executive Director, North Carolina Medical Board, 1203

SUBCHAPTER 32M - APPROVAL OF NURSE PRACTITIONERS

21 NCAC 32M .0112 DISCIPLINARY ACTION



(a) ~~After notice and hearing in accordance with provisions of G.S. 150B, Article 3A, A nurse practitioner's approval to practice shall comply with G.S. 90-18 and G.S. 90-18.2 and the registered nurse license shall comply with G.S. 90-171.37; 90-171.44; 90-171.47 and 21 NCAC 36 .0217. After notice and hearing in accordance with provisions of Article 3A of G.S. 150B, disciplinary action shall may be taken by the appropriate Board if one or more of the following is found:~~

- ~~(1) violation of G.S. 90-18 and G.S. 90-18.2 or the joint rules adopted by each Board;~~
- ~~(2) immoral or dishonorable conduct pursuant to and consistent with G.S. 90-14(a)(1);~~
- ~~(3) any submissions to either Board pursuant to and consistent with G.S. 90-14(a)(3);~~
- ~~(4) the nurse practitioner is adjudicated mentally incompetent or the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(5) and G.S. 90-171.37(3);~~
- ~~(5) unprofessional conduct by reason or deliberate or negligent acts or omissions and contrary to the prevailing standards for nurse practitioners in accordance and consistent with G.S. 90-14(a)(6) and G.S. 90-171.35(5);~~
- ~~(6) has been convicted in any court of a criminal offense in accordance and consistent with G.S. 90-14(a)(7) and G.S. 90-171.37(2) and G.S. 90-171.48;~~
- ~~(7) payments for the nurse practitioner practice pursuant to and consistent with G.S. 90-14(a)(8);~~
- ~~(8) lack of professional competence as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(11);~~
- ~~(9) exploiting the client pursuant to and consistent with G.S. 90-14(a)(12) including the promotion of the sale of services, appliances, or drugs for the financial gain of the practitioner or of a third party;~~
- ~~(10) failure to respond to inquiries which may be part of the joint protocol for investigation and discipline pursuant to and consistent with G.S. 90-14(a)(14);~~
- ~~(11)(1) that the nurse practitioner has held himself or herself out or permitted another to represent the nurse practitioner as a licensed physician; or~~
- ~~(12)(2) that the nurse practitioner has engaged or attempted to engage in the performance of medical acts other than according to the collaborative practice agreement; agreement;~~
- ~~(3) that the nurse practitioner has been convicted in any court of a criminal offense;~~
- ~~(4) that the nurse practitioner is adjudicated mentally incompetent or that the nurse practitioner's mental or physical condition~~

~~renders the nurse practitioner unable to safely function as a nurse practitioner; or  
(5) that the nurse practitioner has failed to comply with any of the provisions of this Rule.~~

~~(b) The nurse practitioner must comply with G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to practice as a registered nurse.~~

~~(c) After an investigation is completed, the joint subcommittee of both boards may recommend one of the following:~~

- ~~(1) dismiss the case;~~
- ~~(2) issue a private letter of concern;~~
- ~~(3) enter into negotiation for a Consent Order; or~~
- ~~(4) a disciplinary hearing in accordance with G.S. 150B, Article 3A. If a hearing is recommended, the joint subcommittee shall also recommend whether the matter should be heard by the Board of Nursing or the Medical Board.~~

~~(d) Upon a finding of violation, each Board may utilize the range of disciplinary options as enumerated in G.S. 90-14(a) or G.S. 90-171.37.~~

~~Authority G.S. 90-18(14); 90-171.37; 90-171.44; 90-171.47; 90-171.48.~~

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CHAPTER 36 - BOARD OF NURSING

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Nursing intends to amend the rule cited as 21 NCAC 36 .0812.*

**Proposed Effective Date:** April 1, 2007

**Public Hearing:**

**Date:** January 17, 2007

**Time:** 1:00 p.m.

**Location:** NC Medical Board, 1201 Front Street, Raleigh, NC

**Reason for Proposed Action:** *To set forth further grounds for disciplinary action consistent with G.S. 90-14(a) as requested by the 2006 General Assembly (H 1301), and list options for action that may be taken by either the NC Board of Nursing or the NC Medical Board.*

**Procedure by which a person can object to the agency on a proposed rule:** *Persons may submit objections to this rule by contacting Jean H. Stanley, APA Coordinator, NC Board of Nursing, P.O. Box 2129, Raleigh, NC 27602, fax (919) 781-9461 or email jeans@ncbon.com.*

**Comments may be submitted to:** *Jean H. Stanley, APA Coordinator, NC Board of Nursing, P.O. Box 2129, Raleigh, NC 27602, phone (919) 782-3211, ext. 252, fax (919) 781-9461, email jeans@ncbon.com*

Comment period ends: January 26, 2007

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

SECTION .0800 – APPROVAL AND PRACTICE PARAMETERS FOR NURSE PRACTITIONERS

21 NCAC 36 .0812 DISCIPLINARY ACTION

(a) After notice and hearing in accordance with provisions of G.S. 150B, Article 3A, A nurse practitioner's approval to practice shall comply with G.S. 90-18 and G.S. 90-18.2 and the registered nurse license shall comply with G.S. 90-171.37; 90-171.44; 90-171.47 and 21 NCAC 36 .0217. After notice and hearing in accordance with provisions of Article 3A of G.S. 150B, disciplinary action shall may be taken by the appropriate Board if one or more of the following is found:

- (1) violation of G.S. 90-18 and G.S. 90-18.2 or the joint rules adopted by each Board;
(2) immoral or dishonorable conduct pursuant to and consistent with G.S. 90-14(a)(1);
(3) any submissions to either Board pursuant to and consistent with G.S. 90-14(a)(3);
(4) the nurse practitioner is adjudicated mentally incompetent or the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(5) and G.S. 90-171.37(3);
(5) unprofessional conduct by reason or deliberate or negligent acts or omissions and contrary to the prevailing standards for nurse practitioners in accordance and consistent with G.S. 90-14(a)(6) and G.S. 90-171.35(5);
(6) conviction in any court of a criminal offense in accordance and consistent with G.S. 90-

- 14(a)(7) and G.S. 90-171.37 (2) and G.S. 90-171.48;
(7) payments for the nurse practitioner practice pursuant to and consistent with G.S. 90-14(a)(8);
(8) lack of professional competence as a nurse practitioner pursuant to and consistent with G.S. 90-14(a)(11);
(9) exploiting the client pursuant to and consistent with G.S. 90-14(a)(12) including the promotion of the sale of services, appliances, or drugs for the financial gain of the practitioner or of a third party;
(10) failure to respond to inquires which may be part of a joint protocol between the Board of Nursing and Medical Board for investigation and discipline pursuant to and consistent with G.S. 90-14(a)(14);
(11)(+) that the nurse practitioner has held himself or herself out or permitted another to represent the nurse practitioner as a licensed physician; or
(12)(2) that the nurse practitioner has engaged or attempted to engage in the performance of medical acts other than according to the collaborative practice agreement, agreement;
(3) that the nurse practitioner has been convicted in any court of a criminal offense;
(4) that the nurse practitioner is adjudicated mentally incompetent or that the nurse practitioner's mental or physical condition renders the nurse practitioner unable to safely function as a nurse practitioner; or
(5) that the nurse practitioner has failed to comply with any of the provisions of this Rule.

(b) The nurse practitioner is subject to G.S. 90-171.37; 90-171.48 and 21 NCAC 36 .0217 by virtue of the license to practice as a registered nurse.

(c) After an investigation is completed, the joint subcommittee of both boards may recommend one of the following:

- (1) dismiss the case;
(2) issue a private letter of concern;
(3) enter into negotiation for a Consent Order; or
(4) a disciplinary hearing in accordance with G.S. 150B, Article 3A. If a hearing is recommended, the joint subcommittee shall also recommend whether the matter should be heard by the Board of Nursing or the Medical Board.

(d) Upon a finding of violation, each Board may utilize the range of disciplinary options as enumerated in G.S. 90-14(a) or G.S. 90-171.37.

Authority G.S. 90-18(c)(14); 90-171.37; 90-171.44; 90-171.47; 90-171.48.

TITLE 25 – DEPARTMENT OF STATE PERSONNEL

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Personnel Commission intends to adopt the rule cited as 25 NCAC 01C .0216, amend the rule cited as 25 NCAC 01C .0405, and repeal the rule cited as 25 NCAC 01C .0407.

Proposed Effective Date: April 1, 2007

Public Hearing:

Date: December 6, 2006

Time: 10:00 a.m.

Location: Office of State Personnel, Administration Building, 3rd floor, West End Conference Room

Reason for Proposed Action: A recent lawsuit prompted us to review the circumstances surrounding temporary appointments that exceed 12 months. There is a need to have a provision that allows an extension beyond 12 months where the position is critical to the health, safety, or welfare of citizens or where such an appointment is critical to maintaining the level or quality of services provided by the agency. It also became apparent that there were many misconceptions about employing individuals through the Temporary Solutions Program. Currently, there are no rules regarding employment in this program and we think it will be beneficial to clarify it through the rule-making process.

Procedure by which a person can object to the agency on a proposed rule: A person may object to these proposed rules by one of the following methods: a written letter to Peggy Oliver, HR Policy Administrator, Office of State Personnel, 1331 Mail Service Center, Raleigh, NC 27699-1331, an email to peggy.oliver@ncmail.net, or a telephone call to Peggy Oliver at 919-807-4832.

Comments may be submitted to: Peggy Oliver, 1331 Mail Service Center, Raleigh, NC 27699-1331, phone (919) 807-4832, fax (919) 715-9750, email peggy.oliver@ncmail.net

Comment period ends: January 15, 2007

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State
Local
Substantive (>=\$3,000,000)
None

CHAPTER 01 - OFFICE OF STATE PERSONNEL

SUBCHAPTER 01C - PERSONNEL ADMINISTRATION

SECTION .0200 - GENERAL EMPLOYMENT POLICIES

25 NCAC 01C .0216 TEMPORARY EMPLOYMENT SERVICES

(a) Any agency may administer a temporary employment service, which may be utilized by that agency or by a specified group of agencies.

(b) The Office of State Personnel may administer a temporary employment service, which may be utilized by any State agency. The State Personnel Director shall charge any agency using the service for use of the temporary workforce, which shall include base pay, FICA taxes and an administrative fee not to exceed three dollars (\$3.00) per hour.

(c) The rules for temporary appointments, 25 NCAC 01C .0405, and specifically the rule regarding possible length of temporary service, do not apply to employees hired by any temporary employment service, whether the temporary employment service is administered by the Office of State Personnel or any other agency.

(d) Regardless of length of service, employees of temporary employment services do not earn leave, or receive total state service credit, health benefits, retirement credit, severance pay, or priority reemployment consideration during their temporary employment. Similarly, they do not have access to the policy governing grievances and appeals, with the exception of workplace harassment and illegal discrimination.

Authority G.S. 126-4.

SECTION .0400 - APPOINTMENT

25 NCAC 01C .0405 TEMPORARY APPOINTMENT

(a) A temporary appointment is an appointment for a limited term, normally not to exceed three to six months, to a permanent or temporary position. Upon request, the Office of State Personnel shall approve a longer period of time; but in no case shall the temporary employment period exceed 12 consecutive months. (Exceptions for students and retired employees: Students are exempt from the 12 months maximum limit. If retired employees sign a statement that they are not available for nor seeking permanent employment, they may have temporary appointments for more than 12 months. A Retired@ is defined as drawing a retirement income and social security benefits.)

(b) Employees with a temporary appointment do not earn leave, or receive total state service credit, health benefits, retirement credit, severance pay, or priority reemployment consideration.

(a) A temporary appointment is a full-time or part-time appointment to a permanent or temporary position for a period of up to 12 months performing the same job function in the same work unit within the same agency. Agency heads may approve a temporary appointment for a period of time longer than 12 months in situations where the position is critical to the health, safety, or welfare of citizens or where such an appointment is critical to maintaining the level or quality of services provided by the agency. Such approval shall be documented in writing and placed in the employee's personnel file. The employee shall be notified that an appointment of greater than 12 months has been approved, the reason therefore, and the employee shall further be reminded that further service in the temporary position does not entitle the employee to benefits of any type, and that the employee is free at any time to seek employment with the State or otherwise that provides benefits.

(b) Students are exempt from the 12-month maximum limit.

(c) Employees retired from any employer are exempt from the 12-month maximum limit if they sign a statement that they are not available for and are not seeking permanent employment. "Retired" is defined as drawing a retirement income or social security benefits.

(d) Employees with a temporary appointment, regardless of their length of service, do not earn leave, or receive total state service credit, health benefits, retirement credit, severance

pay, or priority reemployment consideration for their time in a temporary appointment. Similarly, they do not have access to the policy governing grievances and appeals, with the exception of unlawful workplace harassment and illegal discrimination.

*Authority G.S. 126-4.*

#### **25 NCAC 01C .0407 TEMPORARY PART-TIME APPOINTMENT**

~~A temporary part time appointment is an appointment of less than full time for a limited term normally not to exceed three to six months. Upon request, the Office of State Personnel shall approve a longer period of time; but in no case shall the temporary employment period exceed 12 consecutive months. (Exception for students and retired employees: Students are exempt from the 12 months maximum limit. If retired employees sign a statement that they are not available for nor seeking permanent employment, they may have temporary appointments for more than 12 months. "Retired" is defined as drawing a retirement income and social security benefits.) Employees with temporary appointments receive no benefits.~~

*Authority G.S. 126-4.*

**Note from the Codifier:** *The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270<sup>th</sup> day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270<sup>th</sup> day.*

*This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.*

**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Rule-making Agency:** *Commission for Health Services*

**Rule Citation:** *10A NCAC 45A .0202*

**Effective Date:** *November 1, 2006*

**Date Approved by the Rules Review Commission:** *October 19, 2006*

**Reason for Action:** *This rule change complies with the requirements of S-1741, which became effective on July 1, 2006. The rule change increases the financial eligibility criterion for the HIV Medications Program from a "net family income of 125% of the federal poverty level" to a "gross family income of 200% of the federal poverty level." The effect of this change will be to allow the Program to enroll and serve more low-income North Carolinians living with the HIV disease that qualify for and need assistance in obtaining their life-sustaining medications. The legislation passed by the General Assembly specified that "The Commission for Health Services shall adopt temporary rules...to implement adjustments in financial eligibility...(in order to serve as many eligible North Carolinians living with HIV disease as possible within existing resources plus any new federal resources)...as soon as possible..." Any delay in adopting these rules would be contrary to General Assembly direction, as well as contrary to the public interest and to good public health science and practice.*

**CHAPTER 45 - GENERAL PROCEDURES FOR PUBLIC HEALTH PROGRAMS**

**SUBCHAPTER 45A - PAYMENT PROGRAMS**

**SECTION .0200 - ELIGIBILITY DETERMINATIONS**

**10A NCAC 45A .0202 DETERMINATION OF FINANCIAL ELIGIBILITY**

(a) A patient must meet the financial eligibility requirements of this Subchapter to be eligible for benefits provided by the payment programs. Financial eligibility shall be determined through application of income scales. The definition of annual net income in Rule .0203 of this Subchapter and the definitions of family in Rule .0204 of this Subchapter shall be used in applying the income scales, except as provided in Paragraphs (c), (e) and (f) of this Rule.

(b) A person shall be financially eligible for services under the Sickle Cell Program if the net family income is at or below the federal poverty level in effect on July 1 of each fiscal year.

(c) A person shall be financially eligible for the HIV Medications Program if the ~~net-gross~~ family income is at or below ~~125~~ 200 percent of the federal poverty level in effect on July 1 of each fiscal ~~year~~ year, with the following exceptions:

- (1) If a waiting list develops, priority for enrollment into the Program shall be given to those whose net family income is at or below 125 percent of the federal poverty level; and
- (2) At any time that the Program's financial eligibility level is changed, all clients enrolled in the Program during the most recent year or at the time the eligibility level is changed shall be eligible to continue to be enrolled in and served by the Program. This shall be true even if the clients' financial status at that time places them above the newly-established level. The eligibility of these clients shall remain in force until:
  - (A) they no longer qualify for the Program other than for financial reasons; or
  - (B) they no longer require the services of the Program; or
  - (C) their income increases such that they have an income that exceeds the level under which they originally qualified for and enrolled into the Program; or
  - (D) they fail to comply with the rules of the Program.

Changes related to the Program's financial eligibility level or status shall be communicated to interested parties within North Carolina's HIV community (e.g., persons living with HIV disease, their families and caregivers, advocates and service providers, relevant local and state agencies) by the Program via electronic or print mechanisms.

(d) A person shall be financially eligible for the Kidney Program if the net family income is at or below the following scale:

- Family Size 1: \$6,400;
- Family Size 2: \$8,000;
- Family Size 3: \$9,600;
- Family Size 4: \$11,000;
- Family Size 5: \$12,000;
- Family Size 6 and over: add \$800 per family member.

(e) A person shall be financially eligible for the Cancer Program if gross family income is at or below 115 percent of the federal poverty level in effect on July 1 of each year.

(f) A child shall be financially eligible for Children's Special Health Services if the child is approved for Medicaid when applying or reapplying for program coverage, except for children eligible under Paragraph (g) and (h) of this Rule.

(g) A child approved for Children's Special Health Services post adoption coverage pursuant to 10A NCAC 43F .0800, shall be eligible for services under Children's Special Health Services if the child's net income is at or below the federal poverty level in effect on July 1 of each year.

(h) Non-Medicaid eligible children covered by CSHS prior to January 1, 1996 who reapply for program coverage during 1996 shall be granted one additional year of eligibility if their net family income is at or below the federal poverty level approved for program use at the time that they apply.

(i) A person shall be financially eligible for services under the Adult Cystic Fibrosis Program if the net family income is at or below the federal poverty level in effect on July 1 of each year.

(j) The financial eligibility requirements of this Subchapter shall not apply to:

- (1) Migrant Health Program;
- (2) School Health Fund financial eligibility determinations performed by a local health department which has chosen to use the financial eligibility standards of the Department of Public Instruction's free lunch program;
- (3) Prenatal outpatient services sponsored through local health department delivery funds, 10A NCAC 43C .0200; or through Perinatal Program high risk maternity clinic reimbursement funds, 10A NCAC 43C .0300;
- (4) Diagnostic assessments for infants up to 12 months of age with sickle cell syndrome.

(k) Except as provided in Paragraphs (l) and (m) of this Rule, once an individual is determined financially eligible for payment program benefits, the individual shall remain financially eligible for a period of one year after the date of application for financial eligibility unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period. If there is a change, financial eligibility for payment program benefits must be redetermined. Financial eligibility must be redetermined at least once a year.

(l) For purposes of the Kidney Program and HIV Medications Program, once an individual is determined to be financially eligible, if the application for financial eligibility was received by the Department in the fourth quarter of the fiscal year, the individual shall remain financially eligible for benefits until the end of the next fiscal year unless there is a change in the individual's family size pursuant to Rule .0204 of this Subchapter or his family's financial resources or expenses during that period.

(m) Children eligible for Children's Special Health Services Program benefits under Paragraph (f) of this Rule are financially eligible for a service if they were Medicaid eligible on the date the requested service was initiated.

(n) If the most current financial eligibility form on file with the Department shows that the patient was financially eligible on the date an Authorization Request for payment for drugs was

received, the Authorization Request may be approved so long as the Authorization Request is received less than 30 days prior to the expiration of financial eligibility and the authorized service does not extend more than 30 days after the expiration of financial eligibility.

*History Note: Authority G.S. 130A-4.2; 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205; Eff. July 1, 1981; Amended Eff. July 1, 1986; April 1, 1984; July 1, 1983; October 1, 1982; Transferred and Recodified from 10 NCAC 4C .0202 Eff. April 4, 1990; Temporary Amendment Eff. August 9, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. January 1, 1996; July 1, 1995; April 1, 1995; October 1, 1994; Temporary Amendment Eff. July 1, 1997; April 1, 1997; March 1, 1997; Amended Eff. August 1, 1998; Temporary Amendment Eff. November 1, 2006.*

**TITLE 13 – DEPARTMENT OF LABOR**

**Rule-making Agency:** *North Carolina Department of Labor*

**Rule Citation:** *13 NCAC 07F .0605*

**Effective Date:** *October 31, 2006*

**Date Approved by the Rules Review Commission:** *October 19, 2006*

**Reason for Action:** *Effective August 27, 2006, Section 102(b) of Senate Bill 602/S.L. 2006-264 (=H668) provides that the Department of Labor may adopt temporary rules in connection with its requirements regarding fall protection for tower climbers. This temporary rule amends the current rule as it relates to third-party and employer rescue procedures/requirements. The proposed temporary rule relates to third-party and employer provided rescue procedures/requirements for tower climbers in North Carolina. The rule has been effective since September 2, 2005, but due to some objections from members of the tower industry, the rule was subject to legislative review. The proposed temporary rule reflects the compromise language that was recently approved by the N.C. General Assembly in Section 102(a) of Senate Bill 602/S.L. 2006-264. Any delay in the effective date of this rule would pose a serious threat to the health, safety, and welfare of tower climbers in North Carolina.*

**CHAPTER 07 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH**

**SUBCHAPTER 07F - STANDARDS**

**SECTION .0600 – COMMUNICATION TOWER STANDARDS**

**13 NCAC 07F .0605 FALL PROTECTION**

(a) General.

- (1) Prior to employees climbing the tower at heights above six feet, the employer shall ensure that 100% fall protection systems compatible with the tasks assigned are provided, used, and maintained.
- (2) The rules in this Section shall not require the retrofitting of communication towers; provided, that employees who are exposed to fall hazards above six feet while performing work on communication towers are protected from such hazards by means of a 100% fall protection system.

(b) Pre-Climb Planning and Inspection. In addition to the criteria for pre-climb planning and inspection included in Paragraph (g) of this Rule, the employer shall ensure that the following items occur prior to employees climbing the tower at heights above six (6) feet:

- (1) All climbing jobs shall be planned by a competent person.
- (2) All climbing facilities shall be visually inspected daily at the tower base by a competent person for rust, corrosion, deterioration, or other hazards. Additionally, the employer shall ensure that the climbing facilities are visually inspected for these items, as it is ascended, to the elevation point where work is being performed. If any such hazard is identified during this inspection, employees shall not use the climbing facility until such hazards are abated.
- (3) A competent person shall ensure that all fall protection equipment is inspected prior to each use for wear, damage, defect or other deterioration by employees who have been trained in accordance with 13 NCAC 07F .0609. Defective equipment shall be identified as defective and immediately removed from service.
- (4) Components of a fall protection system and the fall protection equipment utilized by employees shall be compatible with one another and shall be utilized in accordance with the manufacturer's recommendations.
- (5) The employer shall ensure that the planning and inspections are performed and documented. The documentation shall be maintained on site while work is being performed, and thereafter by the employer at its place of business. The documentation shall include the date of the planning and inspection, the name of the competent person performing the planning and inspection, and the site location.

(c) Fall Protection Systems. In order to comply with the requirements of Subparagraph (a)(1) of this Rule, the employer may permit employees to utilize the 100% fall protection systems described in Paragraphs (d) through (g) of this Rule. If the fall protection systems described therein are not present on the tower, the employer shall not permit employees to climb the tower at heights above six feet unless:

- (1) an alternative means of 100% fall protection is utilized that is at least as effective as the fall protection systems described in Paragraphs (d) through (g) of this Rule;
- (2) an alternative means of access to the work area is utilized such as an aerial lift or elevated work platform; or
- (3) the employer can demonstrate that the requirements for a fall protection plan under Paragraph (i) of this Rule have been met.

(d) Guardrail Systems. The employer shall ensure that guard rail systems and their components that are utilized by employees as a means of 100% fall protection conform to the criteria in 29 CFR 1926.502(b).

(e) Personal Fall Arrest Systems (PFAS). The employer shall ensure that personal fall arrest systems and their components that are utilized by employees as a means of 100% fall protection conform to the criteria in 29 CFR 1926.502(d), and are utilized according to the manufacturer's recommendations. When utilized by employees as an anchorage as part of a PFAS, the employer shall ensure that step bolts and the attachment point to the structure are designed to meet the requirements of an approved anchorage in accordance with 29 CFR 1926.502(d), and are designed to ensure the connector will not slip off the end of the step bolt.

(f) Positioning Device System. The employer shall ensure that positioning device systems and their components that are utilized by employees as a means of 100% fall protection conform to the criteria in 29 CFR 1926.502(e).

(g) Ladder Safety Systems. The employer shall ensure that, in addition to the applicable criteria in 29 CFR 1926, Subpart X, ladder safety systems and related support systems for fixed ladders that are utilized by employees as a means of 100% fall protection conform to the following criteria:

- (1) Prior to climbing the structure, the employer shall ensure that the employee(s) have tested the ladder safety system for proper operation and that all components utilized with the ladder safety system are compatible.
- (2) To perform the test required by Subparagraph (g)(1) of this Rule, the employee(s) shall:
  - (A) Approach the ladder at the base and connect to the functional safety climb system;
  - (B) Climb to a height less than six feet;
  - (C) Forcibly engage the device without letting go of the ladder;
  - (D) If the device functions as intended, the employee(s) shall begin the ascension;
  - (E) If the device does not function properly, the employee(s) shall

immediately descend the structure and shall not utilize the device until it functions properly;

- (3) If a ladder is obstructed, inhibiting the effective use of the ladder safety system, an alternative means of 100% fall protection shall be utilized that is at least as effective as the types of fall protection described by this Rule.

(h) Fall Protection Plan. This Paragraph applies when employees are working on a structure where no adequate tie-off anchorage point(s) exist, the fall protection systems described in Paragraph (c) of this Rule are not feasible or create a greater hazard, and the work can not be completed utilizing an alternative means of access to the work area such as an aerial lift or elevated work platform. If an employer demonstrates the foregoing conditions are present, then in addition to the criteria in 29 CFR 1926.502(k), the employer shall conform to the following provisions:

- (1) The employer shall ensure that each employee under the fall protection plan has been trained as a qualified climber.
- (2) The fall protection plan shall be made available and communicated to exposed employee(s) prior to the employee(s) beginning work, and such communication shall be documented.
- (3) The fall protection plan shall identify each location on the tower structure where fall protection methods as described in Paragraph (c) of this Rule cannot be used. As soon as adequate tie-off anchorage points or other fall protection systems can be established, the employer shall utilize any of the fall protection systems described in Paragraph (c) of this Rule.

(i) Emergency and Rescue Procedures.

- (1) The employer shall establish procedures for prompt rescue of employees in the event of an emergency, which shall include whether the employer will designate its own employees to perform the rescue procedures or whether the employer will designate a third-party to perform the rescue procedures. The procedures shall be documented and available for review by the Deputy Commissioner of Labor for Occupational Safety and Health or his designee, upon request.
- (2) Employer to Perform Rescue Procedures. An employer whose employees have been designated to provide elevated (high angle) rescue and emergency services shall take the following measures:
  - (A) Ensure at least two trained and designated rescue employees are on site when employees are working at heights over six feet on the tower, provided however, where there are only two employees on site, then an employer may comply with the

requirements of this Part if one employee is a trained and designated rescue employee and one employee ~~has been designated by the employer as a probationary employee and has been employed for less than six-nine months and has received documented orientation from the employer outlining steps to take in an emergency;~~

- (B) Ensure that personal protective equipment (PPE) and high angle rescue equipment needed to conduct elevated rescues are provided, used and maintained by the designated rescue employees;
- (C) Train designated rescue employees so they are proficient in the use and maintenance of PPE and high angle rescue equipment needed to conduct elevated rescues; and
- (D) Train designated rescue employees to perform assigned rescue duties to ensure that they become competent to perform such duties, including conducting simulated rescue operations at least once every 12 months.

(3) Third-Party to Perform Rescue Procedures. An employer who designates a third-party rescue and emergency service to provide elevated (high angle) rescue and emergency services shall take the following measures:

- (A) ~~Evaluate a prospective rescue team or service's ability~~ Obtain verification from the third-party rescue team or service that it is able to respond to a rescue summons in a timely manner, considering the hazard(s) identified; manner;
- (B) ~~Evaluate a prospective rescue team or service's ability, in terms of proficiency~~ Obtain verification from the third-party rescue team or service that it is proficient with rescue-related tasks and equipment, to function appropriately while equipment as they relate to rescuing climbers from elevated heights on communication structures;
- (C) Select a rescue team or service from those evaluated that has verified it has the capability to reach the victim(s) and is equipped for and capable of performing the needed rescue services;
- (D) Provide the selected rescue team or service ~~selected with access to contact information~~ regarding all



towers/structures from which rescue may be necessary so that the rescue service can develop appropriate rescue plans and practice rescue ~~operations;—operations as it deems necessary;~~ and

- (E) Inform ~~each~~ the selected rescue team or service, prior to the first day on which employee(s) perform work at heights over six feet on the tower, of the site and location of the tower(s) to be climbed; the hazard(s) identified on the site; the number of employees that will climb the tower(s); the height(s) at which employee(s) will be working; the name(s) and telephone number(s) for any employer contact(s); and, any other information that is requested by the rescue team or service.

(j) First Aid/CPR Training and Supplies. In addition to the requirements of 29 CFR 1910.151 and 29 CFR 1926.50, the employer shall ensure that at least two employees on site are trained and hold current certifications in basic first aid and cardiopulmonary resuscitation (CPR) issued by the American Red Cross or any other organization whose standards are equivalent to the American Red Cross; provided, however, where there are only two employees on site, then an employer may comply with the requirements of this Paragraph if one employee is trained and holds current certifications in basic first aid and CPR and one employee has been designated by the employer as a probationary employee and has been employed for less than six months.

*History Note:* Authority G.S. 95-131;  
Eff. September 2, 2005;  
Temporary Amendment Eff. October 31, 2006.

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**CONTESTED CASE DECISIONS**

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*This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.*

**OFFICE OF ADMINISTRATIVE HEARINGS**

*Chief Administrative Law Judge  
JULIAN MANN, III*

*Senior Administrative Law Judge  
FRED G. MORRISON JR.*

**ADMINISTRATIVE LAW JUDGES**

*Sammie Chess Jr.*

*Beryl E. Wade*

*Beecher R. Gray*

*Melissa Owens Lassiter*

*A. B. Elkins II*

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Deena Ward v. Columbus Co. Dept. of Social Services	05 OSP 1017	Lassiter	06/23/06		
Alma Chinita Trotter v. DHHS, Public Health Department	05 OSP 1183	Chess	06/01/06		
Tonita Derr Dawkins v. DOC, Alexander Correctional Institution	05 OSP 1449	Gray	07/27/06		
Thomas H. Jones v. NC State Highway Patrol, Dept. of Crime Control & Public Safety	05 OSP 1495	Chess	05/17/06		
W. Frank Etheridge v. DOA, State Capital Police	05 OSP 1771	Lassiter	08/03/06	21:06	536
Sandra Harris v. DOT	05 OSP 1886	Lassiter	07/13/06		
Marisa Lail Setzer v. Department of Public Instruction	05 OSP 1963	Morrison	08/02/06		
Melissa H. Bailey v. DOT	05 OSP 2119	Wade	06/28/06		
Michael D. Bognanowicz v. NC Wildlife Resources Commission	05 OSP 2024	Bryan	05/18/06		
Malcolm Shelton Davis v. DHHS	06 OSP 0015	Smith	09/12/06		
Kamaria Smith v. DHHS	06 OSP 0130	Mann	06/06/06		
Lisa A. Forbes v. Dorothea Dix Hospital	06 OSP 0134	Gray	03/29/06		
Lisa A. Forbes v. Dorothea Dix Hospital	06 OSP 0135	Gray	03/29/06		
Lelia J. Bailey v. Winston-Salem State University	06 OSP 0211	Chess	09/06/06		
Reginald Powe v. Public Schools of NC State Board of Education, Dept of Public Instruction	06 OSP 0238	Lassiter	05/09/06		
Nita Bass v. Craven County Department of Social Services	06 OSP 0346	Lassiter	09/12/06		
Lisa Green v. DOC	06 OSP 0379	Lassiter	06/02/06		
James Walter Gibson v. DOT	06 OSP 0543	Gray	05/19/06		
Caria Faulk v. Columbus Co. Dept. of Social Services	06 OSP 0546	Lassiter	07/06/06		
Robin D. Long v. UNC Greensboro	06 OSP 0684	Lassiter	06/27/06		
Rena Coltraine McLeod v. Guilford Co. Dept. of Public Health	06 OSP 0703	Wade	06/28/06		
Jan-Lee Wells v. Fayetteville Sate	06 OSP 0731	Gray	08/10/06		
Timothy Scott Reynolds v. Morrison Correctional Institution	06 OSP 0803	Lassiter	07/26/06		
Geraldine Blackston-Ramos v. Maurice Boswell, Mary Washun, Cynthia Chamblee, Phyllis Sharpe, Dennis Davis, Bill McNeal, Wake County Public Schools/Human Resource Department/Preventive Services/ Partnership for Educational Success	06 OSP 0831	Morrison	07/12/06		
Rick Van Kerkhove v. DOC	06 OSP 0851	Gray	08/25/06		
Odessa D. Gwynn v. Caswell County Senior Center	06 OSP 0863	Wade	08/26/06		
Juliana W. Smith v. Alamance-Caswell Area Mental Health, Developmental Disabilities, and Substance Abuse Authority	06 OSP 1059	Lassiter	08/09/06		
Dr. Mirian W. McIntosh v. Durham Co. Health Department	06 OSP 1060	Lassiter	08/09/06		
Maria Olea-Lingg v. UNC-Health Care	06 OSP 1143	Lassiter	10/12/06		
Tamra M. Burroughs v. Div. of Services for the Deaf and Hard of Hearing	06 OSP 1280	Elkins	09/07/06		
James D. Abrams v. Craven Co. DOT	06 OSP 1358	Gray	10/13/06		
<b><u>SECRETARY OF STATE</u></b>					
Tisha L. Jones v. Dept. of Secretary of State	05 SOS 1987	Gray	05/19/06		
Temeka A. Brooks v. Dept of Secretary of State	06 SOS 0276	Mann	05/26/06		
Laksha England v. Dept. of SOS	06 SOS 0630	Mann	09/13/06		
Brendalyn D. Blackmon v. Dept. of Secretary of State	06 SOS 0701	Wade	08/11/06		
Jennifer Carol Daniels v. Dept. of SOS	06 SOS 1167	Lassiter	10/12/06		
<b><u>UNC HOSPITALS</u></b>					
Linda Sisco v. UNC Hospitals	05 UNC 0781	Gray	05/09/06		
Karen H. Moore v. UNC Hospitals	06 UNC 0351	Elkins	06/08/06		
Krista Singletary v. UNC Hospitals	06 UNC 0468	Mann	10/12/06		
Larry E. Rogers v. UNC Hospitals	06 UNC 0697	Elkins	07/31/06		
Cynthia Lodestro v. UNC Hospitals	06 UNC 0707	Wade	08/11/06		
Margaret Branham v. UNC Hospitals	06 UNC 0903	Elkins	09/07/06		
Ta-Wanda & David Wilson v. UNC Hospitals	06 UNC 1084	Lassiter	09/12/06		
Angel C. Carey v. UNC Hospitals	06 UNC 1146	Lassiter	09/07/06		