

is unclear what the “vehicle inspection training and certification requirements” are or where those requirements can be found. It seems the standards are set by DPI, but it is further unclear whether that authority has been delegated by the State Board. The agency did not respond to follow-up technical change requests for this Rule to provide clarity in advance of the Commission meeting.

### **State Board of Education**

16 NCAC 06C .0334, .0335, .0336, .0337, .0338, .0339, .0340, .0341, .0342, .0344, .0345, .0346, .0349, .0350, .0351., .0352, .0353, .0354, .0357, .0358, .0359, .0360, .0361, .0362, .0363, .0364, .0365, .0366, .0367, .0369, .0370, .0371, .0372, .0373, .0374, .0375, .0376, .0378, .0379, .0380, .0381, .0382, .0383, .0384, .0385, .0386, .0387, .0388, .0389, .0390, .0391, .0392, .0393, .0394, .0395, .0396, and .0397 - Upon the call of the Chair, the rules were approved by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Powell, and Tucker – 9. Voting in the negative: None.

16 NCAC 06C .0343, .0345, .0347, .0348, .0355, .0356, .0368, .0377, and .0701 were withdrawn at the request of the agency. No action was required by the Commission.

### **State Board of Education**

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

The Commission considered Subchapters 06D, 06E, and 06G separately.

Upon the call of the Chair, the Commission objected to 16 NCAC 06D .0211, .0212, .0307, .0308, .0309, .0310, and .0311 by roll-call vote, ayes 9, noes 0 as follows: Voting in the affirmative: Atkins, Bryan, Choi, Currin, Doran, Dunklin, Overton, Powell, and Tucker – 9. Voting in the negative: None.

16 NCAC 06D .0313 was withdrawn at the request of the agency. No action was required by the Commission.

The Commission objected to 16 NCAC 06D .0211 for failure to comply with the APA, ambiguity, and lack of necessity. The rule refers to an “Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina.” In Item (1), the rule states the Invitation provides “the required procedures for submission, evaluation, and adoption of textbooks and a schedule for the process.” The Invitation also includes the “criteria used to evaluate textbooks presented for adoption for their conformity to the North Carolina Standard Course of Study.” These contents meet the definition of a “rule” in G.S. 150B-2(8a). Referring to the Invitation rather than stating its contents in rule circumvents the permanent rulemaking process set forth in G.S. 150B-21.2. As written, this allows the agency to amend the Invitation outside the rulemaking process, changing the substance of this Rule without public notice, comment, or RRC review. Failure to provide these procedural requirements in rule also makes the process for submitting and evaluating textbooks unclear. Therefore, the Commission objected for failure to comply with the APA and ambiguity.

The Commission also objected to Item (2) for lack of necessity. Item (2) directs the General Counsel of the State Board to “review and approve” the Invitation. This statement concerns only the internal management of the agency and is therefore unnecessary. G.S. 150B-2(8a)(a).

The Commission objected to 16 NCAC 06D .0212 for failure to comply with the APA, ambiguity, and lack of necessity. The rule refers to an “Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina.” In Paragraph (b) the rule states “Publishers are required to follow the procedures set forth in the invitation. Failure to comply with all procedure, including stated deadlines, may result in disqualification.” Subparagraph (d)(3) states the Invitation includes the “procedure for