

CHAPTER 8 - ENGINEERING AND BUILDING CODES DIVISION

11 NCAC 08 .0502 NATURE OF LIMITED CERTIFICATE

A limited certificate shall be issued to each code enforcement official who held such a position on June 13, 1977. This certificate will entitle the official to continue in the position held on that date; it will not entitle him to shift to another employer or to another position for the same employer. The limited certificate will be issued and renewed from year to year without examination, on application of the official and verification of his status. However, it will not be renewed beyond the applicable date specified in Rule .0508 unless the official has prior to that date completed in-service training prescribed by the Board.

On or after the appropriate "applicable date" specified in Rule .0510, a limited certificate will be issued to each code enforcement official who makes application in accordance with these regulations. Such certificate will authorize the official to continue in the position held on the "applicable date" in the same manner as a limited certificate issued to an official who held a position on June 13, 1977.

History Note: Authority G.S. 143-151.13(c);

Eff. June 28, 1979;

Amended Eff. January 15, 1980;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0503 APPLICATION FORM: AVAILABILITY

The Board shall provide, upon request, application forms for any person desiring a limited certificate, obtainable from the Division of Engineering and Building Codes of the Department of Insurance.

History Note: Authority G.S. 143-151.19;

Eff. June 28, 1979;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0504 APPLICATION FORM: CONTENTS

(a) The application form requires the applicant to furnish all of the following pertinent information necessary to determine the qualifications of the applicant for a limited certificate:

- (1) the date;
- (2) name, address, and telephone number where applicant can be reached;
- (3) age;
- (4) title of position held on June 13, 1977 or applicable date;
- (5) government unit by which employed on June 13, 1977 (or applicable date);
- (6) duties in position held on June 13, 1977 (or applicable date);
- (7) educational background;
- (8) employment record.

(b) Each application for a limited certificate authorizing continuation in a position held after June 13, 1977, shall be accompanied by a notarized certificate from the department head or higher level supervisor of the code enforcement official that:

- (1) the official occupied that position on the applicable date;
- (2) that the duties and title of the position were as set forth in the application; and
- (3) that the supervisor understands that the limited certificate will become invalid if the code enforcement official fails within two years to complete in-service training required under Rule .0508 of these Regulations.

History Note: Authority G.S. 143-151.13;

Eff. June 28, 1979;

Amended Eff. January 15, 1980.

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0505 APPLICATION: WHERE MADE AND FEE

The completed application shall be returned to the Board at P.O. Box 26387, Raleigh, North Carolina 27611. Each application shall be accompanied by payment of a twenty dollar (\$20.00) fee, either in cash or by a check made payable to the North Carolina Code Officials Qualification Board.

*History Note: Authority G.S. 143-151.12(1); 143-151.16;
Eff. June 28, 1979;
Amended Eff. February 1, 1991.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0506 CERTIFICATE

If an application is found to be in order, the Board's staff shall mail a limited certificate to the applicant at the address specified on the application. The certificate shall describe with particularity the position which it authorizes the applicant to hold and the governmental unit for which he is authorized to hold such position. The certificate shall be effective for one year, as specified in the certificate.

*History Note: Authority G.S. 143-151.13;
Eff. June 28, 1979.
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0507 RENEWAL

To remain effective, a limited certificate must be renewed annually on or before the first day of July. Applications for renewal shall be made in the same manner as the original application for the certificate, on forms furnished by the Board. A ten dollar (\$10.00) renewal fee shall accompany each such application. In the event that an application is not received by July 1, an additional late renewal fee of two dollars (\$2.00) shall be charged. In accordance with 11 NCAC 08 .0712, continuing education requirements must be completed by June 30 for renewal of the limited certificate.

*History Note: Authority G.S. 143-151.12(1); 143-151.13A(b); 143-151.16;
Eff. June 28, 1979;
Amended Eff. February 1, 2006; February 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0508 REQUIRED IN-SERVICE TRAINING FOR RENEWAL

No code enforcement official may have a limited certificate authorizing continuation in a position he held on June 13, 1977, renewed after July 1, 1981 unless he shall have submitted valid evidence that he has completed in-service training as prescribed by the Board.

No code enforcement official may have a limited certificate authorizing continuation in a position he held on an "applicable date" as specified in 11 NCAC 8 .0510 renewed beyond two years following such date, fire prevention inspectors beyond July 1, 1993, unless he shall have submitted valid evidence that he has completed in-service training as prescribed by the Board; said training shall be identical to the training required of applicants for standard certificates for the types and levels of code enforcement duties performed.

*History Note: Authority G.S. 143-151.12(1); 143-151.13;
Eff. June 28, 1979;
Amended Eff. February 1, 1991; January 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0509 RETURN OF CERTIFICATE WHEN LEAVE EMPLOYMENT

*History Note: Authority G.S. 143-151.15;
Eff. June 28, 1979;
Repealed Eff. February 1, 1991.*

11 NCAC 08 .0510 CERTIFICATES FOR POSITIONS HELD ON APPLICABLE DATES

*History Note: Authority G.S. 143-151.13;
Eff. January 15, 1980;*

Repealed Eff. February 1, 1991.

SECTION .0600 - QUALIFICATION BOARD-PROBATIONARY CERTIFICATE

11 NCAC 08 .0601 LEGAL REQUIREMENT

*History Note: Authority G.S. 143-151.13;
 Eff. June 28, 1979;
 Repealed Eff. February 1, 1991.*

11 NCAC 08 .0602 NATURE OF PROBATIONARY CERTIFICATE

(a) A probationary certificate may be issued, without examination, to any newly employed or newly promoted code enforcement official who lacks a standard certificate that covers the new position. A probationary certificate shall be issued for three years only and shall not be renewed. During the three year period, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate. A probationary certificate authorizes the official, during the effective period of the certificate, to hold the position of the type, level, and location specified. The certificate shall be conditioned on the applicant's completion of a high school diploma or a high school equivalency certificate (GED) and meeting one of the following:

- (1) working under supervision sufficient to protect the public health and safety;
- (2) possessing a minimum of two years of design, construction, or inspection experience working under a certified inspector or under a licensed professional engineer, registered architect, or licensed contractor;
- (3) possessing one of the experience qualifications listed in 11 NCAC 08 .0706 in each area of code enforcement for which the probationary certificate is issued; or
- (4) achieving a minimum score of 70 percent on the probationary prequalification exam administered by the Board in each area of code enforcement for which the probationary certificate is issued.

(b) A probationary certificate shall be issued if the Board determines from the information provided on the application that the applicant may obtain the experience required by Paragraph (a)(3) of this Rule before the expiration of the probationary certificate.

*History Note: Authority G.S. 143-151.12(2); 143-151.13(d);
 Eff. June 28, 1979;
 Amended Eff. December 1, 1982;
 Temporary Amendment Eff. January 1, 1983; For a Period of 120 Days to Expire on April 30, 1983;
 Amended Eff. December 1, 2017; July 18, 2002; October 1, 1992; February 1, 1991; May 1, 1983.*

11 NCAC 08 .0603 APPLICATION FORM: AVAILABILITY

The Board shall provide, upon request, application forms for any person desiring a probationary certificate, obtainable from the Division of Engineering and Building Codes of the Department of Insurance.

*History Note: Authority G.S. 143-151.19;
 Eff. June 28, 1979;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0604 APPLICATION FORM: CONTENTS

The application form requires the applicant to furnish all of the following pertinent information necessary to determine the qualifications of the applicant for a probationary certificate:

- (1) the date;
- (2) name, address and telephone number where applicant can be reached;
- (3) date of birth;
- (4) education;
- (5) work experience;
- (6) certificates and other professional licenses, if any, held previously or currently;
- (7) title of position to which appointed or promoted;
- (8) date of appointment or promotion to position;
- (9) governmental unit by which employed;
- (10) duties in a new position, in sufficient detail to determine appropriate type and level of certification;

- (11) name and title, certification, or other qualifications of persons to be responsible for supervision; and
- (12) Social Security number.

History Note: Authority G.S. 143-151.13;
Eff. June 28, 1979;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0605 APPLICATION: WHERE MADE AND FEE

The completed application shall be returned to the Board at P.O. Box 26387, Raleigh, North Carolina 27611. Each application shall be accompanied by payment of a twenty dollar (\$20.00) fee, either in cash or by a check made payable to the North Carolina Code Officials Qualification Board.

History Note: Authority G.S. 143-151.12(1); 143-151.16;
Eff. June 28, 1979;
Amended Eff. February 1, 1991;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0606 CERTIFICATE

If an application is found to be in order, the Board's staff shall mail a probationary certificate to the applicant at the address specified on the application. The certificate shall specify the type and level of code enforcement in which the applicant may engage and may be conditioned upon his having supervision from an official with specified certification or qualifications. The certificate shall be effective for the period specified in the certificate.

History Note: Authority G.S. 143-151.13;
Eff. June 28, 1979;
Amended Eff. December 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0607 RETURN OF CERTIFICATE WHEN LEAVE EMPLOYMENT

A probationary certificate shall remain valid only so long as the person certified is employed by the state or a local government as a code enforcement official of the type and level indicated on the certificate. When the person certified leaves such employment for any reason, he shall return the certificate to the Board. If the person subsequently returns to such employment, the Board shall re-issue the certificate to him, provided there is any period remaining of its effective life. In such event, the effective period shall be calculated as though the resumed employment followed immediately after the cessation of employment.

History Note: Authority G.S. 143-151.15;
Eff. June 28, 1979;
Amended Eff. December 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .0700 - QUALIFICATION BOARD-STANDARD CERTIFICATE

11 NCAC 08 .0701 LEGAL REQUIREMENT

History Note: Authority G.S. 143-151.13;
Eff. January 15, 1980;
Repealed Eff. February 1, 1991.

11 NCAC 08 .0702 NATURE OF STANDARD CERTIFICATE

(a) The Board shall issue one or more standard certificates to each code enforcement official demonstrating the qualifications set forth in 11 NCAC 08 .0706 and .0707. Standard certificates are available for each of the following types of qualified code enforcement officials:

- (1) building inspector;
- (2) electrical inspector;
- (3) mechanical inspector;
- (4) plumbing inspector; and

(5) fire inspector.

(b) The holder of a standard certificate may practice code enforcement only within the inspection area and level described upon the certificate issued by the Board. A code enforcement official may qualify and hold one or more certificates. These certificates may be for different levels in different types of positions.

(c) A code enforcement official holding a certificate indicating a specified level of proficiency in a particular type of position may hold a position calling for that type of qualification anywhere in the State of North Carolina. A standard certificate must be renewed annually in order to remain valid.

*History Note: Authority G.S. 143-151.13; 143-151.16;
Eff. January 15, 1980;
Amended Eff. August 1, 2004; August 1, 1990; July 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0703 APPLICATION FORM: AVAILABILITY

The Board shall provide, upon request, application forms for any person desiring a standard certificate, obtainable from the Division of Engineering and Building Codes of the Department of Insurance.

*History Note: Authority G.S. 143-151.19;
Eff. January 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0704 APPLICATION FORM: CONTENTS

The application form requires the applicant to furnish all of the following pertinent information necessary to determine the qualifications of the applicant for a standard certificate:

- (1) the date;
- (2) name, address, and telephone number where applicant can be reached;
- (3) date of birth;
- (4) education;
- (5) work experience;
- (6) certificates and other professional licenses, if any, held previously or currently;
- (7) type and level of certificate for which application is made;
- (8) governmental unit by which currently employed;
- (9) supporting data needed for verification of applicant's qualifications called for by Rule .0706 or .0707 of this Section; and
- (10) Social Security number.

*History Note: Authority G.S. 143-151.13;
Eff. January 15, 1980;
Amended Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0705 APPLICATION: WHERE MADE AND FEE

The completed application and all required supplementary information shall be returned to the Board at P.O. Box 26387, Raleigh, North Carolina 27611. Each application (whether for one or several standard certificates for a single individual) shall be accompanied by payment of a twenty dollar (\$20.00) fee, either in cash or by a check made payable to the North Carolina Code Officials Qualification Board.

*History Note: Authority G.S. 143-151.16;
Eff. January 15, 1980;
Amended Eff. August 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0706 REQUIRED QUALIFICATIONS: TYPES AND LEVELS

(a) Qualification Levels

- (1) With respect to all types of code enforcement officials, those with Level I, Level II, or Level III certificates shall be qualified to inspect and approve only those types and sizes of buildings specified in the following tables.
- (2) Limitation on maximum number of stories and square feet (sf) of floor area of buildings for Building, Electrical, Mechanical, and Plumbing inspectors, Levels I, II, or III:

Occupancy Classification	Level I	Level II	Level III
Assembly	1 story/7,500 sf	1 story/20,000 sf	Unlimited
Business	1 story/20,000 sf	1 story/60,000 sf Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Education	1 story/7,500 sf	1 story/20,000 sf Multi-story: 2 stories max/20,000 sf per floor	Unlimited
Hazardous	1 story/3,000 sf (See Note)	1 story/20,000 sf Multi-story: 2 stories max/20,000 sf per floor	Unlimited
Factory Industrial	1 story/20,000 sf	1 story/60,000 sf Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Institutional	1 story/7,500 sf	1 story/10,000 sf Multi-story: 3 stories max/10,000 sf per floor	Unlimited
Mercantile	1 story/20,000 sf	1 story/60,000 sf Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Residential Multi-unit	1 story /7,500 sf	3 stories max/no restriction on floor area	Unlimited
1 & 2 family dwellings, townhouses	Unlimited	Unlimited	Unlimited
Storage	1 story/20,000 sf	1 story/60,000 sf per floor Multi-story: 4 stories max/20,000 sf per floor	Unlimited
Utility and Miscellaneous	Unlimited	Unlimited	Unlimited

See the Building Code for Occupancy classifications.

Note: *Electrical Inspector, Level I shall not be authorized to inspect wiring or equipment in hazardous locations as defined by Article 500 of the National Electrical Code with the exception of service stations and service pumps.

(3) Limitation on occupancy classifications of buildings for Fire Inspectors, Levels I, II and III:

CERTIFICATION LEVELS FOR FIRE INSPECTORS

LEVEL I: - OCCUPANCY:

Business

Assembly - 1 story, 20,000 sf

Mercantile

Residential

Storage S-2

Factory Industrial F-2

Utility and Miscellaneous

Excluding Highrise *

Note: A Level I fire inspector shall not conduct any plan review on any building, highrise or other.

LEVEL II: - OCCUPANCY:

Everything in Level I

Assembly - unlimited

Educational

Factory Industrial F-1

Storage S-1

Excluding Highrise *

Note: A level II fire inspector is authorized to conduct Plan Review of all occupancies in Level I and II.

LEVEL III: - OCCUPANCY:

Everything in Levels I and II

Hazardous

Institutional

Highrise

(Unlimited Occupancies)

Note: A Level III fire inspector is authorized to conduct Plan Review of all occupancies in Levels I, II and III.

* The term "excluding highrise" is listed because some of the acceptable occupancies for the levels could be located in a highrise building (defined in the Building Code).

(b) Whenever a provision of the Rules in this Section requires a supporting letter (maximum of two per level) from a supervisor, the letter(s) shall be notarized, shall state the supervisor's qualifications (i.e., what type and level of certificate or license the supervisor holds), shall state that the applicant has worked under the supervisor's direct supervision for a specified period of time, and shall recommend certification of the applicant as a specified type and level of inspector upon satisfaction of other required qualifications. The supervisor shall describe the name, floor area, and number of stories of the buildings worked on by the applicant and shall describe the work performed by the applicant.

(c) References in the rules in this Section to professional engineer or licensed engineer means engineers licensed by the North Carolina State Board of Examiners for Engineers and Surveyors pursuant to G.S. 89C. References in the rules in this Section to registered architect means architects licensed by the Board of Architecture pursuant to Chapter 83A of the North Carolina General Statutes. References to licensed building, residential, electrical, heating, plumbing, and fire sprinkler contractors means contractors licensed by the State Licensing Board for General Contractors, the N.C. State Board of Examiners of Electrical Contractors, or the N.C. State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors pursuant to Chapter 87 of the North Carolina General Statutes. References to licensed "building" contractors do not include licensed "residential" contractors. Specialty licenses issued by these occupational licensing boards are not acceptable. Applicants with licenses from other states or countries must provide a copy of their license and documentation that the requirements of the other state are at least equivalent to the statewide licensing requirements of North Carolina occupational licensing boards.

(d) Whenever a provision of the rules in this Section requires the possession of an occupational license other than those certificates that are issued by the Board, if that license is inactive, the applicant must provide documentation from the appropriate occupational licensing board that the applicant previously held the license and that the license is currently inactive.

(e) Whenever a provision of the rules in this Section requires inspector experience on a minimum number of buildings or systems, the experience must include all the inspections typically performed by an inspector during construction of the building or system. Inspections do not have to be performed on the same building.

(f) Whenever a provision of the rules in this Section requires a high school education or other education and experience qualifications, the Board may approve equivalent qualifications. Whenever a provision of the Rules in this Section requires the

possession of a diploma or degree from an accredited college, university, or trade school, accredited shall mean accreditation from a regional accrediting association, for example, Southern Association of Colleges and Schools.

(g) Every applicant shall:

- (1) provide documentation that the applicant possesses a minimum of a high school education or a high school equivalency certificate (GED); and
- (2) provide notarized certification by a city or county manager, clerk, or director of inspection department that the applicant will be performing "code enforcement", as defined in G.S. 143-151.8(a)(3), as an employee of that city or county; or provide certification by the head of the Engineering and Building Codes Division of the North Carolina Department of Insurance that the applicant will be performing "code enforcement", as defined in G.S. 143-151.8(a)(3), for a state department or agency; and
- (3) make a grade of at least 70 on courses developed by the Board. Successful completion is defined as attendance of a minimum of 80 percent of the hours taught and achieving a minimum score of 70 percent on the course exam. All applicants must successfully complete a law and administration course. Applicants for certification in building, electrical, fire prevention, mechanical, or plumbing inspection at levels I, II, or III must successfully complete a course in that area and level (or a higher level). For the purpose of entry into the state examination, courses must be completed within five years of the exam in Subparagraph (g)(4) of this Rule. These courses shall be administered and taught in the N.C. Community College System or other educational agencies accredited by a regional accrediting association; for example, Southern Association of Colleges and Schools; and
- (4) achieve a passing grade of 70 percent on the written examination administered by the Board in each level of certification unless exempt by 11 NCAC 08.0707.

(h) Building Inspector, Level I. A standard certificate, building inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a one year diploma in building construction from an accredited college or an equivalent apprenticeship or trade school program in building construction;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of building inspection experience with a probationary Level I building inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified building inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (4) at least one year of building design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed building contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (5) a license as a building contractor;
- (6) at least two years of building construction or inspection experience while working under a licensed building contractor;
- (7) at least two years of experience with a probationary Level I building inspection certificate inspecting building construction on a minimum of two Level I buildings;
- (8) at least two years of experience as an owner, manager or supervisor of a residential construction company and who has a license as a residential contractor and who has construction experience on a minimum of two Level I buildings (this does not include a business partner providing monetary backing for the company); or
- (9) at least two years of construction experience as a subcontractor or employee of a residential contractor in the building trades or work in building construction on a minimum of two Level I buildings and under the direct supervision of a licensed residential contractor who at that time had at least three years of experience.

(i) Building Inspector, Level II. A standard certificate, building inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer or registered architect;
- (2) a four year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction;
- (3) a four-year degree from an accredited college or university and at least two years of design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, registered architect, or intermediate or unlimited licensed building contractor;
- (4) a two year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction and at least two years of building design, construction, or inspection experience on

a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III, licensed engineer, registered architect, or intermediate or unlimited licensed building contractor;

- (5) an intermediate or unlimited license as a building contractor with building construction experience on a minimum of two Level II buildings;
- (6) at least three years of building inspection experience including one year of inspection experience with a probationary Level II building inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified building inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (7) at least three years of building design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed intermediate or unlimited building contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (8) at least two years of experience with a probationary Level II building inspection certificate inspecting construction of a minimum of two Level II buildings.

(j) Building Inspector, Level III. A standard certificate, building inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer or registered architect with design, construction, or inspection experience on Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
- (2) a four-year degree from an accredited college or university in architecture, civil or architectural engineering, or building construction and at least one year of building design, construction, or inspection experience while working under the direct supervision of a certified building inspector III, licensed engineer, registered architect, or licensed unlimited building contractor, at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (3) a two-year degree from an accredited college or university in architecture, civil or architectural engineering or building construction and at least three years of building design, construction, or inspection experience while working under the direct supervision of a certified building inspector III, licensed engineer, registered architect, or licensed unlimited building contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (4) an unlimited license as a building contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of inspection experience including one year of building inspection experience with a probationary Level III building inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified building inspector III, with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (6) at least four years of building design, construction, or inspection experience while working under the direct supervision of a licensed engineer, registered architect, or licensed unlimited building contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (7) at least one year of experience with a probationary Level III building inspection certificate inspecting the construction of a minimum of two Level III buildings.

(k) Electrical Inspector, Level I. A standard certificate, electrical inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a one-year diploma in electrical construction from an accredited college or an equivalent apprenticeship or trade school program in electrical construction;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of electrical inspection experience with a probationary Level I electrical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified electrical inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (4) at least one year of electrical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed electrical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (5) a restricted (one family dwelling) license or license as an electrical contractor;

- (6) at least two years of electrical installation or inspection experience while working under a licensed electrical contractor; or
- (7) at least two years of experience with a probationary Level I electrical inspection certificate inspecting electrical installations on a minimum of two Level I buildings.

(l) Electrical Inspector, Level II. A standard certificate, electrical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer;
- (2) a four-year degree from an accredited college or university in electrical engineering or electrical construction;
- (3) a four-year degree from an accredited college or university and at least two years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;
- (4) a two-year degree from an accredited college or university in electrical engineering or electrical construction and at least two years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III, licensed engineer, or intermediate or unlimited licensed electrical contractor;
- (5) an intermediate or unlimited license as an electrical contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of electrical inspection experience including one year of inspection experience with a probationary Level II electrical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified electrical inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (7) at least three years of electrical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed intermediate or unlimited electrical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (8) at least two years of experience with a probationary Level II electrical inspection certificate inspecting electrical installations on a minimum of two Level II buildings.

(m) Electrical Inspector, Level III. A standard certificate, electrical inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in electrical engineering;
- (2) a four year degree from an accredited university in electrical engineering or electrical construction and at least one year of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed engineer, or licensed unlimited electrical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (3) a two-year degree from an accredited college or university in electrical engineering or electrical construction and at least three years of electrical design, installation, or inspection experience while working under the direct supervision of a certified electrical inspector III, licensed engineer, or licensed unlimited electrical contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (4) an unlimited license as an electrical contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of electrical inspection experience including one year of inspection experience with a probationary Level III electrical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified electrical inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (6) at least four years of electrical design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed unlimited electrical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (7) at least one year of experience with a probationary Level III electrical inspection certificate inspecting the electrical installations of a minimum of two Level III buildings.

(n) Mechanical Inspector, Level I. A standard certificate, mechanical inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a one-year diploma in mechanical construction from an accredited college or an equivalent apprenticeship or trade school program in mechanical construction;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of mechanical inspection experience with a probationary Level I mechanical inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified mechanical inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (4) at least one year of mechanical design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed Class I mechanical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (5) an H-1, H-2, or H-3 Class I license as a mechanical contractor;
- (6) at least two years of mechanical installation or inspection experience while working under a Class I H-1, H-2, or H-3 licensed mechanical contractor; or
- (7) at least two years of experience with a probationary Level I mechanical inspection certificate inspecting mechanical installations a minimum of two Level I buildings.

(o) Mechanical Inspector, Level II. A standard certificate, mechanical inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer;
- (2) a four-year degree from an accredited college or university in mechanical engineering or mechanical construction;
- (3) a four-year degree from an accredited college or university and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed engineer, or licensed Class I mechanical contractor;
- (4) a two-year degree from an accredited college or university in mechanical engineering or mechanical construction and at least two years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III, licensed engineer, or licensed Class I mechanical contractor;
- (5) an H-1, H-2, or H-3 Class I license as a mechanical contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of mechanical inspection experience including one year of inspection experience with a probationary Level II mechanical inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified mechanical inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (7) at least three years of mechanical design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed Class I H-1, H-2, or H-3 mechanical contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (8) at least two years of experience with a probationary Level II mechanical inspection certificate inspecting mechanical installations on a minimum of two Level II buildings.

(p) Mechanical Inspector, Level III. A standard certificate, mechanical inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer, with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;
- (2) a four-year degree from an accredited university in mechanical engineering or mechanical construction and at least one year of mechanical design, installation, or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed engineer, or licensed Class I H-1, H-2, and H-3 mechanical contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (3) a two-year degree from an accredited college or university in mechanical engineering or mechanical construction and at least three years of mechanical design, installation, or inspection experience while working under the direct supervision of a certified mechanical inspector III, licensed engineer, or licensed Class I H-1, H-2, and H-3 mechanical contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;

- (4) H-1, H-2, and H-3 Class I licenses as a mechanical contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of mechanical inspection experience including one year of inspection experience with a probationary Level III mechanical inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified mechanical inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (6) at least four years of mechanical design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed Class I H-1, H-2, and H-3 mechanical contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (7) at least one year of experience with a probationary Level III mechanical inspection certificate inspecting the mechanical installations of a minimum of two Level III buildings.

(q) Plumbing Inspector, Level I. A standard certificate, plumbing inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a one-year diploma in plumbing construction from an accredited college or an equivalent apprenticeship or trade school program in plumbing construction;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of plumbing inspection experience with a probationary Level I plumbing inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified plumbing inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (4) at least one year of plumbing design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (5) a Class I license as a plumbing contractor;
- (6) at least two years of plumbing installation or inspection experience while working under a licensed Class I plumbing contractor; or
- (7) at least two years of experience with a probationary Level I plumbing inspection certificate inspecting plumbing installations a minimum of two Level I buildings.

(r) Plumbing Inspector, Level II. A standard certificate, plumbing inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer;
- (2) a four-year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction;
- (3) a four-year degree from an accredited college or university and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed engineer, or licensed Class I plumbing contractor;
- (4) a two year degree from an accredited college or university in mechanical engineering or mechanical or plumbing construction and at least two years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III, licensed engineer, or licensed Class I plumbing contractor;
- (5) a Class I license as a plumbing contractor with experience on a minimum of two Level II buildings;
- (6) at least three years of plumbing inspection experience including one year of inspection experience with a probationary Level II plumbing inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified plumbing inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (7) at least three years of plumbing design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (8) at least two years of experience with a probationary Level II plumbing inspection certificate inspecting plumbing installations on a minimum of two Level II buildings.

(s) Plumbing Inspector, Level III. A standard certificate, plumbing inspector, Level III shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer with design, construction, or inspection experience on Level III buildings and specialization in mechanical engineering;

- (2) a four-year degree from an accredited university in mechanical engineering or mechanical or plumbing construction and at least one year of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed engineer, or licensed Class I plumbing contractor at least at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (3) a two-year degree from an accredited college or university in mechanical engineering or plumbing construction and at least three years of plumbing design, installation, or inspection experience while working under the direct supervision of a certified plumbing inspector III, licensed engineer, or licensed Class I plumbing contractor with at least one year at the level of supervisor in responsible charge of a minimum of two Level III buildings;
- (4) a Class I license as a plumbing contractor with experience on a minimum of two Level III buildings;
- (5) at least four years of plumbing inspection experience including one year of inspection experience with a probationary Level III plumbing inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified plumbing inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (6) at least four years of plumbing design, construction, or inspection experience while working under the direct supervision of a licensed engineer or licensed Class I plumbing contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
- (7) at least one year of experience with a probationary Level III plumbing inspection certificate inspecting the plumbing installations of a minimum of two Level III buildings.

(t) Fire Inspector, Level I. A standard certificate, fire inspector, Level I, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a one year diploma in fire science from an accredited college or an equivalent apprenticeship or trade school program in fire science;
- (2) a four-year degree from an accredited college or university;
- (3) at least six months of fire inspection experience with a probationary Level I fire inspection certificate on a minimum of two Level I buildings while working under the direct supervision of a standard certified fire inspector I, II, or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (4) at least one year of fire protection design, construction, or inspection experience on a minimum of two Level I buildings while working under the direct supervision of a licensed engineer, registered architect, or licensed building, electrical, or fire sprinkler contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
- (5) a license as a fire sprinkler contractor;
- (6) at least two years of construction or inspection experience in fire protection systems while working under a licensed building, electrical, or fire sprinkler contractor;
- (7) at least two years of experience with a probationary Level I fire inspection certificate conducting fire inspections on a minimum of two Level I buildings;
- (8) at least four years of experience in fire suppression activities for a city, county, volunteer, or other governmental fire department; or
- (9) Firefighter Level II certification under the North Carolina State Fire and Rescue Commission with at least one year of fire inspection experience in Level I buildings.

(u) Fire Inspector, Level II. A standard certificate, fire inspector, Level II, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:

- (1) a license as a professional engineer or registered architect;
- (2) a four year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or fire science;
- (3) a four-year degree from an accredited college or university and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a certified fire inspector II or III, licensed engineer, registered architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;
- (4) a two-year degree from an accredited college or university in architecture, civil or architectural engineering, building construction, or fire science and at least two years of fire protection design, construction, or inspection experience on a minimum of two Level II building fire protection systems while working under

- the direct supervision of a certified fire inspector II or III, licensed engineer, registered architect, intermediate or unlimited licensed building contractor, or licensed fire sprinkler contractor;
- (5) a license as a fire sprinkler contractor with experience on a minimum of two Level II buildings;
 - (6) at least three years of fire inspection experience including one year of inspection experience with a probationary Level II fire inspection certificate on a minimum of two Level II buildings while working under the direct supervision of a certified fire inspector II or III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
 - (7) at least three years of fire protection system design, construction, or inspection experience on a minimum of two Level II buildings while working under the direct supervision of a licensed engineer, registered architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
 - (8) at least two years of experience with a probationary Level II fire inspection certificate conducting fire inspections on a minimum of two Level II buildings; or
 - (9) completion of the basic, intermediate, and advanced classes of the North Carolina Fire Prevention School with at least three years of fire inspection experience in Level II buildings.
- (v) Fire Inspector, Level III. A standard certificate, fire inspector, Level III, shall be issued to any applicant who complies with Paragraphs (b) through (g) of this Rule and who provides documentation that the applicant possesses one of the following education and experience qualifications:
- (1) a license as a professional engineer or registered architect with design, construction, or inspection experience on Level III buildings and specialization in architecture, civil or architectural engineering, or fire protection engineering;
 - (2) a four-year degree from an accredited college or university in civil, architectural, or fire protection engineering and at least one year of fire inspection experience while working under a certified fire inspector III, licensed engineer, registered architect, or licensed fire sprinkler contractor on a minimum of two Level III buildings; (3)
 - (3) a two-year degree from an accredited college or university in civil, architectural, or fire protection engineering and at least three years of fire protection design, installation, or inspection experience while working under the direct supervision of a certified fire inspector III, licensed engineer, registered architect, licensed unlimited building contractor, or licensed fire sprinkler contractor with at least one year in responsible charge of a minimum of two Level III buildings;
 - (4) a license as a fire sprinkler contractor with experience on a minimum of two Level III buildings;
 - (5) at least four years of fire inspection experience in fire protection systems including one year of inspection experience with a probationary Level III fire inspection certificate on a minimum of two Level III buildings while working under the direct supervision of a certified fire inspector III with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule;
 - (6) at least four years of fire protection system design, construction, or inspection experience while working under the direct supervision of a licensed engineer, registered architect, licensed intermediate or unlimited building contractor, or licensed fire sprinkler contractor, two years of which have been performed at the level of supervisor in responsible charge of a minimum of two Level III buildings with a supporting letter from the applicant's supervisor which complies with Paragraph (b) of this Rule; or
 - (7) at least one year of experience with a probationary Level III fire inspection certificate conducting fire inspections on a minimum of two Level III buildings.

History Note: Authority G.S. 143-151.12(1); 143-151.13; Eff. January 15, 1980; Amended Eff. August 1, 2004; July 18, 2002; February 1, 1991; August 1, 1990; July 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0707 SPECIAL CIRCUMSTANCES

- (a) Licensed County Electrical Inspector. Pursuant to G.S. 143-151.13(e), the Board will, without requiring an examination, issue a standard certificate to any person holding a currently valid certificate as a county electrical inspector, issued by the Commissioner of Insurance under G.S. 153A-351. Such certificate shall be for the electrical inspector level corresponding to the level at which the applicant is currently certified.
- (b) Registered Architect, Licensed General Contractor, Licensed Plumbing or Heating Contractor, Licensed Electrical Contractor, Registered Professional Engineer. Pursuant to G.S. 143-151.13(f), the Board will, without requiring an examination, issue a standard certificate to any person who successfully completes the Board's prescribed short course concerning state building code regulations and code enforcement administration and who is currently registered or licensed (as of June 13, 1977) by the State of North Carolina as an architect, a general contractor, a plumbing or heating contractor, an electrical contractor, or a professional engineer. The standard certificate thus issued will authorize the person to practice as a

qualified code enforcement official of the type and at the performance level determined by the Board to be appropriate in light of the applicant's education, training, and experience.

(c) Certified Code Enforcement Official From Another State. Pursuant to G.S. 143-151.14, the Board will, without requiring an examination, issue a standard certificate to any person who successfully completes the Board's prescribed short course concerning state building code regulations and code enforcement administration and who holds a currently valid certificate as a qualified code enforcement official from another state or territory whose standards are acceptable to the Board and not lower than those required of North Carolina applicants.

History Note: Authority G.S. 143-151.13; 143-151.14;
Eff. January 15, 1980;
Amended Eff. July 1, 1983.

11 NCAC 08 .0708 CERTIFICATE

(a) If an application meets the requirements of Rules .0704 and .0706 of this Section and the application fee has been paid and the applicant qualified for a particular type and level of certificate, the Board's staff shall mail a standard certificate of that type and level to the applicant at the address specified on the application. The certificate shall be effective until the renewal date specified in G.S. 143-151.16(b).

(b) If the applicant does not meet the criteria for the certificate for which he or she applied, the applicant shall be given written notice of the criterion that the applicant fails to meet and offered a choice of:

- (1) accepting a certificate for a lower level for which the applicant is qualified;
- (2) submitting additional evidence in support of the application;
- (3) withdrawing the application; or
- (4) appealing the decision to the Board.

If an appeal is filed, the Board shall conduct a hearing and render a decision in accordance with Article 3A of G.S. 150B.

History Note: Authority G.S. 143-151.12; 143-151.13; 143-151.14; 143-151.17; 143-151.19;
Eff. January 15, 1980;
Amended Eff. December 1, 2017; July 18, 2002; January 1, 1991.

11 NCAC 08 .0709 RENEWAL

To remain effective, a standard certificate must be renewed in accordance with G.S. 143-151.16(b). Applications for renewal shall be made on forms furnished by the Division of Engineering and Building Codes of the Department of Insurance. A ten dollar (\$10.00) renewal fee shall accompany each such application. In the event that an application for renewal is not received by July 1, an additional late-renewal fee of two dollars (\$2.00) shall be charged. Any person who fails to renew a certificate for a period of two consecutive years shall take and pass the same examination as unlicensed applicants for that type and level of certificate before that person shall be allowed to renew the certificate. In accordance with 11 NCAC 08 .0712, continuing education requirements must be completed by June 30 for renewal of the standard certificate.

History Note: Authority G.S. 143-151.13A(b); 143-151.16;
Eff. January 15, 1980;
Amended Eff. February 1, 2006; July 18, 2002; August 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0710 RETURN OF CERTIFICATE WHEN LEAVE EMPLOYMENT

A standard certificate issued by the Board shall remain valid only so long as the person certified is employed by the State of North Carolina or any political subdivision thereof as a code enforcement official. When the person certified leaves such employment for any reason, he shall return the certificate to the Board. If the person subsequently obtains employment as a code enforcement official in any of such governmental jurisdictions, the Board shall re-issue the certificate to him, subject to the provisions of Rule .0709, provided, however, that if there is time remaining on the re-issued certificate, no additional fee will be charged.

History Note: Authority G.S. 143-151.15;
Eff. January 15, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0711 PRE-QUALIFICATION PROGRAM

The Board may prequalify, as an inspector, an applicant who is not an employee of a city, county, or state inspection department. The Board shall accept applicants who meet the same education, experience, and other requirements listed in Rules .0702 through .0707 of this Section. The Board shall prequalify the applicant at the area and level of certification when the applicant completes these requirements. The Board shall issue a standard inspection certificate when the prequalified applicant is employed by a city, county, or state inspection department.

*History Note: Authority G.S. 143-151.12;
Eff. July 18, 2002;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0712 CONTINUING EDUCATION - GENERAL

As a condition of certificate renewal, holders of active standard and limited certificates must meet continuing education (CE) requirements in accordance with 11 NCAC 08 .0713 through 08 .0733. Courses and sponsors must meet the requirements in 11 NCAC 08 .0713 through 08 .0733.

*History Note: Authority G.S. 143-151.13A(b);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0713 CONTINUING EDUCATION REQUIREMENTS

- (a) To be eligible to renew a certificate, whether active standard or active limited, a Code Enforcement Official (CEO) shall have completed the requisite number of credit hours by June 30, 2007, and each June 30 thereafter.
- (b) A credit hour is 50 minutes of class contact course instruction or 50 minutes of distance learning time.
- (c) A CEO with an active limited certificate shall complete six hours of continuing education courses per renewal year in each technical area for which the limited certificate is valid. A CEO with an active standard certificate shall complete six hours of continuing education courses per renewal year for each standard certificate. A CEO with a limited and a standard certificate valid for the same technical area shall complete only six hours for that technical area.
- (d) A CEO with only a probationary certificate and no standard or limited certificate is not required to complete any continuing education courses.
- (e) If a course exceeds the number of credit hours specified for renewal of a technical area certificate, the excess credit hours may be carried forward into the following renewal year of that technical area certificate. The number of carry-forward credit hours shall not exceed six.

*History Note: Authority G.S. 143-151.13A(b); 143-151.13A(f)(1); 143-151.13A(f)(4); 143-151.13A(f)(5); 143-151.16(b);
Eff. March 1, 2006;
Amended Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0714 INACTIVE CODE ENFORCEMENT OFFICIALS

- (a) A CEO either who is no longer employed by a city, county, or state inspection department or who remains employed by a city, county, or state inspection department but no longer has Code enforcement responsibility is deemed inactive. Inactive CEOs are neither subject to certificate renewal requirements nor continuing education requirements.
- (b) When an inactive CEO wishes to become reemployed as an active CEO, the CEO must complete continuing education courses within one year after reemployment to re-activate certificates in addition to the courses required for renewal of certificates as follows:
 - (1) A CEO who has been on inactive status for more than two years and who has not been continuously employed by a city, county, or state inspection department during the period of inactive status shall complete continuing education courses of 12 hours for each technical area in which the CEO is certified.
 - (2) A CEO who has been on inactive status for more than two years and who has been continuously employed by a city, county, or state inspection department during the period of inactive status shall complete continuing education courses of six hours for each technical area in which the CEO is certified.
 - (3) A CEO who has been on inactive status for two years or less shall complete CE courses of four hours for each technical area in which the CEO is certified.

*History Note: Authority G.S. 143-151.13A(b); 143-151.13A(d); 143-151.15;
Eff. February 1, 2006.*

11 NCAC 08 .0715 FAILURE TO COMPLETE CONTINUING EDUCATION

Any active CEO who fails to complete the required continuing education courses by June 30 of the current renewal year shall have his or her certificates suspended until the CE requirement is met. A CEO without a currently valid certificate shall not perform Code enforcement.

*History Note: Authority G.S. 143-151.13A(f)(7);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0716 COMPLIANCE

(a) General CEO compliance with annual CE requirements may be determined through an audit process conducted by the Board's staff. Determination of individuals to be audited shall be accomplished either through a random selection process or based on information available to the Board's staff. Individuals selected for auditing shall provide the Board's staff with documentation of the CE activities claimed for the renewal period, including attendance verification records in the form of transcripts, completion certificates, and any other documents supporting evidence of attendance.

(b) Attendance records shall be maintained by CEOs for a period of three years following the applicable certificate renewal date for audit verification purposes.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0717 EXTENSIONS OF TIME

Upon petition to the Board staff, extensions of time to complete continuing education courses shall be granted to CEOs for good cause only, such as military service, physical disability, illness, and similar hardship if the period of hardship exceeded 90 consecutive days. Supporting documentation such as military orders or a letter from a physician must be furnished to the Board's staff. The Board staff shall determine whether the extension shall be granted within 10 calendar days of receipt of the petition and shall notify the CEO of its determination.

*History Note: Authority G.S. 143-151.13A (e);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0718 COURSE SPONSORS

(a) A course sponsor is an organization or individual that has submitted an application and has been approved by the Board to provide courses and instructors for continuing education. No retroactive approval of a sponsor shall be granted by the Board for any reason.

(b) A prospective sponsor of a CE course shall obtain written approval from the Board to conduct the course before offering or conducting the course and before advertising or otherwise representing that the course is or may be approved for continuing education credit.

(c) Sponsors may include community colleges; colleges and universities; CEO associations; trade associations; providers of self-paced or internet based training programs; city, county, and state inspection departments or other agencies; and private instructors. A prospective sponsor shall be approved by the Board as a course sponsor if, upon submission of a completed application under Paragraph (d) of this Rule, the Board determines that at least one course proposed to be offered by the prospective sponsor meets the criteria for course approval under 11 NCAC 08 .0720, each instructor that is to offer course instruction for the prospective sponsor satisfies the requirements of Paragraph (e) of this Rule, and there are no other grounds under the laws of North Carolina on the basis of which approval should not be granted to the sponsor.

(d) Each course sponsor shall submit an application for continuing education course sponsor approval to the Board on a form provided by the Board. The application shall include:

- (1) The name of the sponsor;
- (2) The sponsor contact person, address and telephone number;
- (3) The course contact hours;
- (4) A description of the courses or types of courses the sponsor proposes to offer and the schedule of courses, if established, including dates, time and locations; and
- (5) The identity and qualifications and experience of each instructor.

(e) Instructors shall have a minimum of one year of experience in architecture; engineering; construction; inspection; installation of equipment, building materials, or components; or other Code-related areas which shall be pertinent to the nature and purpose of the course(s) for which they will provide instruction. Instructors shall possess the ability to:

- (1) Communicate through speech, with the ability to speak clearly, and with voice inflection, using proper grammar and vocabulary;
- (2) Present instruction in a thorough, accurate, logical, orderly and understandable manner;
- (3) Use varied instructional techniques in addition to straight lecture, such as class discussion, role-playing, or other techniques; and
- (4) Use instructional aids, such as projectors and computers to enhance learning.

Instructors shall assure that class sessions are started on time and are conducted for the full amount of time that is scheduled. Instructors shall also assure that each CE course is taught according to the course outline and plan that was approved by the Board, including the furnishing of approved student materials.

*History Note: Authority G.S. 143-151.13A(f)(2);
Eff. March 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0719 CONTINUING EDUCATION COORDINATOR

Each sponsor of a CE course shall designate one person to serve as the Continuing Education Coordinator for all Board-approved continuing education courses offered by the sponsor. The designated Coordinator shall serve as the official contact person for the sponsor and shall be responsible for signing the course completion certificates provided by the sponsor to CEOs completing courses and submitting to the Board's staff all required rosters, sign-in sheets, reports, and other information.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0720 APPROVED COURSES

(a) To be approved for credit in the continuing education program, a course shall be directly related to State Building Codes, inspection, administration, or enforcement of State Building Codes; construction or design of buildings or electrical, mechanical, plumbing, or fire prevention systems; or certification courses approved for CEOs.

(b) Credit shall be given only for courses that have been approved by the Board. Continuing education courses for other State occupational licenses must be specifically approved to satisfy the Board's continuing education requirements. Courses from approved sponsors must be specifically approved before being offered.

(c) Some courses shall be approved for credit in more than one area of certification. A CEO with multiple certificates may apply the credit to any certificate for which the course is approved. If the course hours are greater than required for one certificate, the remaining hours may be applied to other certificates for which the course is approved or the remaining hours may be carried over in accordance with 11 NCAC 08 .0713(e).

(d) A CEO shall only receive credit for the same course once within any three-year period.

(e) A course shall contain a minimum of one credit hour.

(f) A CEO may select a course other than one offered by an approved sponsor. In order to obtain approval for the course, the CEO shall, upon completion of the course, submit an application for approval on a form provided by the Board. The application shall include

- (1) the topic;
- (2) content of lecture material;
- (3) date, time, and location of the course;
- (4) name and qualifications of the instructor; and
- (5) the number of course contact hours received upon completion of the course.

In lieu of the form, the CEO may submit a course brochure that contains all of the information required by the form. The CEO shall also provide verification of attendance from the course instructor. The Board shall not accept any applications for course approval under this paragraph after April 30 of each year.

(g) Instructors shall receive twice the number of course credit hours for each instructional hour in an approved course. An instructor shall only receive twice the number of course credit hours for the same course once within any two-year period.

*History Note: Authority G.S. 143-151.13A(f)(1); 143-151.13A(f)(4);
Eff. February 1, 2006;
Amended Eff. April 1, 2007;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0721 COURSE ACCREDITATION REQUIREMENTS

(a) Sponsors of prospective CE courses shall apply for approval from the Board by submitting the following information to the Board's staff for consideration:

- (1) course title and outline;
- (2) nature and purpose of the course;
- (3) outline of the course, including the number of training hours for each segment; and
- (4) copies of handouts and materials to be furnished to students.

(b) To determine if a course is approved, the Board's staff shall review the course to determine if the course meets the requirements of 11 NCAC 08 .0720 and its stated objectives. The Board's staff shall issue written approval to the course sponsor for all courses deemed to be acceptable. The Board's staff shall notify the course sponsor of any course found not to be acceptable, providing specific reasons for the disapproval. A course sponsor may appeal the Board's staff's disapproval of a course to the Board, and such appeal shall be heard at the next scheduled meeting of the Board.

*History Note: Authority G.S. 143-151.13A(f)(2);
Eff. February 1, 2006;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0722 DISTANCE EDUCATION COURSES

A distance education course is a continuing education course in which instruction is accomplished through the use of media and methods whereby instructor and student are separated by distance and sometimes by time. In addition to fulfilling all course accrediting requirements, a sponsor requesting approval of a distance education course must demonstrate that the proposed distance education course satisfies the following criteria:

- (1) The course shall be designed to assure that students have defined learning objectives. If the nature of the subject matter is such that the learning objectives cannot be reasonably accomplished without some direct interaction between the instructor and students, then the course must be designed to provide for such interaction.
- (2) A course that does not provide the opportunity for continuous audio and visual communication between instructor and all students during the course presentation shall utilize testing processes to assure student understanding of the subject material.
- (3) A course that involves students completing the course on a self-paced study basis shall be designed so that the time required for a student of average ability to complete the course will be equivalent to a similar course taught in a classroom setting. The sponsor shall utilize a system that assures that students have actually performed all tasks required for completion and understanding of the subject material.
- (4) The sponsor shall provide technical support to enable students to satisfactorily complete the course.
- (5) The course instructors shall be available to respond in a timely manner to student questions about the subject matter of the course. Instructors shall have training in the proper use of the instructional delivery method utilized in the course, including the use of computer hardware and software or other applicable equipment and systems.
- (6) The sponsor shall provide students with an information package containing all pertinent information regarding requirements unique to completing a distance education course, including any special requirements with regard to computer hardware and software or other equipment, and outlining in detail the instructor and technical support that will be available when taking the course.
- (7) The sponsor shall use procedures that provide reasonable assurance that the student receiving continuing education credit for completing the course actually performed all the work required to complete the course. For courses that involve independent study by students, certification that the student personally completed all required course work shall be provided by the student to the sponsor, either by a signed statement (on a form provided by the sponsor) or, in the case of internet or computer based courses, by electronic means that are indicated in the software or on the website. Signed course completion statements or records of electronic certification shall be retained by the sponsor together with any other course records required by the rules in this Section.
- (8) Sponsors seeking approval of distance education courses must submit to the Board's staff a complete copy of the course in the medium that is to be used, including all computer software that will be used in presenting the course and administering tests. If the course is to be internet based, the Board's staff must be provided access to the course via the internet and shall not be charged a fee for such access.

- (9) Distance education courses shall comply with requirements for course completion reporting. Students shall not be reported for continuing education credit for distance education courses until the signed form from the student or electronic certification as described in Item (7) of this Rule has been received by the sponsor.

History Note: Authority G.S. 143-151.13A(f)(2); 143-151.13A(f)(3);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0723 DENIAL OR WITHDRAWAL OF APPROVAL OF SPONSOR OR COURSE

The Board may deny, suspend or terminate approval of sponsors or courses offered by a sponsor if the Board finds a failure to comply with the Board's rules or the course outline, or for misstatements as to content or participation.

History Note: Authority G.S. 143-151.13A(f)(7);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018

11 NCAC 08 .0724 SPONSOR AND COURSE CHANGES

(a) Course sponsors shall obtain prior approval from the Board's staff for any proposed changes in the content or number of hours for approved CE courses. Requests for approval of changes shall be in writing. The Board's staff shall approve the changes if they satisfy the accreditation requirements as provided in 11 NCAC 08 .0721. Changes in course content that are solely for the purpose of assuring that information provided in a course is current, such as updating to address code amendments or changes in regulations, need not be submitted for approval.

(b) Course sponsors shall give prior written notice to the Board's staff in writing of any change in business name, Continuing Education Coordinator, address, or business telephone number.

History Note: Authority G.S. 143-151.13A(f)(2);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0725 NOTICE OF SCHEDULED COURSES

(a) A sponsor shall provide the Board's staff with written notice of each scheduled course offering no later than 20 calendar days before a scheduled course date. The notice shall include the name and assigned number for the sponsor, the name and assigned number for the course, and the scheduled date, time, and location of the course.

(b) A sponsor shall notify any registered CEOs and the Board's staff of any schedule changes or course cancellations at least five calendar days before the original scheduled course date. If a change or cancellation becomes necessary after the five-day deadline, the sponsor shall notify the Board's staff and any registered CEOs as soon as the sponsor effects the change or cancellation.

History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0726 ADVERTISING AND PROVIDING COURSE INFORMATION

(a) Course sponsors shall not use false or misleading advertising.

(b) Any flyers, brochures, or other medium used to promote a CE course shall describe the fee to be charged and the sponsor's cancellation and fee refund policies.

(c) A sponsor of a CE course shall provide a description of the course content to the CEO.

History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0727 FEE FOR CE COURSES

The sponsor of an approved CE course shall establish the amount of any fee to be charged to CEOs taking the course. The fee shall be all-inclusive. No separate or additional fee shall be charged to CEOs for providing course materials, providing course completion certificates, reporting course completion to the Board's staff, or for recouping administrative expenses. The total amount of any fees to be charged shall be included in any advertising or promotional materials for the course.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0728 CANCELLATION AND REFUND POLICIES

If a scheduled course is canceled, a sponsor shall immediately notify preregistered CEOs of the cancellation. All prepaid fees received from preregistered CEOs shall be refunded within 30 days after the date of cancellation. Failure to provide a refund shall result in revocation of sponsor approval.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0729 COURSE ATTENDANCE

- (a) Course instructors shall monitor attendance to assure that all CEOs have completed the course. A CEO shall not be reported to the Board's staff as having completed a course unless the CEO satisfies the attendance requirement.
- (b) Any CEO providing false information to a course sponsor shall not receive CE credits for the course, shall not be entitled to a refund of course fees, and may be subject to disciplinary action by the Board.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0730 ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

Course sponsors and instructors shall comply with the Americans with Disabilities Act or other laws requiring accommodation of persons with disabilities.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0731 COURSE COMPLETION REPORTING

- (a) Each sponsor shall submit to the Board's staff a report verifying completion of a CE course for each CEO who completes the course. A sponsor shall submit this report to the Board's staff within 15 calendar days following the course completion. Reports shall be submitted electronically on forms provided by the Board. Reports shall include the sponsor name and the sponsor identifying number, the name and the identifying number of the CEO who completed the course, the date of course completion, the course name and course identifying number, the trade area to which the course applies, the instructor name, the standard or limited certificate number to which to credit the course, and the number of credit hours, and the renewal year to apply the course credit.
- (b) Course sponsors shall provide CEOs enrolled in each CE course an opportunity to complete an evaluation on a form provided by the Board of each approved CE course. Sponsors shall submit the completed evaluation forms to the Board's staff. The evaluation form may be provided on the internet at the option of the provider.
- (c) Course sponsors shall provide each CEO who completes an approved CE course with a course completion certificate. Sponsors shall provide the certificates to CEOs within 15 calendar days following the course completion. The certificate shall be retained for three years by the CEO as proof of having completed the course.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0732 RETENTION OF COURSE RECORDS

All course sponsors shall retain records of student registration, attendance, and course completion for CE courses for at least three years. All course sponsors shall make these records available to the Board's staff upon request.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0733 BOARD MONITORS

A course sponsor shall admit representatives of the Board to monitor any CE class without prior notice. Board representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .0800 - DISCIPLINARY ACTIONS: OTHER CONTESTED MATTERS

11 NCAC 08 .0801 DISCIPLINARY POWERS

- (a) As used in this Section "Board" and "Code" have the same meanings as those terms are defined in G.S. 143-151.8(a); and "official" means a qualified Code-enforcement official as defined in G.S. 143-151.8(5).
- (b) Any person who believes that an official is or has been in violation of G.S. 143-151.17(a) may file a complaint against that official. Copies of this Section and G.S. 143-151.17 shall be mailed to any person requesting complaint information from the Board.
- (c) The complaint must specifically refer to one or more of the grounds in G.S. 143-151.17(a). The name of the official, if known, and the name of the local inspection department must be listed. If the official is unknown, the complaint must refer to "the inspector who performed the building (or electrical, mechanical, plumbing, or fire prevention) inspection."
- (d) Supporting information must be included to justify the complaint. If the complaint involves violations of the Code that the official did not discover, a list of those violations must be submitted with the complaint. Such information may be provided by the complainant, an architect, professional engineer, licensed contractor, certified inspector, or other person with knowledge of the Code. Supporting information must refer to specific violations of the Code or of the General Statutes.
- (e) The complaint must be in writing, signed by the complainant, and dated. The complaint must include the complainant's mailing address and a daytime phone number at which the complainant may be reached. The street address of the structure must be included. There must be a notarized verification at the end of the complaint.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Eff. January 15, 1980;
Amended Eff. September 1, 1991;
Temporary Amendment Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Amended Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0802 PRELIMINARY INVESTIGATION

History Note: Filed as a Temporary Amendment Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Authority G.S. 143-151.12(1); 143-151.17(b); 150B-38(h);
Eff. January 15, 1980;
Amended Eff. June 1, 1992; September 1, 1991;
Repealed Eff. July 18, 2002.

11 NCAC 08 .0803 NOTICE TO PARTIES

11 NCAC 08 .0804 EMERGENCY SUSPENSION

History Note: Authority G.S. 150A-3(b); 150A-3(c); 150A-23(b)(c)(d);
Eff. January 15, 1980;
Repealed Eff. September 1, 1991.

11 NCAC 08 .0805 HEARING OFFICER

In all contested case hearings before the Board, the Chairman of the Board shall serve as presiding officer. In the absence of the Chairman, the Vice-Chairman shall serve as presiding officer, or a presiding officer shall be elected by the Board.

*History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Eff. January 15, 1980;
Amended Eff. September 1, 1991;
Temporary Amendment Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Amended Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0806 CONSOLIDATION OF SEVERAL CASES

11 NCAC 08 .0807 VENUE OF HEARING

11 NCAC 08 .0808 POWERS OF HEARING OFFICER: HEARING COMMITTEE: CHAIRMAN

11 NCAC 08 .0809 ACTIONS PRIOR TO HEARING

11 NCAC 08 .0810 CONDUCT OF HEARING

11 NCAC 08 .0811 RULES OF EVIDENCE

11 NCAC 08 .0812 DISPOSITION OF CASE BY STIPULATION: ETC: OF PARTIES

11 NCAC 08 .0813 PROPOSAL FOR DECISION

11 NCAC 08 .0814 OFFICIAL RECORD

*History Note: Authority G.S. 150A-23(e); 150A-24; 150A-25; 150A-25(b); 150A-26; 150A-27; 150A-28(a);
150A-28(b); 150A-29; 150A-30; 150A-31(a); 150A-31(b); 150A-33; 150A-34; 150A-37; 150A-37(b);
Eff. January 15, 1980;
Repealed Eff. September 1, 1991.*

11 NCAC 08 .0815 FINAL BOARD ORDER

(a) If after the close of a contested case hearing the Board decides that an official's conduct does not justify the suspension or revocation of his certificate but that his conduct does fail to conform to the standards of good code enforcement practice, the Board may issue a letter of reprimand or a letter of caution to the official in which the Board may summarize those deficiencies and make appropriate recommendations.

(b) If a final board order is to suspend, revoke, or refuse to issue a certificate, the order shall set forth the conditions, if any, that must be met in order to remove the suspension, to re-issue the certificate, or to issue the certificate.

*History Note: Authority G.S. 143-151.12(1); 143-151.17(c); 150B-38(h);
Eff. January 15, 1980;
Amended Eff. October 1, 1991;
Temporary Amendment Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

11 NCAC 08 .0816 JUDICIAL REVIEW

11 NCAC 08 .0817 APPEALS FROM ADMINISTRATIVE DECISIONS

11 NCAC 08 .0818 PROHIBITION AGAINST EX PARTE COMMUNICATIONS

*History Note: Authority G.S. 143-151.12; 150A, Article 3; 150A, Article 4; 150A-35;
Eff. January 15, 1980;
Repealed Eff. September 1, 1991.*

11 NCAC 08 .0819 GENERAL

Governed by the principles of fairness, uniformity, and punctuality, the following general rules apply:

- (1) The Rules of Civil Procedure as contained in G.S. 1A-1, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes apply in contested cases before the Board unless another specific statute or rule of the Board provides otherwise.
- (2) The Board may supply, at the cost of reproduction, forms for use in contested cases.

- (3) Every document filed with the hearing officer or the Board shall be signed by the author of the document, and shall contain his name, address, telephone number, and North Carolina State Bar number if the author is an attorney. An original and one copy of each document shall be filed.
- (4) Except as otherwise provided by statute, the rules contained in this Section govern the conduct of contested case hearings under G.S. 143-151.17.
- (5) The content and the manner of service of the notice of hearing shall be as specified in G.S. 150B-38(b) and (c).
- (6) Venue in a contested case shall be determined in accordance with G.S. 150B-38(e).
- (7) Hearings shall be conducted, as nearly as practical, in accordance with the practice in the Trial Division of the General Court of Justice.
- (8) Ex parte communications in a contested case are governed by G.S. 150B-40(d).
- (9) This Section and copies of all matter adopted by reference herein are available from the Board at the cost established in 11 NCAC 1 .0103.
- (10) The rules of statutory construction contained in Chapter 12 of the General Statutes apply in the construction of this Section.
- (11) Unless otherwise provided in the rules of the Board or in a specific statute, time computations in contested cases before the Board are governed by G.S. 1A-1, Rule 6.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
 Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
 Eff. June 1, 1992;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0820 DEFINITIONS

The definitions contained in G.S. 150B-2, including subsequent amendments, are incorporated herein by reference. In addition to the definitions in 11 NCAC 8 .0801(a), the following definitions apply to this Section:

- (1) "File or filing" means to place the paper or item to be filed into the care and custody of the hearing officer, and acceptance thereof by him, except that the Board may permit the papers to be filed with the Board, in which event the Board shall note thereon the filing date. All documents filed with the hearing officer or the Board, except exhibits, shall be duplicate in letter size 8" by 11".
- (2) "Hearing officer" means the presiding officer specified in 11 NCAC 8 .0805.
- (3) "Party" means the Board, the official, or an intervenor who qualifies under 11 NCAC 8 .0831. "Party" does not include a complainant unless the complainant is allowed to intervene under 11 NCAC 8 .0831.
- (4) "Service or serve" means personal delivery or, unless otherwise provided by law or rule, delivery by first class United States Postal Service mail or a licensed overnight express mail service, addressed to the person to be served at his or her last known address. A Certificate of Service by the person making the service shall be appended to every document requiring service under these Rules. Service by mail or licensed overnight express mail is complete upon addressing, enveloping, and placing the item to be served, in an official depository of the United State Postal Service or delivering the item to an agent of an overnight express mail service.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
 Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to expire on August 21, 1992;
 Eff. June 1, 1992;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0821 ORDER FOR PREHEARING STATEMENTS

The hearing officer may serve all parties with an order for prehearing statements together with, or after service of, the notice of hearing. Every party thus served shall, within 30 days after service, file the requested statements setting out the party's present position on the following:

- (1) The nature of the proceeding and the issues to be resolved;
- (2) A brief statement of the facts and reasons supporting the party's position on each matter in dispute;
- (3) A list of proposed witnesses with a brief description of his or her proposed testimony;
- (4) A description of what discovery, if any, the party will seek to conduct prior to the contested case hearing and an estimate of the time needed to complete discovery;
- (5) Venue considerations;
- (6) Estimation of length of the hearing;
- (7) The name, address, and telephone number of the party's attorney, if any; and

- (8) Other special matters.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0822 DUTIES OF THE HEARING OFFICER

In conjunction with the powers in this Section and in G.S. 143-151.17, the hearing officer shall perform the following duties, consistent with law:

- (1) Hear and rule on motions;
- (2) Grant or deny continuances;
- (3) Issue orders regarding prehearing matters, including directing the appearance of the parties at a prehearing conference;
- (4) Examine witnesses when deemed to be necessary to make a complete record and to aid in the full development of material facts in the case;
- (5) Make preliminary, interlocutory, or other orders as deemed to be appropriate;
- (6) Recommended a summary disposition of the case or any part thereof when there is no genuine issue as to any material fact or recommend dismissal when the case or any part thereof has become moot or for other reasons; and
- (7) Apply sanctions in accordance with 11 NCAC 8 .0829.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0823 CONSENT ORDER; SETTLEMENT; STIPULATION

Informal disposition may be made of a contested case or an issue in a contested case by stipulation, agreement, or consent order at any time during the proceedings. Parties may enter into such agreements on their own or may ask for a settlement conference with the hearing officer to promote consensual disposition of the case.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0824 SETTLEMENT CONFERENCE

- (a) A settlement conference is for the primary purpose of assisting the parties in resolving disputes and for the secondary purpose of narrowing the issues and preparing for hearing.
- (b) Upon the request of any party, the hearing officer shall assign the case to another Board member for the purpose of conducting a settlement conference. Unless the parties and the other Board member agree, a unilateral request for a settlement conference does not constitute good cause for a continuance. The conference shall be conducted at a time and place agreeable to all parties and the hearing officer. It shall be conducted by telephone if any party would be required to travel more than 50 miles to attend, unless that party agrees to travel to the location set for the conference. If a telephone conference is scheduled, the parties must be available by telephone at the time of the conference.
- (c) All parties shall attend or be represented at a settlement conference. Parties or their representatives shall be prepared to participate in settlement discussions.
- (d) The parties shall discuss the possibility of settlement before a settlement conference if they believe that a reasonable basis for settlement exists.
- (e) At the settlement conference, the parties shall be prepared to provide information and to discuss all matters required in 11 NCAC 8 .0821.
- (f) If, following a settlement conference, a settlement has not been reached but the parties have reached an agreement on any facts or other issues, the Board member presiding over the settlement conference shall issue an order confirming and approving, if necessary, those matters agreed upon. The order is binding on the hearing officer who is assigned to hear the case.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;

Eff. June 1, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0825 PREHEARING CONFERENCE

(a) The purpose of the prehearing conference is to simplify the issues to be determined; to obtain stipulations in regard to foundations for testimony or exhibits; to obtain stipulations of agreement on nondisputed facts or the application of particular laws; to consider the proposed witnesses for each party; to identify and exchange documentary evidence intended to be introduced at the hearing; to determine deadlines for the completion of any discovery; to establish hearing dates and locations if not previously set; to consider such other matters that may be necessary or advisable; and, if possible, to reach a settlement without the necessity for further hearing. Any final settlement shall be set forth in a settlement agreement or consent order and made a part of the record.

(b) Upon the request of any party or upon the hearing officer's own motion, the hearing officer may hold a prehearing conference before a contested case hearing. The hearing officer may require the parties to file prehearing statements in accordance with 11 NCAC 8 .0821. A prehearing conference on the simplification of issues, amendments, stipulations, or other matters may be entered on the record or may be made the subject of an order by the hearing officer. Venue for purposes of a prehearing conference shall be determined in accordance with G.S. 150B-38(e).

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);

Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;

Eff. June 1, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0826 CONSOLIDATION OF CASES

(a) The hearing officer may order a joint hearing of any matters at issue in contested cases involving common questions of law or fact or multiple proceedings involving the same or related parties, or may order the cases consolidated or make other orders to reduce costs or delay in the proceedings.

(b) A party requesting consolidation shall serve a petition for consolidation on all parties to the cases to be consolidated and shall file the original with the hearing officer, together with a certificate of service showing service on all parties as herein required. Any party objecting to the petition shall serve and file his objections within 10 days after service of the petition for consolidation.

(c) Upon determining whether cases should be consolidated, the hearing officer shall serve a written order on all parties that contains a description of the cases for consolidation and the reasons for the decision.

(d) Nothing contained in this Rule prohibits the parties from stipulating and agreeing to a consolidation, which shall be granted upon submittal of a written stipulation, signed by every party, to the hearing officer.

(e) Following receipt of a notice of or order for consolidation, any party may petition for severance by serving it on all other parties and filing with the hearing officer at least seven days before the first scheduled hearing date. If the hearing officer finds that the consolidation will prejudice any party, he shall order the severance or other relief that will prevent the prejudice from occurring.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);

Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;

Eff. June 1, 1992;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0827 DISCOVERY

(a) Discovery methods are means designed to assist parties in preparing to meet their responsibilities and protect their rights during hearings without unduly delaying, burdening or complicating the hearings process and with due regard to the rights and responsibilities of other parties and persons affected. Accordingly, parties are obligated to exhaust all less formal opportunities to obtain discoverable material before utilizing this Rule.

(b) Any means of discovery available pursuant to the North Carolina Rules of Civil Procedure, G.S. 1A-1, is allowed. If the party from whom discovery is sought objects to the discovery, the party seeking the discovery may file a motion with the hearing officer to obtain an order compelling discovery. In the disposition of the motion, the party seeking discovery shall have the burden of showing that the discovery is needed for the proper presentation of the party's case, is not for purposes of delay, and that the issues in controversy are significant enough to warrant the discovery. In ruling on a motion for discovery, the hearing officer shall recognize all privileges recognized at law.

(c) When a party serves another party with a request for discovery, that request need not be filed with the hearing officer but shall be served upon all parties.

(d) The parties shall immediately commence to exchange information voluntarily, to seek access as provided by law to public documents, and to exhaust other informal means of obtaining discoverable material.

(e) All discovery shall be completed no later than the first day of the hearing. The hearing officer may shorten or lengthen the period for discovery and adjust hearing dates accordingly and, when necessary, allow discovery during the pendency of the hearing.

(f) No later than 15 days after receipt of a notice requesting discovery, the receiving party shall:

- (1) move for relief from the request;
- (2) provide the requested information, material or access; or
- (3) offer a schedule for reasonable compliance with the request.

(g) Sanctions for failure of a party to comply with an order of the hearing officer made pursuant to this Rule shall be as provided for by G.S. 1A-1, Rule 37, to the extent that a hearing officer may impose such sanctions, and 11 NCAC 8 .0829.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0828 SUBPOENAS

(a) Subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be issued in accordance with G.S. 150B-39(c) and G.S. 1A-1 Rule 45.

(b) A subpoena shall be served in the manner provided by G.S. 150B-39(c) and G.S. 1A-1, Rule 45. The cost of service, fees, and expenses of any witnesses subpoenaed shall be paid by the party at whose request the witness appears. A party seeking an order imposing sanctions for failure to comply with any subpoena issued under this Rule must prove proper service of the subpoena.

(c) Objections to subpoenas shall be heard in accordance with G.S. 150B-39(c) and G.S. 1A-1, Rule 45.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0829 SANCTIONS

(a) If a party fails to appear at a hearing or fails to comply with an interlocutory order of the hearing officer, the hearing officer may:

- (1) Find that the allegations of or the issues set out in the notice of hearing or other pleading may be taken as true or deemed to be proved without further evidence;
- (2) Dismiss or grant the motion or petition;
- (3) Suppress a claim or defense; or
- (4) Exclude evidence.

(b) In the event that any party, attorney at law, or other representative of a party engages in behavior that obstructs the orderly conduct of proceedings or would constitute contempt if done in the General Court of Justice, the hearing officer may enter a show cause order returnable in Superior Court for contempt proceedings in accordance with G.S. 150B-40(c)(6).

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0830 MOTIONS

(a) Any application to the hearing officer for an order shall be by motion, which shall be in writing unless made during a hearing, and must be filed and served upon all parties not less than 10 days before the hearing, if any, is to be held either on the motion or the merits of the case. The nonmoving party has 10 days after the date of service of the motion to file a response, which must be in writing. Motions practice in contested cases before the Board are governed by Rule 6 of the General Rules of Practice for the Superior and District Court.

(b) If any party desires a hearing on the motion, he shall make a request for a hearing at the time of the filing of his motion or response. A response shall set forth the nonmoving party's objections. All motions in writing shall be decided without oral argument unless an oral argument is directed by the hearing officer. When oral argument is directed by the hearing officer, a motion shall be considered submitted for disposition at the close of the argument. A hearing on a motion will be directed by

the hearing officer only if it is determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. All orders on such motions, other than those made during the course of a hearing, shall be in writing and shall be served upon all parties of record not less than five days before a hearing, if any, is held.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0831 INTERVENTION

- (a) Any person not named in the notice of hearing who desires to intervene in a contested case as a party shall file a timely motion to intervene and shall serve the motion upon all existing parties. Timeliness will be determined by the hearing officer in each case based on circumstances at the time of filing. The motion shall show how the movant's rights, duties, or privileges may be determined or affected by the contested case; shall show how the movant may be directly affected by the outcome or show that the movant's participation is authorized by statute, rule, or court decision; shall set forth the grounds and purposes for which intervention is sought; and shall indicate movant's statutory right to intervene if one exists.
- (b) Any party may object to the motion for intervention by filing a written notice of objections with the hearing officer within five days after service of the motion if there is sufficient time before the hearing. The notice of objection shall state the party's reasons for objection and shall be served upon all parties. If there is insufficient time before the hearing for a written objection, the objection may be made at the hearing.
- (c) When the hearing officer deems it to be necessary to develop a full record on the question of intervention, he may conduct a hearing on the motion to determine specific standards that will apply to each intervenor and to define the extent of allowed intervention.
- (d) The hearing officer shall allow intervention upon a proper showing under this Rule, unless he finds that the movant's interest is adequately represented by one or more parties participating in the case or unless intervention is mandated by statute, rule, or court decision. An order allowing intervention shall specify the extent of participation permitted the intervenor and shall state the hearing officer's reason. An intervenor may be allowed to:
- (1) File a written brief without acquiring the status of a party;
 - (2) Intervene as a party with all the rights of a party; or
 - (3) Intervene as a party with all the rights of a party but limited to specific issues and to the means necessary to present and develop those issues.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0832 CONTINUANCES

- (a) A request for a continuance of a hearing shall be granted upon a showing of good cause. Unless time does not permit, a request for a continuance of a hearing shall be made in writing to the hearing officer and shall be served upon all parties of record. In determining whether good cause exists, due regard shall be given to the ability of the party requesting a continuance to proceed effectively without a continuance. A request for a continuance filed within five days before a hearing shall be denied unless the reason for the request could not have been ascertained earlier.
- (b) "Good cause" includes death or incapacitating illness of a party, representative, or attorney of a party; a court order requiring a continuance; lack of proper notice of the hearing; a substitution of the representative or attorney of a party if the substitution is shown to be required; a change in the parties or pleadings requiring postponement; and agreement for a continuance by all parties if either more time is clearly necessary to complete mandatory preparation for the case, such as authorized discovery, and the parties and the hearing officer have agreed to a new hearing date or the parties have agreed to a settlement of the case that had been or is likely to be approved by the final decision maker.
- (c) "Good cause" does not include: intentional delay; unavailability of counsel or other representative because of engagement in another judicial or administrative proceeding unless all other members of the attorney's or representative's firm familiar with the case are similarly engaged, or if the notice of the other proceeding was received subsequent to the notice of the hearing for which the continuance is sought; unavailability of a witness if the witness' testimony can be taken by deposition; or failure of the attorney or representative to properly utilize the statutory notice period to prepare for the hearing.
- (d) During a hearing, if it appears in the interest of justice that further testimony should be received and sufficient time does not remain to conclude the testimony, the hearing officer shall either order the additional testimony taken by deposition or continue the hearing to a future date for which oral notice on the record is sufficient.

(e) A continuance shall not be granted if granting it would prevent the case from being concluded within any statutory or regulatory deadline.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0833 RIGHTS AND RESPONSIBILITIES OF PARTIES

- (a) A party has the right to present evidence, rebuttal testimony, and argument with respect to the issues of law and policy, and to cross-examine witnesses, including the author of a document prepared by, on behalf of, or for use of the Board and offered in evidence.
- (b) A party shall have all evidence to be presented, both oral and written, available on the date for hearing. Requests for subpoenas, depositions, or continuances shall be made within a reasonable time after their needs become evident to the requesting party. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the hearing officer or agreed upon at a prehearing conference.
- (c) The hearing officer shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the hearing officer shall simultaneously send a copy to all other parties.
- (d) All parties have the continuing responsibility to notify the hearing officer of their current address and telephone number.
- (e) A party need not be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.
- (f) With the approval of the hearing officer, any person may offer testimony or other evidence relevant to the case. Any nonparty offering testimony or other evidence may be questioned by parties to the case and by the hearing officer.
- (g) Before issuing a recommended decision, the hearing officer may order any party to submit proposed findings of fact and written arguments.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
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11 NCAC 08 .0834 WITNESSES

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the hearing officer's own motion, the hearing officer may exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
Eff. June 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

11 NCAC 08 .0835 EVIDENCE

- (a) The North Carolina Rules of Evidence as found in Chapter 8C of the General Statutes govern in all contested case proceedings, except as provided otherwise in this Section and G.S. 150B-41.
- (b) The hearing officer may admit all evidence that has probative value. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. The hearing officer may, in his discretion, exclude any evidence if its probative value is substantially outweighed by the risk that its admission will require undue consumption of time or create substantial danger of undue prejudice or confusion.
- (c) Contemporaneous objections by a party or a party's attorney are not required in the course of a hearing to preserve the right to object to the consideration of evidence by the hearing officer in reaching a decision or by the court upon judicial review.
- (d) All evidence to be considered in the case, including all records and documents or true and accurate photocopies thereof, shall be offered and made a part of the record in the case. Except as provided in Paragraph (f) of this Rule, factual information or evidence that is not offered shall not be considered in the determination of the case. Documentary evidence incorporated by reference may be admitted only if the materials so incorporated are available for examination by the parties.

(e) Documentary evidence in the form of copies or excerpts may be received in the discretion of the hearing officer or upon agreement of the parties. Copies of a document shall be received to the same extent as the original document unless a genuine question is raised about the accuracy or authenticity of the copy or, under the circumstances, it would be unfair to admit the copy instead of the original.

(f) The hearing officer may take notice of judicially cognizable facts by entering a statement of the noticed fact and its source into the record. Upon a timely request, any party shall be given the opportunity to contest the facts so noticed through submission of evidence and argument.

(g) A party may call an adverse party; or an officer, director, managing agent, or employee of the State or any local government, of a public or private corporation, or of a partnership or association or body politic that is an adverse party; and may interrogate that party by leading questions and may contradict and impeach that party on material matters in all respects as if that party had been called by the adverse party. The adverse party may be examined by that party's counsel upon the subject matter of that party's examination in chief under the rules applicable to direct examination, and may be cross-examined, contradicted, and impeached by any other party adversely affected by the testimony.

*History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
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11 NCAC 08 .0836 OFFICIAL RECORD

(a) The official record of a contested case is available for public inspection upon reasonable request. The hearing officer may, upon good cause shown and consistent with law, order part or all of an official record sealed.

(b) The official record shall be prepared in accordance with G.S. 150B-42.

(c) Contested case hearings shall be recorded either by a recording system or a professional court reporter using stenomask or stenotype.

(d) Transcript costs incurred by the Board shall be apportioned equally among the party(ies) requesting a transcript.

(e) Any other costs incurred by the Board when using a professional court reporter shall be apportioned equally among the requesting party(ies).

(f) A 24-hour cancellation notice is required in all cases. The party(ies) responsible for the cancellation shall be liable for any cancellation fees.

(g) Transcripts of proceedings during which oral evidence is presented will be made only upon request of a party. Transcript costs shall include the cost of an original for the Board. An attorney requesting a transcript on behalf of a party is a guarantor of payment of the cost. Cost shall be determined under supervision of the hearing officer who, in cases deemed to be appropriate by him, may require an advance security deposit to cover the prospective cost. The security deposit shall be applied to the actual cost and any excess shall be returned to the party that submitted it.

(h) Copies of tapes are available upon written request at a cost of five dollars (\$5.00) per tape.

(i) Copies of Board hearings tapes or Non-Board certified transcripts therefrom are not part of the official record.

Note: Rule 5.3(B) of the Rules of Professional Conduct permits an attorney to advance or guarantee expenses of litigation provided the client remains ultimately liable for such expenses.

*History Note: Authority G.S. 143-151.12(1); 143-151.17; 150B-38(h);
Temporary Adoption Eff. March 3, 1992 For a Period of 169 Days to Expire on August 21, 1992;
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