

## SECTION .0300 - SUPERVISOR REMOVAL

### 02 NCAC 59A .0301 SUPERVISOR REMOVAL PROCEDURES AND REPORTING

- (a) District Supervisors may be removed by the Commission for neglect of duty, incompetence, or malfeasance pursuant to G.S. 139-7. Evidence of neglect of duty shall include the failure to attend three consecutive regularly scheduled district meetings, except when prevented by illness. Evidence of neglect of duty shall also include the failure of sitting Supervisors to meet training requirements set forth in Section .0200 of this Subchapter.
- (b) District boards shall submit a Supervisor attendance report, annually, for all members. This report shall be delivered by January 31 of each year. Reports shall cover the time period beginning December 1 and ending November 30 of the previous year.
- (c) Each District board shall notify the Commission in writing of any member that has failed to attend three consecutive regularly scheduled meetings, except when prevented by illness of the Supervisor. Notification from the District shall include explanation for non-attendance and the actions that the District board has taken to address the Supervisor's attendance.
- (d) The Division shall provide to the Commission the following information:
- (1) training documentation of participants in Basic Training for Soil and Water Conservation District Supervisors by April 1 of each year; and
  - (2) a summary of Supervisor Training Credits outlined in Rule .0204 of this Subchapter by February 1 of odd years.
- (e) The Inquiry Committee outlined in Rule .0302 of this Section shall review documentation submitted to the Commission by the Districts and the Division, and shall take action as outlined in Rule .0302 of this Section.
- (f) When the Inquiry Committee determines that neglect of duty, incompetence, or malfeasance has occurred in accordance with G.S. 139-7 and Rule .0302 of this Section, and refers the Supervisor to the Commission for a hearing, the Commission shall take hardship; including illness, financial and familial obligations, and circumstances beyond the control of the Supervisor, into consideration prior to removal from office for neglect of duty.
- (g) At least 30 days prior to the consideration of removing a Supervisor from office, the Commission, through the Division, shall provide the Supervisor notice of the grounds for which removal is being considered. The Supervisor may provide a written response to the Commission within 15 days of receipt of the notice. Notice shall be provided as follows:
- (1) The copy of the notice shall be transmitted to the Supervisor by certified United States Mail, return receipt requested, or by any other means by which a delivery receipt can be provided. If the notice is returned undeliverable the Commission, through the Division, shall send notice to the Supervisor's last known address via United States Postal Service, First Class Mail.
  - (2) The notice shall include the date, time, and location of the meeting at which removal will be considered, and inform the Supervisor of the opportunity to address the Commission.
  - (3) The notice shall notify the Supervisor that the failure to submit a written response and failure to appear before the Commission may be considered evidence that the Supervisor does not object to being removed.
  - (4) A copy of the notice shall be forwarded to the District board of which the Supervisor is a member. The copy of the notice may be transmitted to the District board electronically or by United States Postal Service, First Class Mail. The District board may submit information in support of, or opposition to, the Supervisor's removal.
- (h) When the matter comes before the Commission, the Supervisor shall be allowed an opportunity to address the Commission and provide information regarding the matter. The time period for addressing the Commission shall be limited to 15 minutes.
- (i) If the matter comes before the Commission at the request of a District board, then a member of the District board shall present the request to the Commission and shall provide the Commission with information in support of the request. Any information provided to the Commission to support a District board's request shall also be provided to the Supervisor.
- (j) The Commission may hear information from Division staff and from the District board, including the District board's staff. As part of the hearing the Chair may allow other individuals to be heard regarding the matter before the Commission.
- (k) If after considering the material before it the Commission acts to remove the Supervisor, the Commission shall notify the Supervisor in writing.

(l) In making its determination whether neglect of duty, incompetence, or malfeasance in accordance with G.S. 139-7 has occurred, the Commission shall consider the information in the record before it, including the information received during the hearing.

*History Note:* G.S. 106-840; 139-7;  
Eff. March 1, 2022.