

CHAPTER 25 – INNOVATION COUNCIL

04 NCAC 25 .0101 DEFINITIONS

For the purposes of the rules in this Chapter, the definitions found in G.S. 169-1, and the following definitions, shall apply to this Section:

- (1) "Executive Director" means the Executive Director of the North Carolina Innovation Council or an authorized designee of the Executive Director.
- (2) "Expression of Interest" shall mean a method for potential applicants to contact the NC Innovation Council through its website to document their interest in submitting an application to be a Sandbox participant.
- (3) "Monitoring and Evaluation Plan" means a written plan submitted by a Sandbox applicant that requires the applicant to periodically measure the success or risks of the innovative product or service during and at the end of the Sandbox period.
- (4) "Nonprofit corporation" as defined in G.S. 55A-1-40(17).
- (5) "Control person" means an entity or individual who has the power to influence, direct, or control the activities of a publicly traded company. Control persons can be directors, officers, shareholders, affiliates, or any other person with authority over the public company's management and operations.
- (6) "DUNS Number" means a data universal numbering system or DUNS number, a unique, nine-digit series or numerals that identifies a business. Dun & Bradstreet, Inc. (D&B) creates the number, which generates a business profile in its database and provides a company's name, phone number, address, number of workers and line of business, along with other relevant corporate information.

History Note: Authority G.S. 169-1; 169-4;
Eff. March 1, 2025.

04 NCAC 25 .0102 NONPROFIT PARTNERS

(a) Nonprofit organizations wishing to assist applicants or participants as a nonprofit partner shall submit an application to the Council. Applications may be found on the Council's website at www.innovation.nc.gov.

(b) Nonprofit organization applications shall include the following:

- (1) The formal legal name of the organization applying to be a nonprofit partner;
- (2) If applicable, the nonprofit applicant must provide documentation of registration of associated trade names or Doing Business As (DBA);
- (3) The name and address of the registered agent;
- (4) Proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State and provide a North Carolina Certificate of Good Standing;
- (5) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address;
- (6) A list of individuals that are directors of the board, partners, managers, and other individuals who are legally responsible for the governance of the entity, including their names, titles, expertise related to the product or service, and whether they have been convicted of, or are currently under investigation for, fraud or State or federal securities law violations;
- (7) A summary of how the nonprofit organization's mission is aligned with the Sandbox program, to be used by the Council in a published list of nonprofit partners; and
- (8) A description of the nonprofit organization's capabilities, including its data security capabilities and practices as required by law to ensure the confidentiality of information submitted by Sandbox applicants and participants.

(c) The Council may request additional information from the applicant pertaining to their application and eligibility to participate in the Sandbox based on the criteria set forth in Paragraph (b) of this Rule.

(d) Within 30 business days of receipt of a nonprofit organization's application, the Executive Director shall review the application for completeness. Applications that the Executive Director has determined have met the application submittal requirements shall be forwarded to all Council members for review. If an application is incomplete, the Executive Director shall request that any missing information from the nonprofit organization be submitted within 14 business days of the request.

(e) At the next Council meeting that is at least 14 business days after the Council has received a complete application, the Council shall discuss the application to determine the next action. Upon the motion of any member, the Council shall enter a closed session, pursuant to G.S. 143-318.11(a)(1) or G.S. 132-1.2(1)(a)-(c)a. - c., to discuss the application, however, all votes on an application shall be in an open session.

(f) Within 14 business days of a Council vote on an application, the Executive Director shall notify the nonprofit organization in writing of the Council's decision. If the Council denied the nonprofit organization's application, the written notification shall include the specific reasons for the denial.

(g) Upon the motion of any member, at a duly called meeting of the Council, the Council may rescind its approval of a nonprofit partner by a majority vote of the Council.

(h) A nonprofit partner whose approval is denied or rescinded by the Council may not reapply to be a nonprofit partner for a period of two years from the date of the Council vote. Any application submitted during the debarment period will be rejected for consideration by the Council.

*History Note: Authority G.S. 169-4; 169-5;
Eff. March 1, 2025.*

04 NCAC 25 .0103 NONPROFIT PARTNERS APPLICATION DENIAL

Reasons for denial of a nonprofit application shall include at least one of the following:

- (1) Perceived or actual conflicts of interest;
- (2) Failure to provide proof that the organization is a nonprofit organization duly authorized by the North Carolina Office of the Secretary of State;
- (3) Failure to provide a current North Carolina Certificate of Good Standing;
- (4) Failure to implement and utilize data security practices, as required by law, that ensure the confidentiality of information submitted by Sandbox applicants and participants;
- (5) Failure to illustrate, as determined by the Council, the organization's capabilities or expertise in FinTech, InsurTech, blockchain technologies, or other new or emerging technology products or services; and
- (6) Failure to provide any required missing information related to the application, or any additional information upon request of the Executive Director within 14 business days, as set forth in 04 NCAC 25 .0102(c).

*History Note: Authority G.S. 169-4; 169-5;
Eff. March 1, 2025.*

04 NCAC 25 .0104 EXPRESSION OF INTEREST TO PARTICIPATE

(a) An applicant may contact the Council to request a consultation regarding the Sandbox prior to submitting a formal application. An applicant may also request to present the innovative product or service at a Council meeting. All requests to present will be approved by the Council based on a determination of whether the expression of interest indicates that the applicant intends to propose a FinTech, InsurTech, blockchain or other new or emerging technology for participation in the Sandbox. Each request shall be submitted through the Expression of Interest to Participate form on the Council 's website at www.innovation.nc.gov.

(b) The applicant must provide basic contact information for the entity or business, the industry type (finance or insurance), and a brief description of the proposed product or service that would be tested in the Sandbox.

(c) The Executive Director or a designee will acknowledge receipt of a submission within five business days. The Executive Director will provide the completed Expression of Interest to Participate form to the Council. If the applicant has requested to present, and the Council has approved the request, the proposed applicant will be allotted time to present at the next regularly scheduled Council meeting. If a consultation has been requested, the Executive Director will facilitate a meeting with either the Chair or Co-Chair of the Council within 14 business days after submission.

*History Note: Authority G.S. 169-4;
Eff. March 1, 2025.*

04 NCAC 25 .0105 REGULATORY SANDBOX APPLICATIONS

(a) An applicant for the Regulatory Sandbox shall provide to the Council an application that includes applicant information, product or service information, a business plan, and a monitoring and evaluation plan for the proposed product or service. The application can be found on the Council's website at www.innovation.nc.gov.

(b) The applicant information should include the following:

- (1) Confirmation that the applicant or its parent company are subject to the jurisdiction of the State; this shall be established by any of the following applicable documentation: Articles of Organization, Certificate of Formation, Certificate of Authority, Certificate of Organization, Articles of Formation, or other applicable company formation documents.
- (2) Proof that the applicant has a physical location within the State from where the waiver project will be developed and performed, and where all records, documents, and data will be maintained, shall be established by providing:
 - (A) The name and address of the registered agent;
 - (B) The physical address of the applying entity's headquarters;
 - (C) The physical address of the North Carolina operations, if different from the headquarters;
 - (D) The legal name of the applicant to participate in the Sandbox and, if the entity applying is a subsidiary of a parent entity, the legal name of the parent entity; and
 - (E) If applicable, the applicant must provide documentation of registration of associated trade names or doing business as assumed names.
- (3) A single point of contact must be designated for all correspondence, including the individual's name, role, phone number, and email address.
- (4) A list of individuals that are directors of the board, partners, managers, other individuals who are legally or financially responsible, or liable for the governance of the entity. The list of individuals shall include their names, titles, expertise related to the product or service, and whether they have been convicted of, are currently charged with, or are aware that they are under investigation for, fraud or other violations of State or federal law.
- (5) Details of criminal convictions of the applicant and any individuals identified in Subparagraph (b)(4) of this Rule.
- (6) If available, the entity's and any parent entity's Dun and Bradstreet Data Universal Numbering System (D-U-N-S) Number.
- (7) A list of each government agency, if any, that the applicant knows regulates the applicant's business.
- (8) The applicant's number of employees and, if the entity is a subsidiary of a parent company, the parent entity's number of employees.
- (9) The number of the applicant's employees that are residents of North Carolina.
- (10) The name of any entity, be it nonprofit organization, for profit organization, professional, or individual assisting with the application process.
- (11) The name of any partner organization or individual(s) assisting with the design and implementation of the product or service.
- (12) A description of the product or service the applicant seeks to provide through the Sandbox, including statements regarding:
 - (A) How the product or service is subject to licensing, legal prohibition, or other authorization requirements outside the Regulatory Sandbox, or whether the product or service is not subject to any regulation;
 - (B) Each law or regulation the applicant seeks to have waived while participating in the Regulatory Sandbox;
 - (C) How the product or service will benefit consumers or businesses;
 - (D) What risks may exist for consumers who use the product or service;
 - (E) A description of the methods that will be used to protect consumers or businesses;
 - (F) A statement outlining a process to resolve complaints during the Sandbox period;
 - (G) A description of the methods and controls to ensure consumers are residents of the State; and
 - (H) Applicable only to products and services related to money transmitters, a description of how they will ensure customers are physically present in the State at the time of transaction.
- (13) A business plan for the intended product or service, which shall include the following information:

- (A) A description of the proposed implementation plan, including estimated time periods for beginning and ending;
 - (B) A description of how the applicant will end the Sandbox offering and protect consumers if the demonstration fails;
 - (C) Technical details and requirements for the product or services;
 - (D) Proposed sales methods, methods of pricing, and the target market;
 - (E) Proposed consumer disclosures required by G.S. 169-8 and applicable State agencies;
 - (F) Copy of the proposed consumer contract for the applicant's product or service;
 - (G) The expected distribution of consumers across rural, urban, and suburban areas of the State;
 - (H) The maximum number of consumers or businesses expected to utilize the product or service;
 - (I) The expected revenue; and
 - (J) The availability of capital for the product or service.
- (14) A monitoring and evaluation plan, including a definition of risk metrics to be evaluated and the frequency of measurement, and a description of compensating controls that assist in managing risk and harm to consumers and the Sandbox participant.
- (A) The applicable State agency, upon approval of the Sandbox applicant, will provide input and request modifications to the proposed monitoring and evaluation plan to ensure the proper metrics and risks are monitored related to the waiver.
 - (B) The approved monitoring and evaluation plan will be included in the waiver agreement.
- (15) The applicant may provide any additional information the applicant determines to be relevant to the review and consideration of the Sandbox application.
- (16) All Sandbox applicants are required to pay a \$50 application fee that must be received in a format determined by the Council.
- (17) Council may request additional information from the applicant pertaining to their application and eligibility to participate in the Sandbox based on the criteria set forth in paragraph (b) of this Rule.

History Note: Authority G.S. 169-4; 169-6, 169-8;
Eff. March 1, 2025.

04 NCAC 25 .0106 SANDBOX APPLICATION REVIEW

- (a) The Executive Director or designee shall review the application for completeness according to the criteria set forth in 04 NCAC 25 .0105. If there is missing or incomplete information in the application, the Executive Director shall request the additional information from the applicant. When the Executive Director determines that an application is complete based on the established criteria, they shall notify the applicant and refer the complete application to the applicable State agencies and the Council for review. If the applicant is deemed ineligible due to an incomplete application, the Executive Director shall notify the applicant of their ineligibility, and reasons for ineligibility, and provide notice of such denial to the Council.
- (b) Upon receipt from the Executive Director of a Sandbox application, the applicable State agency or agencies shall provide a review of the Sandbox application to the Council in writing, including a recommendation of any reporting requirements or restrictions of the Sandbox applicant. If the agency or agencies do not provide a written review within 45 business days, the Council, in its discretion, may deem the Sandbox application acceptable. If the applicable State agency or agencies cannot complete the review of the Sandbox application within 45 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.
- (c) The Council will review and evaluate the following:
- (1) Potential risks and benefits of the innovative product or service to the State, industry, and consumers;
 - (2) The statutes and rules that the applicant is seeking a waiver of;
 - (3) The applicant's monitoring and evaluation plan;
 - (4) Recommendations regarding consumer caps, limitations, reporting requirements, and disclosure statements;
 - (5) A recommendation on the amount of a bond or cash deposit required from the applicant;
 - (6) Whether the applicable State agency recommends that the application be granted or denied; and

- (7) The recommended length of waiver if less than 24 months.
- (d) As part of its review of a complete application, the Council, the Executive Director, or the applicable State agency may request a presentation or additional information from the applicant.
- (e) After receipt of the applicable State agency's written statement of its review of a completed application, the Council shall discuss the completed application at the next meeting of the Council. At the meeting:
- (1) There shall be an opportunity for members of the public to comment on the complete application;
 - (2) There shall be an opportunity for the applicant to present the product or services to the Council;
 - (3) There shall be an opportunity for any Council member to request clarification or additional information;
 - (4) Any Council member may make a motion to enter a closed session, pursuant to G.S. 143-318.11 or G.S. 132-1.2, to discuss the application; and
 - (5) The vote to approve or deny an application shall be made in open session.
- (f) If the Council approves an application, the approval, with any conditions, including any consumer caps, bond requirements, reporting requirements, notice requirements or fees, shall be set out in a written document, the waiver agreement. Upon review and acceptance by the applicable State agency, this document will be the Council's waiver and, along with the applicable statutes and rules, shall govern the applicant's participation in the Sandbox.
- (g) A waiver granted by the Council is not effective until all fees have been paid and all conditions of the waiver have been met.
- (h) If the Council denies a complete application, the Executive Director will disseminate the Council's determinations for denial and must provide the reasons for the denial to the applicant in writing within 10 business days of the Council's vote denying the application.

*History Note: Authority G.S. 169-4; 169-6;
Eff. March 1, 2025.*

04 NCAC 25 .0107 SANDBOX OPERATIONS

- (a) The Sandbox waiver agreement will be developed by the Executive Director within 15 business days of the Sandbox participant's waiver approval, and will be provided to the Council Chair and applicable State agency for review and approval. The Council Chair and applicable State agency will notify the Executive Director in writing within five business days if the waiver agreement is approved. If changes or modifications are required, the Executive Director has two business days to incorporate the prescribed changes into the waiver agreement.
- (b) The waiver agreement shall include the following information:
- (1) Sandbox waiver time period, when the waiver begins and when the waiver expires;
 - (2) Approved monitoring and evaluation plan;
 - (3) Approved business plan including all requirements listed in 04 NCAC 25 .0105(b)(13);
 - (4) Approved notice to consumer participants, informing of consumer rights, risks, and the complaint and appeals processes;
 - (5) A statement acknowledging that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration;
 - (6) Amount of consumer protection bond or cash deposit required;
 - (7) Amount of Sandbox participation fee; and
 - (8) Approved wind down plan.
- (c) Sandbox applicants must pay a participation fee, due upon execution of the waiver agreement, based on the number of employees the entity or parent entity, as appropriate, has and the expected revenue of the innovative product as set out below:

Number of Employees	Revenue (or Risk)				
	Less than \$10,000	\$10,000 to less than \$100,000	\$100,000 to less than \$1,000,000	\$1,000,000 to less than \$10,000,000	\$10,000,000 and more
1-10	\$450	\$900	\$1,800	\$3,600	\$7,200
11-100	\$900	\$1,800	\$3,600	\$7,200	\$14,400
101-1000	\$1,800	\$3,600	\$7,200	\$14,400	\$28,800
1,001-50,000	\$3,600	\$7,200	\$14,400	\$28,800	\$57,600
50,001 and more	\$7,200	\$14,400	\$28,800	\$57,600	\$115,200

- (d) During the period of Sandbox participation, the Sandbox participant shall submit reports, to the Executive Director, pursuant to the approved monitoring and evaluation plan. The Executive Director, Council or applicable State agency may request interim or additional reports.
- (e) The Sandbox participant may request to raise consumer caps set in the waiver agreement. This request shall be submitted in writing to the Executive Director.
- (f) A request to raise consumer caps shall include:
- (1) An updated business plan demonstrating financial capability;
 - (2) An updated assessment of risks and potential for consumer harm;
 - (3) A current monitoring and evaluation plan report;
 - (4) Additional information supporting raised caps; and
 - (5) The new maximum consumer caps being sought.
- (g) The Council or applicable state agency may request additional information relevant to the request.
- (h) A request to raise caps shall be forwarded to the applicable State agency for a recommendation on whether to approve or deny the request. Recommendations shall be made within 20 business days after the receipt of the request. If the applicable State agency cannot review the request within 20 business days, the applicable State agency may submit in writing to the Executive Director the prescribed timeline for completing the review.
- (i) Within 20 business days of receiving the recommendation from the applicable State agency, the Council shall make a determination, granting or denying the request to raise caps. If the request is denied, at the direction of the Council, the Executive Director shall provide written reasons for the denial.
- (j) A Sandbox participant's request for an extension of the Sandbox waiver for the purpose of obtaining a license or other authorization required by law shall be made to the Executive Director in writing no less than 30 business days prior to expiration of the waiver and shall include: a current monitoring and evaluation report, a statement of the reasons for the extension, and any modifications or changes to the innovative product or service needed for the extension. The Executive Director shall forward the request to the Council and applicable State agency.

History Note: Authority G.S. 169-4; 169-6;
Eff. March 1, 2025.

04 NCAC 25 .0108 SANDBOX PARTICIPANT REQUEST FOR EXTENSION

- (a) A Sandbox participant may request an extension, no later than 30 business days before the end of the Sandbox period, of not more than 12 months, for the purpose of obtaining a license or other authorization required by law to offer the Sandbox product or service in the open market.
- (b) The written request for an extension shall be made to the Executive Director and shall include:
- (1) A current monitoring and evaluation report;
 - (2) A statement of the reasons for the extension; and
 - (3) A statement of any modifications or changes required for the innovative product or services during the extension period.
- (c) Upon receipt from the Executive Director of a request for an extension, the applicable State agency or agencies shall provide a determination for the request to the Council in writing. If the agency or agencies do not provide a determination within 10 business days, the Council, in its discretion, may deem the request for an extension acceptable. If the applicable State agency or agencies cannot complete the review of the extension request within 10 business days, the agency or agencies may request additional time for review by submitting a written request to the Executive Director. Upon receipt of a written request for additional time from an agency, the Executive Director shall inform the Council of the request, and the Council may, in its discretion, allow additional time for review.
- (d) The Executive Director will notify the Sandbox participant of approval or denial within five business days of the end of the Sandbox period.

History Note: Authority G.S. 169-4; 169-6;
Eff. March 1, 2025.

04 NCAC 25 .0109 DISCIPLINARY GUIDELINES

- (a) Sandbox participants may be subject to disciplinary actions for any of the following:
- (1) Failure to respond to consumer complaints according to the waiver agreement;
 - (2) Failure to resolve consumer complaints according to the waiver agreement;
 - (3) Failure to submit required reports;
 - (4) Security breaches impacting consumer data;

- (5) Potential harm for the consumer or public has been identified;
- (6) Changes in the product or service delivery not approved by the applicable State agency;
- (7) Sandbox participant or designee attempt to conceal a violation or mislead the applicable State agency; or
- (8) Other relevant circumstances, including fraud or any violation of criminal or consumer protection laws.

(b) Applicable State agencies shall notify the Executive Director in writing when they have identified cause for exercising their authority to limit or change a Sandbox participant's waiver or the innovative product or service operation, including enforcement activities pursuant to G.S. 169-4(a)(4) c., d. and G.S.169-7(a). The applicable State agencies must provide this notice prior to exercising their authority. The Executive Director or designee shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.

(c) Within 15 business days of notifying the Council to exercise their authority, the applicable State agency shall provide a written statement of disciplinary actions to the Executive Director specifying the reasons for imposing limitations or changes to the waiver or innovative product or service, and what actions are to be imposed, along with the timeline for the Sandbox participant to implement the actions. The Executive Director or designee shall deliver this finding to the Chair or Co-Chair of the Council within five business days of receipt.

(d) The Chair or Co-Chair may call a meeting with the applicable State agency as needed to review the disciplinary actions.

(e) The Executive Director, at the direction of the Chair or Co-Chair, will deliver the statement of disciplinary actions to the Sandbox applicant.

*History Note: Authority G.S. 169-4; 169-7;
Eff. March 1, 2025.*

04 NCAC 25 .0110 EARLY TERMINATION NOTICE AND CLOSE OUT PLAN REPORT

(a) When a Sandbox participant's business objectives fail before the end of the Sandbox testing period, a written notice of early termination shall be provided, pursuant to G.S. 169-7(e), to the applicable State agency and the Executive Director, at least 30 business days prior to the planned termination of the Sandbox product or service and shall include:

- (1) An updated monitoring and evaluation report;
- (2) A description of why the product or service failed;
- (3) A description of the proposed steps the Sandbox participant will need to terminate the innovative product or service to ensure that consumers have not been harmed;
- (4) A copy of the consumer notice of termination of the product or service; and
- (5) The proposed date for termination.

(b) The proposed termination steps must be approved by the applicable State agency before the Sandbox participant may notify consumers and begin winding down operations. The applicable State agency and the Sandbox participant will collaborate to determine a termination date that will ensure consumers are informed and rights are protected during this process.

*History Note: Authority G.S. 169-4; 169-7;
Eff. March 1, 2025.*

04 NCAC 25 .0111 CONCLUSION OF SANDBOX PERIOD AND BUSINESS OPERATIONS

(a) If the Sandbox participant cannot obtain regulatory compliance within 90 days following the expiration of the Sandbox period, the participant shall wind down operations with existing consumers within 90 days after the conclusion of the Sandbox period, as directed by the applicable State agency.

(b) Written notification to consumers, by way of electronic notification email or a letter sent via first class mail, regarding the conclusion of the initial or extended Sandbox period, must be provided by the Sandbox participant within 30 business days of conclusion and include:

- (1) Date the notice was sent;
- (2) The expiration date of the Sandbox period;
- (3) Summary of outstanding activities, actions, fees for products, or services the consumer utilized;
- (4) Any steps the consumer needs to take to close out their liabilities; and
- (5) The name, title, email, and telephone number of a contact person(s) whom the consumer may contact after the conclusion of the Sandbox period.

- (c) A final report shall be submitted to the Executive Director in writing, in a format approved by the Council, by the Sandbox participant within 90 days after the conclusion of the Sandbox period, and shall include:
- (1) A final monitoring and evaluation report;
 - (2) A final report of consumer complaints and actions taken to remediate the complaints during the Sandbox period;
 - (3) Financial reports, including a report detailing all money owed by consumers based on agreements made before the conclusion of the Sandbox period;
 - (4) A statement outlining all additional steps the Sandbox applicant must take to wind down the innovative product or service;
 - (5) A written statement outlining all additional duties owed to consumers arising from the innovative product or service, including the name, contact information and role of any third party, acceptable to the applicable State agency, the Sandbox participant has arranged to fulfill those duties, and copies of contracts or agreements binding the fulfillment of said duties to consumers; and
 - (6) A written statement describing any insights into current regulations and their impact on the innovative product or service; and
 - (7) If the Sandbox participant has ongoing duties after the expiration of the Sandbox period, it shall submit an updated final report once all ongoing duties have been completed. The applicable State agency shall verify that all ongoing duties have been completed. The State agency will confirm and will advise the Council of their satisfaction of all outstanding duties and responsibilities.
- (d) The Sandbox participant shall remain liable for any consumer harm resulting from its Sandbox participation or winding down regardless of whether a third party assists in the winding down.
- (e) The Executive Director, at the request of the Council, shall issue a closeout letter to the Sandbox participant informing them of the official close out date, that all outstanding duties have been reconciled, and the records retention terms and conditions, as per the waiver agreement.

*History Note: Authority G.S. 169-4; 169-7;
Eff. March 1, 2025.*