

CHAPTER 68 - SOCIAL SERVICES: RULEMAKING

SECTION .0100 – RULEMAKING: SOCIAL SERVICES COMMISSION

10A NCAC 68 .0101 PETITIONS

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Social Services Commission (hereinafter referred to as the commission) shall make his or her request through one of the following methods:

- (1) by electronic mail to SSCommission@dhhs.nc.gov; or
- (2) by sending a written petition addressed to:
Director
Division of Social Services
Department of Health and Human Services
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

(b) The petition, whether submitted electronically or by mail, shall contain the following information:

- (1) a draft of the proposed text changes if requesting the commission to create or amend a rule;
- (2) a statement of the effect the proposed rule change would have; and
- (3) the name and either the physical mailing address or electronic mail address of the petitioner.

(c) The petition may contain the following information:

- (1) the statutory authority for the agency to promulgate the rule;
- (2) the reasons for the proposal;
- (3) any data supporting the proposal;
- (4) the effect of the proposed rule on existing practices in the area involved, including cost factors; and
- (5) the names and addresses, if known, of those individuals or groups most likely to be affected by the proposed rule.

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

(e) Within 120 days of submission of the petition, the commission or its designee shall render a decision to deny the petition or to initiate rulemaking proceedings pursuant to G.S. 150B-20.

History Note: Authority G.S. 143B-153; 150B-20;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

10A NCAC 68 .0102 NOTICE

(a) Any person or agency desiring to be placed on the physical mailing list in accordance with G.S. 150B-21.2(d) for Commission rulemaking notices must file a request in writing, furnishing his, her or its name and mailing address to:

Director
Division of Social Services
Department of Health and Human Services
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

(b) Any person or agency desiring to be placed on the electronic mailing list in accordance with G.S. 150B-21.2(d) for Commission rulemaking notices must send an email to SSCommission@dhhs.nc.gov.

History Note: Authority G.S. 143B-153; 150B-21.2;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. August 3, 1992; March 1, 1990;

Readopted Eff. September 1, 2019.

10A NCAC 68 .0103 HEARING OFFICER

*History Note: Authority G.S. 143B-153; 150B-12;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.*

10A NCAC 68 .0104 HEARINGS

*History Note: Authority G.S. 143B-153; 150B-12;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.*

10A NCAC 68 .0105 STATEMENT OF REASONS FOR AND AGAINST RULEMAKING DECISION

*History Note: Authority G.S. 143B-153; 150B-12;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.*

10A NCAC 68 .0106 RECORD OF RULEMAKING PROCEEDINGS

*History Note: Authority G.S. 143B-153; 150B-11;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.*

10A NCAC 68 .0107 FEES

Any person requesting printed material from Commission rulemaking records shall be charged a fee for the actual cost of making copies in accordance with G.S. 132-6.2. No fee shall be charged if the person requesting Commission rulemaking records agrees to receiving the records electronically.

*History Note: Authority G.S. 143B-153; 132.6-2(b)
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.*

10A NCAC 68 .0108 DECLARATORY RULINGS

(a) All requests for declaratory rulings shall be by written petition as described in Paragraph (b) of this Rule and shall be submitted to:

Director
Division of Social Services
Department of Health and Human Services
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

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

- (1) the name and address of the petitioner;

- (2) the statute or rule to which the petition relates;
 - (3) a statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him or her; and
 - (4) the consequences of a failure to issue a declaratory ruling.
- (c) Whenever the Commission finds good cause exists to deny the request for declaratory ruling, the Commission shall deny the request to issue a declaratory ruling. The Commission's refusal shall be followed within 30 days of the receipt of the petition, by the issuance of written notification to the petitioner. The notice shall state the decision and the reasons therefore.
- (d) Good cause for the denial of a declaratory ruling request shall include one of the following:
- (1) the person submitting the request is not a person aggrieved;
 - (2) there is no conflict or inconsistency within the Division regarding an interpretation of the law or a rule adopted by the Division;
 - (3) a situation where there has been a similar controlling factual determination in a contested case;
 - (4) if the request for declaratory ruling involves a factual context that was considered upon adoption of the rule being questioned as evidenced by the rulemaking record;
 - (5) the factual representations are not related to the statute or rule being questioned;
 - (6) issuing the declaratory ruling will not serve the public interest; or
 - (7) if circumstances stated in the request or otherwise known to the Commission show that a contested case hearing would be appropriate.
- (e) Where the Commission issues a declaratory ruling, the declaratory ruling shall be issued within 45 days after Commission's decision to grant the petition.
- (f) A declaratory ruling procedure may consist of written submissions, oral hearings, or other procedure as deemed appropriate by the Commission based upon whether the additional submitted information would assist the Commission in determining whether to grant or deny the petition.
- (g) The Commission may issue notice to persons who might be affected by the ruling that written comments or oral presentations may be submitted at a scheduled hearing if the Commission determines additional comments or presentations can provide assistance to the Commission in determining whether to grant or deny the petition.

History Note: Authority G.S. 143B-153; 150B-4;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
Readopted Eff. September 1, 2019.

SECTION .0200 - RULEMAKING: DIVISION DIRECTOR

10A NCAC 68 .0201 PETITIONS

History Note: Authority G.S. 143B-10; 150B-16;
Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
Repealed Eff. July 1, 2012.

10A NCAC 68 .0202 NOTICE

History Note: Authority G.S. 143B-10; 150B-12;
Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.

10A NCAC 68 .0203 HEARING OFFICER

History Note: Authority G.S. 143B-10; 150B-12;

Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.

10A NCAC 68 .0204 HEARINGS

History Note: Authority G.S. 143B-10; 150B-12;
Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.

10A NCAC 68 .0205 JUSTIFICATION OF RULEMAKING DECISION

History Note: Authority G.S. 143B-10; 150B-12(e);
Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.

10A NCAC 68 .0206 RECORD OF RULEMAKING PROCEEDINGS

History Note: Authority G.S. 143B-10; 150B-11;
Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.

10A NCAC 68 .0207 FEES

History Note: Authority G.S. 143B-10; 150B-11;
Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
Repealed Eff. July 1, 2012.

10A NCAC 68 .0208 DECLARATORY RULINGS

History Note: Authority G.S. 143B-10; 150B-17;
Eff. July 1, 1977;
Readopted Eff. October 31, 1977;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.

SECTION .0300 – BOARDS OF SOCIAL SERVICES

10A NCAC 68 .0301 EMPLOYMENT OF RELATIVES OF COUNTY BOARD MEMBERS

History Note: Authority G.S. 108A-1 et seq.; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990;
RRC objection August 15, 2019 and rule returned to the agency on September 19, 2019.

10A NCAC 68 .0302 SELECTION OF COUNTY BOARD MEMBERS BY SOCIAL SERVICES COMM

The Commission shall appoint members of the county board of social services in accordance with G.S. 108A-3 through G.S. 108A-6. If a seat of a county board of social services member becomes vacant because of death,

resignation, removal of the board member before the expiration of his or her term, or the member's term has expired, the Commission shall vote to replace the vacancy in accordance with G.S. 108A-3. The Commission shall vote to nominate a member for a county board of social services only if a quorum is present.

History Note: Authority G.S. 108A-3; 108A-4; 108A-5; 108A-6; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. September 1, 1991;
Readopted Eff. September 1, 2019.

10A NCAC 68 .0303 DELEGATION OF AUTHORITY BY COUNTY BOARDS

A county board of social services may delegate to the director of the county department of social services the responsibility, with respect to financial responsibility and suspected fraud, to accomplish the requirements of the AFDC, medical assistance, and special assistance programs.

History Note: Authority G.S. 108A-1 et seq.; 143B-153;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977.