

CHAPTER 01 - DEPARTMENTAL RULES

SUBCHAPTER 01A - GENERAL PROVISIONS

SECTION .0100 - GENERAL PROVISIONS

14B NCAC 01A .0101 **NAME: ADDRESS: HOURS OF OPERATION**
14B NCAC 01A .0102 **PURPOSE OF DEPARTMENT**
14B NCAC 01A .0103 **ORGANIZATION**

History Note: *Authority G.S. 15B-3; 18B-500; 58-27.32; 122C-408; 143B-10; 143B-473; 143B-474; 143B-475; 143B-476; 143B-477; 143B-490; 143B-500; 150B-12(h);*
Eff. February 1, 1976;
Amended Eff. November 1, 1998; July 1, 1988; December 1, 1979;
Transferred from 14A NCAC 01A .0101 Eff. June 1, 2013 (14B NCAC 01A .0101);
Transferred from 14A NCAC 01A .0102 Eff. June 1, 2013 (14B NCAC 01A .0102);
Transferred from 14A NCAC 01A .0103 Eff. June 1, 2013 (14B NCAC 01A .0103);
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.

14B NCAC 01A .0104 **SECRETARY OF PUBLIC SAFETY**

- (a) In the event of an emergency which requires two or more state agencies to be involved, the secretary is designated as the official who is empowered to coordinate the state's response to the emergency. The secretary may designate any agency as a lead agency to be in charge of the state's response.
- (b) The secretary may delegate any authority assigned to him to any member of his department.
- (c) Notwithstanding any other provisions of this Title or any rule of any division of the Department of Crime Control and Public Safety, the Secretary may review any action or failure to take action by any member of any division and may hold such hearings and gather such information in connection therewith as he deems necessary for the proper function of the department.

History Note: *Authority G.S. 143B-10; 143-476;*
Eff. February 1, 1976;
Amended Eff. July 1, 1988; December 1, 1979;
Transferred from 14A NCAC 01A .0104 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

14B NCAC 01A .0105 **AFFIRMATIVE ACTION PROGRAM**

History Note: *Authority G.S. 126-16; 143B-10;*
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01A .0105 Eff. June 1, 2013;
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.

SUBCHAPTER 01B - RULEMAKING AND ADMINISTRATIVE HEARINGS

SECTION .0100 - PETITIONS AND RULES

14B NCAC 01B .0101 **PETITION FOR RULEMAKING HEARINGS**
14B NCAC 01B .0102 **CONTENTS OF PETITION**
14B NCAC 01B .0103 **DISPOSITION OF PETITIONS**

History Note: *Authority G.S. 150B-16;*
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01B .0101 Eff. June 1, 2013 (14B NCAC 01B .0101);

*Transferred from 14A NCAC 01B .0102 Eff. June 1, 2013 (14B NCAC 01B .0102);
Transferred from 14A NCAC 01B .0103 Eff. June 1, 2013 (14B NCAC 01B .0103);
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.*

SECTION .0200 – NOTICE OF RULEMAKING HEARINGS

- 14B NCAC 01B .0201 NOTICE MAILING LIST**
- 14B NCAC 01B .0202 ADDITIONAL INFORMATION**

*History Note Authority G.S. 150B-12;
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01B .0201 Eff. June 1, 2013 (14B NCAC 01B .0201);
Transferred from 14A NCAC 01B .0202 Eff. June 1, 2013 (14B NCAC 01B .0202);
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.*

SECTION .0300 - RULEMAKING HEARINGS

- 14B NCAC 01B .0301 REQUEST TO PARTICIPATE**
- 14B NCAC 01B .0302 CONTENTS OF REQUEST**
- 14B NCAC 01B .0303 RECEIPT OF REQUEST: SPECIFIC TIME LIMITS**
- 14B NCAC 01B .0304 WRITTEN SUBMISSIONS**
- 14B NCAC 01B .0305 HEARING OFFICE: POWERS AND DUTIES**
- 14B NCAC 01B .0306 STATEMENT OF REASONS FOR DECISION**
- 14B NCAC 01B .0307 RECORD OF PROCEEDINGS**
- 14A NCAC 01B .0308 TEMPORARY RULES**

*History Note: Authority G.S. 150B-12; 150B-12(e); 150B-13;
Eff. February 1, 1976;
Amended Eff. July 1, 1988; December 1, 1979;
Transferred from 14A NCAC 01B .0301 Eff. June 1, 2013 (14B NCAC 01B .0301);
Transferred from 14A NCAC 01B .0302 Eff. June 1, 2013 (14B NCAC 01B .0302);
Transferred from 14A NCAC 01B .0303 Eff. June 1, 2013 (14B NCAC 01B .0303);
Transferred from 14A NCAC 01B .0304 Eff. June 1, 2013 (14B NCAC 01B .0304);
Transferred from 14A NCAC 01B .0305 Eff. June 1, 2013 (14B NCAC 01B .0305);
Transferred from 14A NCAC 01B .0306 Eff. June 1, 2013 (14B NCAC 01B .0306);
Transferred from 14A NCAC 01B .0307 Eff. June 1, 2013 (14B NCAC 01B .0307);
Transferred from 14A NCAC 01B .0308 Eff. June 1, 2013 (14B NCAC 01B .0308);
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.*

SECTION .0400 - DECLARATORY RULINGS

- 14B NCAC 01B .0401 SUBJECTS OF DECLARATORY RULINGS**

Any person substantially affected by a statute administered or rule promulgated by the Secretary of the Department of Crime Control and Public Safety may request a declaratory ruling as to either the manner in which a statute or rule applies to a given factual situation, if at all, or whether a particular agency rule is valid.

*History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01B .0401 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

- 14B NCAC 01B .0402 SUBMISSION OF REQUEST FOR RULING**

All requests for declaratory rulings shall be written and mailed to the Secretary, Department of Crime Control and Public Safety, P.O. Box 27687, Raleigh, N.C. 27611. The container of the request should bear the notation: REQUEST FOR DECLARATORY RULING. The request must include the following information:

- (1) name and address of petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
- (4) a statement of whether an oral hearing is desired, and if so, the reason therefore.

*History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01B .0402 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

14B NCAC 01B .0403 DISPOSITION OF REQUESTS

- (a) When the Secretary of the Department of Crime Control and Public Safety deems it appropriate to issue a declaratory ruling, he shall issue such declaratory ruling within sixty days of receipt of the petition.
- (b) A declaratory ruling proceeding may consist of written submissions, an oral hearing, or other procedure as may be appropriate in the circumstances of the particular request as determined by the secretary.
- (c) Whenever the secretary believes "for good cause" that the issuance of a declaratory ruling is undesirable, he may refuse to issue such ruling. When good cause is deemed to exist, he will notify the petitioner of his decision in writing, stating the reasons for the denial of the declaratory ruling.
- (d) For purposes of Subpart (c) of this Rule, the Secretary of the Department of Crime Control and Public Safety will ordinarily refuse to issue a declaratory ruling:
 - (1) unless the petitioner shows that the circumstances are so changed since the adoption of the rule that such a ruling would be warranted;
 - (2) unless the petitioner shows that the agency did not give to the factors specified in the request for a declaratory ruling a full consideration at the time the rule was issued;
 - (3) where there has been a similar controlling factual determination in a contested case, or where the factual context being raised for a declaratory ruling was specifically considered upon the adoption of the rule or directive being questioned, as evidenced by the rulemaking record;
 - (4) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

*History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01B .0403 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

14B NCAC 01B .0404 RECORD OF DECISION

A record of all declaratory rulemaking proceedings will be maintained in the Office of the Secretary of Crime Control and Public Safety for as long as the ruling is in effect and for five years thereafter. This record will contain: the petition, the notice, all written submissions filed in the request, whether filed by the petitioner or any other person, and a record or summary of oral presentations, if any. Records of declaratory rulemaking proceedings will be available for public inspection during the regular office hours of the Department of Crime Control and Public Safety.

*History Note: Authority G.S. 150B-17;
Eff. February 1, 1976;
Amended July 1, 1988; December 1, 1979;
Transferred from 14A NCAC 01B .0404 Eff. June 1, 2013;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

14B NCAC 01B .0405 DEFINITION

For purposes of Rule .0404 of this Section, a declaratory ruling shall be deemed to be "in effect": until the statute or rule interpreted by the declaratory ruling is amended, altered or repealed; until the Department of Crime Control and Public Safety changes the declaratory ruling prospectively for good reasons; or until any court sets aside the ruling in litigation between the Department of Crime Control and Public Safety and the party requesting the rule; or until any court of the Appellate Division of the General Court of Justice shall construe the statute or rule which is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling.

*History Note: Authority G.S. 150B-12; 150B-17;
Eff. February 1, 1976;
Amended Eff. December 1, 1979;
Transferred from 14A NCAC 01B .0405 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

SECTION .0500 - CONTESTED CASE

14B NCAC 01B .0501 REQUEST FOR HEARING

*History Note: Authority G.S. 150A-23;
Eff. February 1, 1976;
Amended Eff. July 1, 1988; December 1, 1979;
Transferred from 14A NCAC 01B .0502 Eff. June 1, 2013;
Expired Eff. February 1, 2017 pursuant to G.S. 150B-21.3A.*

SUBCHAPTER 01C - STATE LAW ENFORCEMENT ASSISTANCE DURING LABOR DISPUTE

SECTION .0100 - APPLICATIONS FOR ASSISTANCE

14B NCAC 01C .0101 DELEGATION OF AUTHORITY BY THE GOVERNOR

The Governor is given the duty to formulate rules, policies or guidelines as may be necessary to establish a plan under which temporary state law enforcement assistance will be provided to cities and counties when local law enforcement officers refuse to fulfill their law enforcement responsibilities or submit mass resignations. The Governor is also authorized to determine the number of officers to be assigned in a particular case, if any, and the length of time they are to be assigned. Delegation of the authority of the Governor to any state department is allowed. The Governor has delegated to the Secretary of the Department of Crime Control and Public Safety the authority to establish rules, policies or guidelines and to determine the number of officers to be assigned in each particular case and the length of time they are to be assigned.

*History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0101 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

14B NCAC 01C .0102 REQUIREMENTS OF REQUEST FOR ASSISTANCE

Requests for assistance must be in writing and include the following information:

- (1) the local law enforcement agency involved;
- (2) the conduct engaged in by the local law enforcement officers, i.e. strike, slowdown, mass resignations, or other conduct which shows a refusal to fulfill their law enforcement responsibilities;

- (3) the signature(s) of the appropriate local official(s) specifying that the local governing body has legally approved such a request and agrees to abide by these Rules;
- (4) if the request is from a county governing board, the request must specify that the assistance was upon the advice of the sheriff of the county.

*History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0103 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

14B NCAC 01C .0103 SERVICE OF REQUEST FOR ASSISTANCE

- (a) The request for assistance must be addressed and sent as follows: Request for Assistance, Secretary of the Department of Crime Control and Public Safety, P.O. Box 27687, Raleigh, N.C. 27611. The request should be mailed or sent by the most expeditious means possible.
- (b) If the situation requires immediate action, the secretary may be informed of the request by telephone and a copy of the written request delivered to any North Carolina State Highway Patrol Office for transmittal to the secretary. The highway patrol shall immediately notify the secretary of the receipt of such written request.

*History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0104 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

SECTION .0200 - ASSIGNMENT OF STATE OFFICERS

14B NCAC 01C .0201 CRITERIA FOR ASSIGNMENT OF STATE OFFICERS

- (a) Upon receipt of the written request for assistance or upon notification by the highway patrol of such receipt, the secretary, in his discretion and in consultation with state law enforcement officials, may temporarily assign state law enforcement officers with state-wide authority to provide local law enforcement protection. The secretary in his discretion shall determine the state law enforcement agency or agencies who should assign state officers, the number of state officers assigned and the length of time of the assignment.
- (b) The secretary shall always consider the health, safety and welfare of the population in the affected area when determining the number and duration of the assignment. The secretary may consider any of the following factors in determining the needs of the local population:
 - (1) number of local law enforcement officers who refused to perform their duties or submitted mass resignations;
 - (2) the apparent need for assistance;
 - (3) the length of time the officers are likely to continue their present conduct;
 - (4) the crime rate in the area;
 - (5) the availability of other local law enforcement resources;
 - (6) the availability of state law enforcement resources;
 - (7) the type of law enforcement work engaged in by the local law enforcement officer;
 - (8) the steps being taken by the local governing body to arrive at a solution to the problem;
 - (9) any other factor which the secretary considers relevant to this determination.

*History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0201 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.*

SECTION .0300 - DEPLOYMENT AND CONTROL OF STATE OFFICERS

14B NCAC 01C .0301 STATE OFFICERS ARE EMPLOYEES OF THE STATE

While providing assistance to a city or county, a state law enforcement officer shall be considered an employee of the state for all purposes, including compensation and fringe benefits.

History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0301 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

14B NCAC 01C .0302 ORDERS TO STATE OFFICERS

While providing assistance to a city or county, a state officer shall be subject to the lawful operational commands of his superior state officers. The state officer will not be under the control of or subject to the orders of the local law enforcement officers or the local governing board.

History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0302 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

14B NCAC 01C .0303 DEPLOYMENT OF STATE OFFICERS

The ranking representative of each state law enforcement agency providing assistance shall consult with city and county officials prior to deployment of the state officers under his command. The procedures for deploying and the method of deployment are decisions to be made by the state law enforcement agency providing assistance, subject to the orders of the secretary.

History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0303 Eff. June 1, 2013;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 3, 2017.

SECTION .0400 - COSTS

14B NCAC 01C .0401 AGREEMENT TO PAY COSTS

14B NCAC 01C .0402 STATEMENT OF COSTS

History Note: Authority G.S. 160A-288.1; 153A-212;
Eff. December 1, 1979;
Transferred from 14A NCAC 01C .0401, .0402 Eff. June 1, 2013;
Repealed Eff. January 1, 2019.

SUBCHAPTER 01D - GRIEVANCE PROCEDURE

SECTION .0100 - GRIEVANCE PROVISIONS IN CASES NOT INVOLVING ALLEGED DISCRIMINATION

14B NCAC 01D .0101 PURPOSE

14B NCAC 01D .0102 GRIEVANCE

History Note: Authority G.S. 143B-10; 143B-475;
Eff. December 1, 1979;
Amended Eff. July 1, 1988;
Transferred from 14A NCAC 01D .0401 Eff. June 1, 2013 (14B NCAC 01D .0101);

*Transferred from 14A NCAC 01D .0402 Eff. June 1, 2013 (14B NCAC 01D .0102);
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