

SUBCHAPTER 18C - PENALTIES AND ADMINISTRATIVE HEARINGS

SECTION .0100 - DEFINITIONS AND PENALTY PROVISIONS

14B NCAC 18C .0101 DEFINITIONS

As used in this Subchapter:

- (1) "Revocation of certification" means a DCIN user's certification is canceled for a period not to exceed one year. At the end of the revocation period the user must attend the DCIN Module 1 certification class. Notification of the revocation shall be sent by DCI via certified mail to the DCIN user and the user's agency head.
- (2) "Suspension of certification" means a DCIN user is prohibited from operating a DCIN device for a period not to exceed 90 days. Notification of the suspension shall be sent by DCI via certified mail to the DCIN user's agency head and to the DCIN user. The agency shall be audited within 90 days of reinstatement of a user's certification.
- (3) "Suspension of services" means an agency's direct access to DCIN is suspended for a period not to exceed two weeks after the North Carolina CSO's finding of fault, and the agency head must then appear before the CSO to respond to the cited violation. This suspension may be limited to certain files or may include a complete suspension of services, depending on the administrative procedure violated. The agency is subject to a re-audit after 90 days of reinstatement. Further violations of the same regulation, within two years from the date of the suspension, or failure to appear before the CSO to respond to the cited violation is grounds to cancel the user agreement with the agency.

History Note: Authority G.S. 114-10; 114-10.1;
Eff. August 1, 2014;
Transferred and Recodified from 12 NCAC 04J .0101 Eff. November 1, 2015;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.

14B NCAC 18C .0102 SANCTIONS FOR VIOLATIONS BY INDIVIDUALS

When any certified DCIN user is found to have knowingly and willfully violated any provision of these Rules, DCI may take action to correct the violation and to ensure the violation does not re-occur, to include, but not limited to, the following:

- (1) issuing an oral warning and a request for compliance;
- (2) issuing a written warning and a request for compliance;
- (3) suspending the DCIN user's certification; or
- (4) revoking the DCIN user's certification.

History Note: Authority G.S. 114-10; 114-10.1;
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14B NCAC 18C .0103 SANCTIONS FOR VIOLATIONS BY AGENCIES

When any agency who has entered in to an agreement in accordance with 14B NCAC 18A .0301 is found to have knowingly and willfully violated any provision of these Rules, DCI may take action to correct the violation and to ensure the violation does not re-occur, to include, but not limited to, the following:

- (1) issuing an oral warning and a request for compliance;
- (2) issuing a written warning and a request for compliance; or
- (3) suspending services to the violating agency.

History Note: Authority G.S. 114-10; 114-10.1;
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SECTION .0200 - APPEALS

14B NCAC 18C .0201 NOTICE OF VIOLATION

DCI shall send a written notice via certified mail to the offending agency or employee when DCI has determined that a violation of a DCI rule has occurred. The notice shall inform the party of appeal rights and shall also contain the citation of the rule alleged to have been violated.

*History Note: Authority G.S. 114-10; 114-10.1; 150B-3(b); 150B-23(f);
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SECTION .0300 - INFORMAL PROCEDURES

14B NCAC 18C .0301 INFORMAL PROCEDURE

(a) In accordance with G.S. 150B-22 any agency or DCIN user may request a hearing before the North Carolina CSO within 30 days after receipt of written notification from DCI of an adverse action. A request for a hearing shall be made by certified mail to the North Carolina State Bureau of Investigation Division of Criminal Information, Post Office Box 29500, Raleigh, North Carolina 27626.

(b) Upon receipt of a request for an informal hearing, the CSO shall conduct a hearing and consider the positions of the parties. The CSO shall notify the parties of his or her decision within two weeks following the informal hearing and provide information to the parties of their further appeal rights in accordance with G.S. 150B-23.

*History Note: Authority G.S. 114-10; 114-10.1; 150B-3(b); 150B-22; 150B-23(f).
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