

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 361

Short Title: APA Rules Review Definitions. (Public)

Sponsors: Representatives Moffitt, Johnson, Paré, and Wray (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Regulatory Reform, if favorable, Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

March 24, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY CERTAIN DEFINITIONS OF THE ADMINISTRATIVE
3 PROCEDURE ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Subdivisions (1b) and (7) of G.S. 150B-2 are recodified as
6 subdivisions (1a) and (5a) of G.S. 150B-2, respectively.

7 **SECTION 1.(b)** G.S. 150B-2, as amended by subsection (a) of this section, reads as
8 rewritten:

9 **"§ 150B-2. Definitions.**

10 As used in this Chapter, the following definitions apply:

11 (1) ~~"Administrative law judge"~~ means a Administrative law judge. – A person
12 appointed under G.S. 7A-752, 7A-753, or 7A-757.

13 (1a) ~~"Adopt"~~ means to Adopt. – To take final action to create, amend, or repeal a
14 rule.

15 ~~(1a)(1b)"Agency"~~ means an Agency. – An agency or an officer in the executive
16 branch of the government of this State and State. The term includes the
17 Council of State, the Governor's Office, a board, a commission, a department,
18 a division, a council, and any other unit of government in the executive branch.
19 A local unit of government is not an agency.

20 (1c) ~~"Codifier of Rules"~~ means the Codifier of Rules. – The person appointed by
21 the Chief Administrative Law Judge of the Office of Administrative Hearings
22 pursuant to G.S. 7A-760(b).

23 (1d) ~~"Commission"~~ means the Commission. – The Rules Review Commission.

24 (2) ~~"Contested case"~~ means an Contested case. – An administrative proceeding
25 pursuant to this Chapter to resolve a dispute between an agency and another
26 person that involves the person's rights, duties, or privileges, including
27 licensing or the levy of a monetary penalty. "Contested case" The term does
28 not include rulemaking, declaratory rulings, or the award or denial of a
29 scholarship, a grant, or a loan.

30 (2a) Repealed by Session Laws 1991, c. 418, s. 3.

31 (2b) Guidance document, bulletin, or memorandum. – A document developed by
32 a State agency or staff that provides information or guidance of general
33 applicability to the staff or public to interpret or implement statutes or the
34 agency's rules or regulations, excluding agency minutes or documents that



1 pertain only to the internal management of the agency. Nothing in this
2 definition shall be construed or interpreted to expand the identification or
3 release of any document otherwise protected by law.

4 (2c) ~~"Hearing officer" means a Hearing officer.~~ – A person or group of persons
5 designated by an agency that is subject to Article 3A of this Chapter to preside
6 in a contested case hearing conducted under that Article.

7 (3) ~~"License" means any License.~~ – Any certificate, ~~permit~~ permit, or other
8 evidence, by whatever name called, of a right or privilege to engage in any
9 activity, except licenses issued under Chapter 20 and Subchapter I of Chapter
10 105 of the General Statutes, occupational licenses, and certifications of
11 electronic poll books, ballot duplication systems, or voting systems under
12 G.S. 163-165.7.

13 (4) ~~"Licensing" means any Licensing.~~ – Any administrative action issuing, failing
14 to issue, suspending, or revoking a license or occupational license.
15 ~~"Licensing"~~ The term does not include controversies over whether an
16 examination was fair or whether the applicant passed the examination.

17 (4a) ~~"Occupational license" means any Occupational license.~~ – Any certificate,
18 permit, or other evidence, by whatever name called, of a right or privilege to
19 engage in a profession, occupation, or field of endeavor that is issued by an
20 occupational licensing agency.

21 (4b) ~~"Occupational licensing agency" means any Occupational licensing agency.~~ –
22 Any board, commission, ~~committee~~ committee, or other agency of the State
23 of North Carolina which that is established for the primary purpose of
24 regulating the entry of persons into, ~~and/or~~ or the conduct of persons within a
25 particular profession, ~~occupation~~ occupation, or field of endeavor, and which
26 that is authorized to issue and revoke licenses. ~~"Occupational licensing~~
27 ~~agency"~~ The term does not include State agencies or departments which that
28 may as only a part of their regular function issue permits or licenses.

29 (5) ~~"Party" means any Party.~~ – Any person or agency named or admitted as a party
30 or properly seeking as of right to be admitted as a party and includes the
31 agency as appropriate.

32 (5a) ~~"Person" means any Person.~~ – Any natural person, partnership, corporation,
33 body ~~politic~~ politic, and any unincorporated association, organization, or
34 society which that may sue or be sued under a common name.

35 (6) ~~"Person aggrieved" means any Person aggrieved.~~ – Any person or group of
36 persons of common interest directly or indirectly affected substantially in his
37 his, her, or its person, property, or employment by an administrative decision.

38 (7a) ~~"Policy" means any Policy.~~ – Any nonbinding interpretive statement within
39 the delegated authority of an agency that merely defines, interprets, or
40 explains the meaning of a statute or rule. The term includes any document
41 issued by an agency which that is intended and used purely to assist a person
42 to comply with the law, such as a guidance document.

43 (8) ~~"Residence" means domicile~~ Residence. – Domicile or principal place of
44 business.

45 (8a) ~~"Rule" means any Rule.~~ – Any agency regulation, standard, or statement of
46 general applicability that implements or interprets an enactment of the General
47 Assembly or Congress or a regulation adopted by a federal agency or that
48 describes the procedure or practice requirements of an agency. The term
49 includes the establishment of a fee and the amendment or repeal of a prior
50 rule. The term does not include the following:

51 ...

- 1 b. Budgets and budget policies and procedures issued by the Director of
2 the Budget, by the head of a department, as defined by G.S. 143A-2 or
3 G.S. 143B-3, or by an occupational licensing board, as defined by
4 G.S. 93B-1.
5 ...
- 6 (8b) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011.
- 7 (8c) ~~"Substantial evidence" means relevant~~ Substantial evidence. – Relevant
8 evidence a reasonable mind might accept as adequate to support a conclusion.
- 9 (9) Repealed by Session Laws 1991, c. 418, s. 3."
- 10 **SECTION 2.** This act is effective when it becomes law.