

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 361
Committee Substitute Favorable 4/22/21

Short Title: APA Rules Review Definitions.

(Public)

Sponsors:

Referred to:

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- 30 (2a) Repealed by Session Laws 1991, c. 418, s. 3.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) ~~"Hearing officer" means a~~ Hearing officer. – A person or group of persons
32 designated by an agency that is subject to Article 3A of this Chapter to preside
33 in a contested case hearing conducted under that Article.
- 34 (3) ~~"License" means any~~ License. – Any certificate, ~~permit~~ permit, or other
35 evidence, by whatever name called, of a right or privilege to engage in any
36 activity, except licenses issued under Chapter 20 and Subchapter I of Chapter



- 1 105 of the General Statutes, occupational licenses, and certifications of
 2 electronic poll books, ballot duplication systems, or voting systems under
 3 G.S. 163-165.7.
- 4 (4) ~~"Licensing" means any Licensing.~~ – Any administrative action issuing, failing to
 5 issue, suspending, or revoking a license or occupational license.
 6 ~~"Licensing"~~ The term does not include controversies over whether an
 7 examination was fair or whether the applicant passed the examination.
- 8 (4a) ~~"Occupational license" means any Occupational license.~~ – Any certificate,
 9 permit, or other evidence, by whatever name called, of a right or privilege to
 10 engage in a profession, occupation, or field of endeavor that is issued by an
 11 occupational licensing agency.
- 12 (4b) ~~"Occupational licensing agency" means any Occupational licensing agency.~~ –
 13 ~~Any board, commission, committee~~ committee, or other agency of the State
 14 of North Carolina which that is established for the primary purpose of
 15 regulating the entry of persons into, ~~and/or or~~ the conduct of persons within a
 16 particular profession, ~~occupation~~ occupation, or field of endeavor, and which
 17 that is authorized to issue and revoke licenses. ~~"Occupational licensing~~
 18 ~~agency"~~ The term does not include State agencies or departments which that
 19 may as only a part of their regular function issue permits or licenses.
- 20 (5) ~~"Party" means any Party.~~ – Any person or agency named or admitted as a party
 21 or properly seeking as of right to be admitted as a party and includes the
 22 agency as appropriate.
- 23 (5a) ~~"Person" means any Person.~~ – Any natural person, partnership, corporation,
 24 body ~~politic~~ politic, and any unincorporated association, organization, or
 25 society which that may sue or be sued under a common name.
- 26 (6) ~~"Person aggrieved" means any Person aggrieved.~~ – Any person or group of
 27 persons of common interest directly or indirectly affected substantially in his
 28 his, her, or its person, property, or employment by an administrative decision.
- 29 (7a) ~~"Policy" means any Policy.~~ – Any nonbinding interpretive statement within
 30 the delegated authority of an agency that merely defines, interprets, or
 31 explains the meaning of a statute or rule. The term includes any document
 32 issued by an agency which that is intended and used purely to assist a person
 33 to comply with the law, such as a guidance document. Any policy that an
 34 agency attempts to implement as a rule shall be unenforceable unless it is
 35 adopted as a rule.
- 36 (8) ~~"Residence" means domicile~~ Residence. – Domicile or principal place of
 37 business.
- 38 (8a) ~~"Rule" means any Rule.~~ – Any agency regulation, standard, or statement of
 39 general applicability that implements or interprets an enactment of the General
 40 Assembly or Congress or a regulation adopted by a federal agency or that
 41 describes the procedure or practice requirements of an agency. The term
 42 includes the establishment of a fee and the amendment or repeal of a prior
 43 rule. The term does not include the following:
 44 ...
 45 b. Budgets and budget policies and procedures issued by the Director of
 46 the Budget, by the head of a department, as defined by G.S. 143A-2 or
 47 G.S. 143B-3, or by an occupational licensing board, as defined by
 48 G.S. 93B-1.
 49 ...
- 50 (8b) Repealed by Session Laws 2011-398, s. 61.2, effective July 25, 2011.

- 1 (8c) ~~"Substantial evidence" means relevant~~ Substantial evidence. – Relevant
2 evidence a reasonable mind might accept as adequate to support a conclusion.
3 (9) Repealed by Session Laws 1991, c. 418, s. 3."
4 **SECTION 2.** This act is effective when it becomes law.