

# NORTH CAROLINA GENERAL ASSEMBLY



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## JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE

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### REPORT TO THE 2017 SESSION of the 2017 GENERAL ASSEMBLY

JANUARY 3, 2017

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# TRANSMITTAL LETTER

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January 3, 2017

TO THE MEMBERS OF THE 2017 REGULAR SESSION  
OF THE 2017 GENERAL ASSEMBLY

**The Joint Legislative Administrative Procedure Oversight Committee  
herewith submits to you for your consideration its report pursuant to G.S. 120-  
70.101(8)**

Respectfully submitted,

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Senator Fletcher L. Hartsell, Jr.

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Representative Jonathan C. Jordan

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Senator Andy Wells

Co-Chairs  
Joint Legislative Administrative Procedure Oversight Committee

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# STATUTORY AUTHORITY

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## NORTH CAROLINA GENERAL STATUTES

### ARTICLE 12K.

#### *Joint Legislative Administrative Procedure Oversight Committee.*

#### **§ 120-70.100. Creation and membership of Joint Legislative Administrative Procedure Oversight Committee.**

(a) The Joint Legislative Administrative Procedure Oversight Committee is established. The Committee consists of 16 members as follows:

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least three of whom are members of the minority party.
- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

(b) Members of the Committee shall serve a term of two years beginning on January 15 of each odd-numbered year. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. A member continues to serve until the member's successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment.

#### **§ 120-70.101. Purpose and powers of Committee.**

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

- (1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.
- (2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.
- (3) Repealed by Session Laws 2009-125, s. 1, effective October 1, 2009.
- (3a) To review the activities of State occupational licensing boards to determine if the boards are operating in accordance with statutory requirements and if the boards are still necessary to achieve the purposes for which they were created. This review shall not include decisions concerning board personnel matters or determinations on individual licensing applications or individual disciplinary actions.
- (4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.
- (5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.

- (6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.
- (7) To review any other concerns about administrative law to determine if statutory changes are needed.
- (8) To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes.

**§ 120-70.102. Organization of Committee.**

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Administrative Procedure Oversight Committee. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be paid by the Committee.

**§ 120-70.103:** Repealed by Session Laws 2009-125, s. 5, effective October 1, 2009.

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## COMMITTEE MEMBERSHIP

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### JOINT LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE

#### 2015-2016 Membership

Senator Fletcher L. Hartsell, Jr., Chair 300 Legislative Office Building, Room 627 Raleigh, North Carolina 27603-5925 (919) 733-7223 <a href="mailto:Fletcher.Hartsell@ncleg.net">Fletcher.Hartsell@ncleg.net</a>	Representative Jonathan C. Jordan, Chair 300 N. Salisbury Street, Room 420 Raleigh, NC 27603-5925 (919) 733-7727 <a href="mailto:Jonathan.Jordan@ncleg.net">Jonathan.Jordan@ncleg.net</a>
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## COMMITTEE PROCEEDINGS

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The Joint Legislative Administrative Procedure Oversight Committee (Committee) met four times during the interim between the 2016 and the 2017 Regular Sessions of the General Assembly. The Committee's Charge can be found [here](#). The following is a brief summary of the Committee's proceedings. Detailed minutes and information from each Committee meeting are available in the Legislative Library and [online](#).

### **September 6, 2016**

The Committee met on Tuesday, September 6, 2016 at 9:30 a.m. in Room 544 of the Legislative Office Building (LOB).

The following business was conducted:

- Representative Jonathan Jordan chaired the Committee and presented a brief review of the topics to be discussed. Co-Chairs Senator Fletcher Hartsell and Senator Andy Wells gave introductory remarks;
- Mr. Jeff Hudson, Committee Co-Council, gave a review of the disposition of legislative proposals recommended by the Committee to the 2016 Regular Session of the 2015 General Assembly;
- Ms. Margaret Currin, Rules Review Commission, Office of Administrative Hearings, gave an update on the status of *North Carolina State Board of Education v. the State of North Carolina and the North Carolina Rules Review Commission*;
- Ms. Currin presented a report on the progress of the periodic review and expiration of existing rules as required by [G.S. 150B-21.3A](#);
- Ms. Molly Masich, Codifier of Rules, Office of Administrative Hearings, gave a preview of potential legislative recommendations;
- The Committee discussed potential issues for consideration;
- A date was then set for the next meeting followed by adjournment.

### **October 4, 2016**

The Committee met on Tuesday, October 4, 2016 at 10:00 a.m. in Room 544 of the Legislative Office Building (LOB).

The following business was conducted:

- Senator Fletcher Hartsell chaired the Committee and presented a brief review of the topics to be discussed. Co-Chairs Representative Jonathan Jordan and Senator Andy Wells gave introductory remarks;
- Mr. Chuck Hefren, Principal Program Evaluator, North Carolina General Assembly, gave a review of the Program Evaluation Division's study of potential centralization and oversight of occupational licensing boards;
- Mr. Jeff Hudson, Committee Counsel, gave an overview of recommendations related to elimination and consolidation of occupational licensing boards;
- The Committee discussed potential issues for consideration;
- A date was then set for the next meeting followed by adjournment.

### **December 6, 2016**

The Committee met on Tuesday, December 6, 2016 at 10:00 a.m. in Room 544 of the Legislative Office Building (LOB).

The following business was conducted:

- Representative Jonathan Jordan chaired the Committee and presented a brief review of the topics to be discussed. Co-Chairs Senator Fletcher Hartsell and Senator Andy Wells gave introductory remarks;
- Minutes for September 6, 2016 and October 4, 2016 meetings were approved;
- Judge Julian Mann, III, Director, Office of Administrative Hearings and Chief Administrative Law Judge, gave an overview of recommendations from the Office of Administrative Hearings and the Rules Review Commission and clarified that there is no requirement to petition for rulemaking or seek a declaratory ruling before being able to commence a contested case;
- Mr. Garth Dunklin, Chair, Rules Review Commission, Office of Administrative Hearings, discussed the revision process for the periodic review of rules to require that all rules in the Administrative Code be readopted or removed from the Code;
- Ms. Molly Masich, Codifier of Rules, Office of Administrative Hearings, discussed authorizing the Codifier of Rules to make technical corrections;
- The Committee discussed potential issues for consideration;
- A date was then set for the next meeting followed by adjournment.

### **January 3, 2017**

The Committee met on Tuesday, January 3, 2017 at 10:00 a.m. in Room 544 of the Legislative Office Building (LOB).

The following business was conducted:

- Senator Andy Wells chaired the Committee and presented a brief review of the topics to be discussed. Co-Chairs Senator Fletcher Hartsell and Representative Jonathan Jordan gave introductory remarks;
- Consideration of recommendations from the Office of Administrative Hearings and the Rules Review Commission and legislative proposals recommended by the Committee to the 2016 Regular Session:
  - Clarify Contested Case Policy;
  - Amend Periodic Review of Rules Process;
  - Authorize Rule Technical Corrections;
  - Amend Occupational Licensing Boards Statutes;
  - Occupational Licensing Board Contact Information;
- The Committee adopted this report;
- Adjournment.

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## LEGISLATIVE PROPOSALS

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