



# HOUSE BILL 361: APA Rules Review Definitions.

2021-2022 General Assembly

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<b>Committee:</b>	House Rules, Calendar, and Operations of the House	<b>Date:</b>	May 11, 2021
<b>Introduced by:</b>	Reps. Moffitt, Johnson, Paré, Wray	<b>Prepared by:</b>	Brian Gwyn*
<b>Analysis of:</b>	Third Edition		Staff Attorney

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**OVERVIEW:** *The 3rd edition of House Bill 361 would include a provision in G.S. 150B-18 that would make unenforceable any policy, guideline, or other interpretive statement that meets the definition of a rule unless it is adopted as a rule in accordance with the provisions of Chapter 150B, the Administrative Procedure Act.*

**CURRENT LAW:** Under G.S. 150B-18, an agency must not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule, if the policy guideline, or other interpretive statement has not been adopted as a rule in accordance with Article 2A of Chapter 150B of the General Statutes.

Under G.S. 150B-2(8a), a rule is defined as any agency regulation, standard, or statement of general applicability that does at least one of the following:

- Implements or interprets an enactment of the General Assembly or Congress.
- Implements or interprets a regulation adopted by a federal agency.
- Describes the procedure or practice requirements of an agency.

A rule does not include a policy issued by an agency if that policy is a nonbinding interpretive statement within the delegated authority of the agency that merely defines, interprets, or explains the meaning of a statute or rule.

**BILL ANALYSIS:** The bill would add language to G.S. 150B-18 providing that any policy, guideline, or other interpretive statement that an agency attempts to implement or enforce that meets the definition of a rule is unenforceable unless adopted as a rule in accordance with the provisions of Chapter 150B of the General Statutes.

**EFFECTIVE DATE:** The bill would be effective when it becomes law.

*\*Jeremy Ray, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*

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