



SOUTH CAROLINA ASSOCIATION OF COUNTIES

Paul A. Cain, President
Oconee County

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August 4, 2021

REGULATION AND CASE LAW UPDATE

To: Chief Administrative Officer; County Attorney
From: SCAC Legal Staff

SCAC legal staff compiles a monthly update of agency regulations and appellate court opinions impacting county government operations. CAOs/Attorneys are encouraged to forward this update to impacted county departments.

REGULATIONS

DEPARTMENT OF LABOR, LICENSING AND REGULATION BUILDING CODES COUNCIL NOTICE OF GENERAL PUBLIC INTEREST NOTICE OF PUBLIC HEARING

The South Carolina Department of Labor, Licensing and Regulation and the Building Codes Council do hereby give notice under Section 6-9-40(A)(3) and (4), of the South Carolina Code of Laws, as amended, that a public hearing will be held **August 19, 2021**, and **September 28, 2021**, at the South Carolina Fire Academy in the Denny Auditorium, 141 Monticello Trail, Columbia, SC 29203, at **10:30 A.M.** at which time interested persons will be given the opportunity to appear and present views to the Council's appointed Study Committee on the following building codes for use in the State of South Carolina. Mandatory codes include the:

- 2021 Edition of the International Building Code;
- 2021 Edition of the International Residential Code;
- 2021 Edition of the International Fire Code;
- 2021 Edition of the International Plumbing Code;
- 2021 Edition of the International Mechanical Code;
- 2021 Edition of the International Fuel Gas Code;
- 2020 Edition of the National Electrical Code.

The Council specifically requests comments concerning sections of the proposed editions, which may be unsuitable for enforcement in South Carolina. Written comments may be submitted to:

**Molly F. Price, Council Administrator,
PO Box 11329 Columbia, SC 29211-1329,**
or by email to contact.bcc@llr.sc.gov

Comments should be received on or before **September 22, 2021**. Additional information may be found on the Council's website at www.llr.sc.gov/bcc.

SOUTH CAROLINA CRIMINAL JUSTICE ACADEMY CHAPTER 37

Notice of Drafting

The South Carolina Criminal Justice Academy has announced it intends to amend several regulations related to reporting, case hearings and denial of recertification of officers for misconduct.

Contested Case Hearings

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-105** that addresses *contested case hearings*.

Synopsis: S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define the procedure for holding contested case hearing.

Denial of Certification for Misconduct

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-025** that addresses the *denial of certification for misconduct*.

Synopsis: S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define misconduct for the denial of certification of law enforcement officers.

Final Decisions by Law enforcement Training Council

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-107** that addresses final decisions by the Law Enforcement Training Council.

Synopsis: S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define the procedure for the issuance of final agency decisions by the Law Enforcement Training Council.

Request for a Contested Case Hearing

The South Carolina Criminal Justice Academy proposes to amend the **Regulation 37-101** that addresses request for a contested case hearing.

Synopsis: S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define the process for requesting a contested case hearing. Legislative review of this proposal will be required.

Withdrawal of Certification of Law Enforcement Officers

The South Carolina Criminal Justice Academy proposes to amend the Regulation 37-026 that addresses the withdrawal of certification of law enforcement officers.

Synopsis: S.C. Code §23-23-80 authorizes the Law Enforcement Training Council to make regulations necessary for the administration of S.C. Code §23-23-10 et seq. The proposed regulation will define grounds for the withdrawal of certification of law enforcement officers.

Interested persons may submit written comments on any or all of the above proposed regulations to:

Bradley J. Young
South Carolina Criminal Justice Academy,
5400 Broad River Road, Columbia, S.C. 29210.

To be considered, comments must be received **no later than 5:00 p.m. on September 1, 2021**, the close of the drafting period.

COURT UPDATE

South Carolina Court of Appeals

Rainey v. SC Dept. of Social Services, Appellate Case No. 2017-001367. July 21, 2021

Areas of Law: SC Tort Claims Act, Gross Negligence.

In this action alleging gross negligence, Rainey as an appointed guardian ad litem challenged the circuit court's granting of summary judgment to the South Carolina Department of Social Services (DSS). Rainey argued the circuit court applied an incorrect gross negligence standard to find DSS exercised slight care during its investigation of an infant's abuse and neglect case.

The Court of Appeals reiterated that failure to exercise slight care is the standard to prove gross negligence under the South Carolina Tort Claims Act. In this case the court held the agency failed to follow statutory requirements combined with other evidence. The combined evidence created sufficient doubt to defeat summary judgement. The court did note that failure to follow a state statute alone may not give rise to gross negligence.

The full opinion can be found here:

<https://www.sccourts.org/opinions/HTMLFiles/COA/5838.pdf>