

From: Chris Mechels <cmechels@q.com>
Sent: Tuesday, November 9, 2021 2:43 PM
To: Hearing, Speech, RLD <Speech.Hearing@state.nm.us>
Subject: [EXTERNAL] Comment 3 to the 12 November Rules Hearing

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Sue,

This comment, my third, is very serious and suggests that the hearing be abandoned, as my suggested change is major, and likely beyond the scope of the hearing if modified.

1) Senate Bill 2, the driver for the proposed change to 16.26.7 is quite specific in the desire to cut back on banning convicted felon, who have served their time, from employment in the trades governed by Boards and Commissions, as follows:

"28-2-4. POWER TO REFUSE, RENEW, SUSPEND OR REVOKE

PUBLIC EMPLOYMENT OR LICENSE.--

A. Any board or other agency having jurisdiction

over employment by the state or any of its political

subdivisions or the practice of any trade, business or

profession may refuse to grant or renew or may suspend or

revoke any public employment or license or other authority to

engage in the public employment, trade, business or

profession for one or both of the following causes:

(1) where the applicant, employee or

licensee has been convicted of a felony and the criminal conviction directly relates to the particular employment, trade, business or profession; and

(2) where the applicant, employee or licensee has been convicted of homicide, kidnapping, human trafficking, trafficking in controlled substances, criminal sexual penetration or related sexual offenses or child abuse and the applicant, employee or licensee has applied for reinstatement, renewal or issuance of a teaching certificate, a license to operate a child-care facility or employment at a child-care facility, regardless of rehabilitation.

B. The board or other agency shall explicitly state in writing the reasons for a decision that prohibits the person from engaging in the employment, trade, business or profession if the decision is based in whole or in part on conviction of any crime described in Paragraphs (1) and (2) of Subsection A of this section."

The proposed changes to 16.26.7 NMAC do not, on the surface, comply with the Statute, thus are illegal. How can the Board, in all seriousness, ban from employment an applicant for; "failure to comply with a proclamation of the Governor"? You see the problem. Where SB2 is removing disqualification for a felony, excepting those in a teaching capacity, the Board proposes a "laundry list", and no detailed justification (as required by SB2) other than referencing the "laundry list".

I suggest that the Board seek outside legal counsel, and question how this proposed language ever got past legal counsel, as it clearly violates both the intent, and detailed language, provided in SB2.

Or perhaps invite comment from those who sponsored SB2, if their intent is seen as unclear.

Regards,

Chris Mechels

505-982-7144

From: Chris <cmechels@q.com>
To: speech.hearing <speech.hearing@state.nm.us>
Date: Tuesday, 9 November 2021 2:21 PM MST
Subject: Comment 2 to the 12 November Rules Hearing

Dear Sue,

Another comment on this hearing.

It appears that the proposed 16.26.2.10.E NMAC has an error;

E. The certification that the applicant has not been convicted of felonies listed in Subsection F of 16.26.8 NMAC should read;

E. The certification that the applicant has not been convicted of felonies listed in Subsection E of 16.26.7.8 NMAC

Regards,

Chris Mechels

505-982-7144

From: Chris <cmechels@q.com>
To: speech.hearing <speech.hearing@state.nm.us>
Date: Tuesday, 9 November 2021 2:08 PM MST
Subject: Comment 1 to the 12 November Rules Hearing

Dear Sue,

There are some difficulties with the postings for this hearing. Some are important.

- 1) The links provided to the webpage, printed in the newspaper, are only partial links, and drop the user off at a high level. Very inconvenient, esp for a novice.
- 2) The Agenda on your website has 11/22/2021 as the meeting date. Clearly an error, as it should be 11/12/2021.
- 3) I can't find the proposed rule changes on the website, though the postings on the SSP and in the media, indicate that they are there. Please provide a link to those files. It is REQUIRED under the Rules Act that they be on the website, and if not, its a violation of the Rules Act, which would make the hearing "invalid". Posting the proposed rules on the SSP is "convenient" but not required. Posting the meeting Announcement of the hearing on the SSP IS required, but you have not complied. Instead you "linked" to the website. This does not comply with the Rules Act.

Regards,

Chris Mechels
505-982-7144