IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-83

Filed 4 November 2026

Wake County, No. 24CV020420-910

NORTH CAROLINA CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION, Plaintiff,

v.

NORTH CAROLINA RULES REVIEW COMMISSION and BRIAN LIEBMAN, in his official capacity as Codifier of Rules, Defendants.

Appeal by plaintiff from order entered 5 August 2025 by Judge Dawn Layton in Wake County Superior Court. Heard in the Court of Appeals 11 August 2026.

Attorney General Jeff Jackson, by Assistant Attorney Generals Meghan E. Lock and Steven D. Draper, for plaintiff-appellant.

Nelson, Mullins, Riley & Scarborough LLP, by Phillip J. Strach, Alyssa M. Riggins, and Kacie T. England, for defendant-appellee Rules Review Commission.

Attorney General Jeff Jackson, by Special Deputy Attorney General Michelle A. Liguori, for defendant-appellee Brian Liebman.

DILLON, Chief Judge.

Plaintiff North Carolina Criminal Justice Education and Training Standards Commission ("CJETS") is an agency of the state which promulgated certain rules concerning the course of instruction which an applicant for a concealed carry permit must first complete. The issue in this appeal concerns whether our North Carolina Rules Review Commission ("RRC") correctly determined CJETS lacks the authority

under the Concealed Handgun Permit Act to promulgate said rules. CJETS appeals from an order granting summary judgment in favor of the RRC and the Codifier of Rules, Brian Liebman (together, "Defendants"). The trial court concluded RRC correctly determined that CJETS lacked statutory authority to promulgate 12 NCAC 09F .0103–.0105. We disagree and, therefore, reverse the decision of the trial court.

I. Background

In 1971, our General Assembly established CJETS as a state agency by enacting Article 1, Chapter 17C of our General Statutes. *See* N.C.G.S. § 17C-3. Our General Assembly charged CJETS with the administration of criminal justice, including the certification of criminal justice officers. *See* N.C.G.S. § 17C-6.

Twenty-four years later, in 1995, our General Assembly added to CJETS's duties when it enacted the Concealed Handgun Permit Act ("Permit Act"), codified under Article 54B, Chapter 14 of our General Statutes. Under the Permit Act, any individual desiring to carry a concealed handgun must first obtain a permit. *See* N.C.G.S. §§ 14-415.10–415.27.

To qualify for a permit, an applicant must first "successfully complete[] an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force." *Id.* at § 14-415.12(a)(4). Our General Assembly gave a role to CJETS under the Permit Act concerning the required

training courses and course instructors, including the duty to "prepare and publish general guidelines for courses and qualification of instructors which would satisfy the requirements of this subdivision." *Id.*

Shortly after the Permit Act's passage in 1995, CJETS promulgated rules establishing course guidelines and instructor qualifications which became a permanent part of our state's Administrative Code in May 1996. *See* Concealed Handgun Training, 12 N.C. Admin. Code 9F.0103–.0105 (2026).

In 2023, CJETS submitted proposed amendments to its 1996 rules to RRC. RRC is a state commission responsible for reviewing administrative rules adopted by state agencies and is authorized to reject any rules it deems to be outside the authority of the agency, though any such rejection is subject to judicial review. N.C.G.S. § 150B-21.12.

Following its review, RRC concluded CJETS lacked statutory authority under the 1995 Act to adopt binding rules concerning concealed handgun training. RRC construed the language in the 1995 Act authorizing CJETS to publish "general guidelines" as not authorizing CJETS to promulgate binding rules. On reconsideration requested by CJETS, RRC sustained its initial decision. As a result, the Codifier of Rules removed from the Administrative Code the CJETS rules that had been added in 1996. The Codifier of Rules is an official within the Office of

Administrative Hearings whose duties are ministerial and include entering and removing rules in our state's Administrative Code as directed by statute.

CJETS commenced this matter against RRC and the Codifier of Rules seeking declaratory and injunctive relief, including an order requiring the Codifier to restore the rules it had promulgated under the Permit Act to the Administrative Code.

After a hearing on the matter, the trial court granted summary judgment in favor of both RRC and the Codifier of Rules. CJETS timely appealed.

II. Analysis

The issue on appeal concerns whether our General Assembly has authorized CJETS, an agency created in 1971 under Chapter 17C of our General Statutes, to promulgate *binding* rules in its role in Chapter 14, the 1995 Permit Act. Indeed, the statutory language used *in Chapter 17C* describing CJETS's authority to create binding rules regarding criminal justice officers is unequivocal: CJETS is authorized to "[p]romulgate rules and regulations for the administration of [Article 1, Chapter 17C"]. N.C.G.S. § 17C-6. The language in Chapter 14, though, is less so, authorizing CJETS to "prepare and publish *general guidelines*" regarding the concealed carry courses and instructors. N.C.G.S. § 14-415.12(a)(4) (emphasis added).

For the reasoning below, we conclude the Permit Act empowers CJETS to promulgate binding rules, at least rules which are "general" in nature, concerning

courses and instructors. And we conclude the rules enacted by CJETS, but returned by the RRC, in this matter did not exceed CJETS's authority.

A. Standard of Review

"An issue as to the existence of power or authority in a particular administrative agency is one primarily of statutory construction." *State ex rel. Com'r. of Ins. v. N.C. Rate Bureau*, 300 N.C. 381, 399 (1980) (citations omitted), *overruled in part on other grounds by In re Redmond*, 369 N.C. 490, 497 (2017). And it is a question "for the courts" to "determine[e] the limits of statutory grants of authority to an administrative agency[.]" *In re Broad & Gales Creek*, 300 N.C. 267, 280 (1980). Accordingly, whether CJETS exceeded its statutory authority in promulgating rules under the Permit Act is a question of law, reviewed by the trial court *de novo*. N.C.G.S. § 150B-51 (issues concerning whether an agency acted in excess of its statutory authority or other errors of law are reviewed *de novo*). We review by "'(1) determining whether the trial court exercised the appropriate scope of review and, if appropriate, (2) deciding whether the court did so properly.'" *N.C. Dep't of Env't Quality v. N.C. Farm Bureau Fed'n,*, 388 N.C. 366, 372–73 (2025) (citation omitted).

B. A State Agency's Authority Must Come from our General Assembly

"An administrative agency [like CJETS] 'is a creature of the statute creating it and has only those powers *expressly* granted to it or those powers *included by necessary implication* from the legislative grant of authority.' " *N.C. Dep't of Revenue*

v. Philip Morris, 388 N.C. 181, 190 (2025) (emphasis added). Thus, agency action must come from legislation. *Id.* And "[r]egulatory legislation should be given a practical construction so that the agency may perform the duties required of it by the legislative body." *In re Broad & Gales*, 300 N.C. at 280.

C. Our General Assembly's Express Grant to CJETS to create "Guidelines" is Ambiguous

In the Permit Act, our General Assembly has *expressly* granted CJETS the authority to "prepare and publish *general guidelines*" concerning the required course for conceal carry applicants and its instructors. N.C.G.S. § 14-415.12(a)(4). The parties, however, disagree as to the proper construction of the word "guidelines" as used in the Permit Act.

CJETS argues we should interpret "guidelines" as binding "rules." Our Administrative Procedure Act ("APA") defines a "rule" as any "agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly . . . or that describes the procedure or practice requirements of an agency." *Id.* at § 150B-2(8a). Any "rule" proposed by an agency must be reviewed by the RRC, to ensure the rule was promulgated "within the authority delegated to the agency by the General Assembly." *Id.* at §§ 150B-21.9(a)(1); 150B-2(1d).

RRC, though, argues the authority to publish "guidelines" merely allows CJETS to publish non-binding policy. Under our APA, an agency "policy" is excluded

from the definition of "rule" and is otherwise defined as "any nonbinding interpretive statement within the delegated authority of an agency that merely defines, interprets, or explains the meaning of a statute or rule." *Id.* at § 150B-2(7a). Accordingly, agency policies are not subject to review by the RRC, as they are not included in the APA.

Again, our General Assembly *expressly* granted CJETS the authority to publish "general guidelines" regarding the pre-permit course and its instructors. Accordingly, we must determine whether, by this grant, our General Assembly intended for CJETS to have authority to create binding "rules" or to merely create nonbinding "policies."

Our Supreme Court instructs that "[i]f the statutory language is clear and unambiguous, the court eschews statutory construction in favor of giving the words their *plain* and definite meaning." *Belmont Ass'n, Inc. v. Farwig*, 381 N.C. 306, 310 (2022) (emphasis added) (citation omitted). "However, where the statute is ambiguous or unclear as to its meaning, the courts must interpret the statute to give effect to the legislative intent. Canons of statutory interpretation are only employed if the language of the statute is ambiguous or lacks precision or is fairly susceptible of two or more meanings." *Id.* at 310–11 (citation omitted).

We conclude the word "guideline" is susceptible to mean *either* something that has binding effect, akin to a rule, *or* something that is nonbinding, akin to a policy.

In so concluding, we note the word "guideline" has been used by our General Assembly and our Courts to describe something that is *not* binding. In *Stann v. Levine* where we held our Rules of Appellate Procedure to be mandatory, we distinguished a binding rule from a guideline as follows:

> [A] rule is a principle or regulation governing conduct, procedure, arrangement, etc. This is distinguishable from mere guidelines, reports, or objectives, which, though *guiding* conduct, do not *regulate* or *govern* conduct. The difference is that guidance is permissive while regulation and governance are not.

180 N.C. App. 1, 8 (2006) (emphases in original) (citation omitted).

We further note, however, that "guideline" has been used by our General Assembly and by our Courts to connote something with binding effect. For instance, our Supreme Court has described the statutory sentencing charts which *must* be followed by our trial courts as sentencing "guidelines." *See*, *e.g.*, *State v. James*, 371 N.C. 77, 81–82 (2018) (describing a legislative enactment as "new sentencing guidelines" which trial courts *must* follow in sentencing juveniles).

And in the context of child support, our General Assembly employs the word "guidelines" to describe *mandatory* presumptions. N.C.G.S. § 50-13.4. *See Guilford Cnty. ex rel. Easter v. Easter*, 344 N.C. 166, 169 (1996) (trial court has limited discretion to deviate from the "guidelines" in setting child support); *Morris v. Morris*, 92 N.C. App. 359, 361 (1988) (trial court erred by concluding child support guidelines

were merely advisory). Our General Assembly adopted child support guidelines in response to federal legislation which described "guidelines" as "law." 42 U.S.C. § 667.

Also, our Supreme Court has described *mandatory* evidentiary rules it adopted as "guidelines." *State v. Triplett*, 316 N.C. 1, 7 (1986) (stating the Court had "exercised its supervisory power by adopting guidelines for the admissibility of hearsay testimony under the 'catchall' [] hearsay exception").

Sometimes, though, our Courts and state agencies, presumably recognizing the word "guideline" to be ambiguous, have modified the word "guideline" to clear up any ambiguity. For instance, when the State Personnel Commission—an agency with rulemaking authority—put out what it called "*Suggested* Guidelines for Reductions in Force," we held it was not error for a trial court to determine those guidelines "were not mandatory" and, therefore, were nonbinding. *N.C. Dep't of Justice v. Eaker*, 90 N.C. App. 30, 34 (1988) (emphasis added). On the other hand, our Supreme Court has described our APA as "*mandatory* guidelines" which agencies must follow when promulgating rules. *See Adams v. N.C. Dep't of Nat. & Econ. Res.*, 295 N.C. 683, 702 (1978) (emphasis added).

D. Canons of Statutory Construction to Discern Legislative Intent

In the Permit Act, our General Assembly has modified the word "guidelines" with the adjective "general[;]" an adjective that does not definitively resolve whether "guidelines" is to be construed as binding rules or nonbinding suggestions. N.C.G.S.

§ 14-415.12(a)(4). This modifier does limit the type of guidelines CJETS is authorized to prepare and publish.

Since "guidelines" as used in the 1995 Act is ambiguous, we must turn to canons of statutory construction to discern the intent of our General Assembly regarding CJETS's authority to publish binding rules. *See Belmont Ass'n, Inc.*, 381 N.C. at 310–11. Specifically, we turn to three canons recently utilized by our Supreme Court: (1) *in pari materia*, (2) legislative acquiescence, and (3) constitutional avoidance. And for the reasoning below, the employment of each, independently, supports an interpretation that our General Assembly intended "guidelines" to mean binding rules, as explained below. Accordingly, we conclude our General Assembly has authorized CJETS to promulgate binding rules regarding the required course and instructors of those courses for concealed carry applicants.

1. In Pari Materia Canon

We first employ a canon of statutory construction cited often by our Supreme Court, the *in pari materia* canon. Our Supreme Court described that canon as "harmoniz[ing] statutes of like subject matter and, if at all possible, give effect to each." *In re R.L.C.*, 361 N.C. 287, 294 (2007) (citation omitted).

The Permit Act, enacted in 1995, assigns CJETS two responsibilities: develop guidelines for course content and qualifications for instructors, N.C.G.S. § 14-415.12(a)(4), and adopt and distribute the certificate verifying an applicant's

competence and knowledge, N.C.G.S. § 14-415.13(a)(4). Reading these provisions together, we conclude our General Assembly intended to spread the burden of conducting required courses among several public and private entities, but that CJETS is to provide government oversight, including creating binding rules regarding the courses and instructors.

The disputed "guidelines" language is found in G.S. 14-415.12(a)(4), which requires an applicant to first complete "a firearms safety and training course" before being issued a concealed carry permit:

> (4) The applicant has successfully completed an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force. [CJETC] shall prepare and publish general guidelines for courses and qualifications of instructors which would satisfy the requirements of this subdivision. An approved course shall be any course which satisfies the requirements of this subdivision and is certified or sponsored by any of the following:
>
> a. [CJETC].
> b. The National Rifle Association.
> b1. The United States Concealed Carry Association.
>
> . . . .[1]
>
> Every instructor of an approved course shall file a copy of the firearms course description, outline, and proof of

[1] This subdivision also names certain other public and private entities who are authorized to certify or sponsor a course.

> certification annually, or upon modification of the course if more frequently, with [CJETS].

N.C.G.S. § 14-412.15(a)(4).

Our General Assembly provided very little detail regarding the required course. Our General Assembly may, however, delegate authority to a state agency to promulgate binding rules, where our General Assembly has provided "adequate guiding standards." *Adams*, 295 N.C. at 698 (explaining the doctrine that defines a legislature's authority to delegate some of its function to administrative agencies).

Here, reading the sentences in subdivision (a)(4) together, we conclude our General Assembly intended to provide guiding standards regarding the required course and then delegated rulemaking authority to CJETS to provide detail, albeit in a "general" nature, regarding those standards. Our General Assembly did not intend to leave it up to each private or public entity authorized to sponsor a course to come up with its own rules on these matters.

Indeed, the first sentence in subdivision (a)(4) provides mere guiding standards regarding the course which a permit applicant must take, that the course must "*involve*[] the actual firing of handguns and instruction in the laws" concerning the use of deadly force. N.C.G.S. § 14-412.15(a)(4) (emphasis added).

The second sentence, which is central to this appeal, authorizes CJETS (and none of the other private or public entities listed in the subdivision) to prepare and publish general guidelines concerning both the courses and the course instructors

"which satisfies the requirements of this subdivision[.]" *Id.* This language suggests our General Assembly intended for CJETS to more specifically define the requirements of the course and instructors. Indeed, the statutory language does not contain any detail as to how many shots an applicant must fire or how accurate an applicant must be with a handgun.

The third sentence then defines an "approved course" as a course which *both* "satisfies the requirements of this subdivision" (using the same language as in the prior sentence) *and* which is certified or sponsored by either CJETS or one of the other public or private entities listed in the subdivision. *Id.* Our General Assembly defines "an approved course" in the third sentence in part as a course which "satisfies the requirements of this subdivision," *id.*, a phrase our General Assembly used in the prior sentence to describe the guidelines CJETS was being authorized to create. This language suggests that CJETS guidelines are "requirements."

The last sentence in the subdivision suggests that, though other public and private entities are included in shouldering the burden of putting on classes, their instructors must submit information to the CJETS regarding their course. *See id.*

And, finally, in the next section, our General Assembly authorized CJETS to adopt and distribute the certificate verifying that an applicant has completed "an approved course." *Id.*

In sum, reading the Permit Act *in pari materia*, it appears our General Assembly intended its *express* grant of authority to CJETS to prepare and publish general guidelines to mean binding rules to expound on the limited guiding standards our General Assembly otherwise provided in the Act regarding the required course.

2. Legislative Acquiescence Canon

A second cannon, the canon of legislative acquiescence, recently relied upon by our Supreme Court in *State v. Fritsche*, 385 N.C. 446 (2023), indicates our General Assembly intended that "guidelines" as used in the Permit Act to connote binding rules. In *Fritsche*, a majority of our Supreme Court upheld an interpretation of certain statutory language by our Court in 2011, in part, on the fact that our General Assembly "ha[d] made no attempts to clarify or amend [the statutory language] since [our Court's 2011 decision]." *Id.* at 450–51 ("This silence from the legislature leaves us to conclude that the General Assembly takes no issue with the Court of Appeals' interpretation of [the statute].").

We note two justices concurring in *Fritsche* wrote separately to disagree with the majority's "adoption" of "legislative acquiescence" as a valid canon of statutory construction. *Id.* at 451–52 (J. Barringer concurring, joined by J. Dietz). We note, though, in the present case, CJETS's initial rules were permanently incorporated into our Administrative Code in 1996; and our General Assembly amended the Permit Act the very next year in 1997 and again in 2007–2013, 2015, 2022, 2023, and 2025.

Although our General Assembly has tweaked the Permit Act on numerous occasions over the years, that body has never seen the need to clarify or amend its grant of authority to CJETS to prepare "guidelines" after CJETS interpreted that grant in 1996 as a grant to promulgate binding rules.

In sum, based on the "legislative acquiescence" canon, it appears our General Assembly intended for CJETS to have the authority to adopt binding rules.

3. Constitutional Avoidance Canon

A third canon of statutory construction, reiterated in 2025 by our Supreme Court as a valid canon, states that where a court is faced with alternate constructions of statutory language and where one construction could lead to a constitutional problem, the court should adopt the alternate construction. *N.C. Dep't of Revenue*, 388 N.C. at 182. *See also In re Banks*, 295 N.C. 236, 239 (1978) (citations omitted) ("A well recognized rule in this State is that, where a statute is susceptible to two interpretations one constitutional and one unconstitutional the Court should adopt the interpretation resulting in a finding of constitutionality.").

RRC's interpretation of "guidelines" as being mere suggestions and not binding rules, would lead to a constitutional problem, which we should avoid.

Our General Assembly, through the Permit Act, has empowered several *private* (non-government) entities to certify and sponsor the required course, including the National Rifle Association and the United States Concealed Carry

Association, among others. N.C.G.S. § 14-415.12(a)(4). There is no indication these associations have ever performed their function inappropriately. However, under RRC's interpretation, our General Assembly has empowered these private entities not only to sponsor and certify these courses, but to do so with no guidance beyond the two provided in the statute, that the course involve firing a weapon and learning about our law regarding the use of deadly force. And these private entities would be empowered to do all of this without any meaningful governmental oversight, regulating CJETS's role as merely ministerial. This interpretation runs afoul of the "private nondelegation doctrine" established by the United States Supreme Court, a doctrine which essentially prohibits a legislature from delegating to a private entity the authority to carry out a public function without a certain level of government oversight. *See FCC v. Consumers' Rsch.*, 606 U.S. 656, 697 (2025).

This doctrine is distinct from the "nondelegation doctrine" whereby a legislature delegates legislative functions to a government agency. The "private nondelegation doctrine" provides more constitutional safeguards where a legislature attempts to delegate government functions to nongovernmental entities, requiring the legislature to provide robust government oversight to the nongovernmental entity. *See FCC*, 606 U.S. at 664 (describing Congress' power to delegate power to an agency and an agency's limited power to delegate its role to a private entity).

The United States Supreme Court decided the *FCC* opinion just last year and it involved a statutory scheme which provided for the establishment of a fund to help financially disadvantaged telephone subscribers, but which authorized a nonprofit company to manage the fund and to set the rates to be paid into the fund by other subscribers. *Id.* The Court held the scheme to be constitutional since the legislation provided substantial oversight of the private nonprofit company by the Federal Communications Commission ("FCC"), including the right of the FCC to appoint board members to the nonprofit company and the right to modify any contribution rate the nonprofit company established. *Id.*

Here, if CJETS's guidelines are considered mere suggestions, then the private entities listed in the Permit Act could each come up with its own course which could vary quite widely from other courses, where courses offered by one private entity could be much easier than one offered by CJETS.

In sum, the constitutional avoidance canon of statutory construction supports an interpretation of "guideline" as a binding rule adopted by the CJETS, so as to provide adequate government oversight over private entities given a role by our General Assembly in the permitting process.

III.Conclusion

We conclude CJETS acted within its statutory authority when it promulgated the rules in dispute here. We, therefore, conclude the trial court erred by granting

summary judgment for Defendants. The trial court should have granted summary judgment for CJETS. Accordingly, we reverse the decision of the trial court and remand with instructions to grant summary judgment in favor of CJETS.

REVERSED AND REMANDED.

Judge COLLINS concurs.

Judge GRIFFIN dissents by separate opinion.

GRIFFIN, Judge, dissenting.

CJETS argues North Carolina General Statutes set out broad objectives for the firearms safety and training course and tasks CJETS with developing guidelines to meet the requirements. Further, CJETS contends it has authority to make those guidelines rules. CJETS also claims Liebman should be enjoined to return the preexisting rules to the North Carolina Administrative Code. I disagree with CJETS on all accounts.

IV. Analysis

CJETS contends it had statutory authority from the General Assembly to adopt its proposed rules, especially in implementing instructor and course qualifications for firearms safety and training.

This Court gives a statute its plain meaning when the language is clear. *Cole v. N.C. Dep't of Pub. Safety*, 253 N.C. App. 270, 278, 800 S.E.2d 708, 714 (2017) (citations omitted). We read "allegedly conflicting statutes in harmony whenever it is possible to do so." *Cabarrus Cnty. Bd. of Educ.*, 374 N.C. 3, 23, 839 S.E.2d 814, 827 (citation omitted).

Here, RRC objected to three of CJETS's proposed amendments for exceeding statutory authority: 12 N.C. Admin. Code 09F .0103, .0104, .0105. These amendments concern qualifications of instructors and courses for concealed handgun permits.

N.C. General Statute section 17C-6 expressly lists CJETS's powers. N.C. Gen. Stat. § 17C-6 (2025). N.C. General Statute section 17C-6(a) appears to give CJETS power to enforce rules for the concealed handgun permit courses/qualifications:

> (4) Establish minimum standards for the certification of criminal justice training schools and programs or courses of instruction that are required by this Article.
>
> (5) Certify and recertify, suspend, revoke, or deny, pursuant to the standards that it has established for the purpose, criminal justice training schools and programs or courses of instruction that are required by this Article.
>
> (6) Establish minimum standards and levels of education and experience for all criminal justice instructors, including instructors with probationary or limited teaching privileges, qualified assistants, in-service training coordinators, executive officers, and school directors, who participate in programs or courses of instruction that are required by this Article.

Id. § 17C-6(a)(4)-(6). However, these powers are also constrained by "*this Article*," referring to Article 1 within Chapter 17C. *Id.* § 17C-6 (emphasis added). Therefore, these powers plainly do not extend to other articles, such as Article 54b, titled "Concealed Handgun Permit," under which section 14-415.12 exists. N.C. Gen. Stat. § 14-415.12 (2025). Further, there are no other express powers that allow CJETS to enforce rules/regulations that apply to setting qualifications for concealed handgun courses and instructors.

While subsection 17C-6(a), in part, highlights that CJETS has powers, "enforceable through its rules and regulations," and enumerates such powers,

subsection 17C-6(b) explains CJETS has *other* powers that are "advisory in nature" and that CJETS "is not authorized to undertake any enforcement actions" for these powers. N.C. Gen. Stat. § 17C-6(a), (b). Section 17C-6's plain words contrasting between subsection (a) and (b) show the General Assembly differentiated between CJETS's authority for those subsections.

Subsection 17C-6(b)(3) states CJETS has the power to consult "and cooperate with counties, municipalities, agencies of this State, other governmental agencies, and with universities, colleges, junior colleges, and other institutions concerning the development of criminal justice training schools and programs or courses of instruction." *Id.* § 17C-6(b)(3). This power supports CJETS's ability to create advisory guidelines for the concealed handgun permit.

N.C. General Statute section 14-415.12 tasks CJETS with preparing and publishing "general *guidelines* for courses and qualifications of instructors." N.C. Gen. Stat. § 14-415.12 (emphasis added). By this plain language, CJETS was given the power to create guidelines, not rules. Further, by harmonizing sections 17C-6 and 14-415.12, CJETS does not have the authority to enforce rules and regulations but has the authority to create advisory guidelines for concealed carry permit courses/qualifications.

Additionally, section 14-415.12 states CJETS has some responsibility to certify or sponsor courses for concealed carry permits. *Id.* § 14-415.12(a)(4). However,

CJETS is listed as one of the multiple organizations that also have some responsibility to certify or sponsor an approved concealed carry permit course. *Id.* Accordingly, the plain language of the statute does not give CJETS unilateral power to set the minimum standards for these other organizations by adopting and enforcing rules for all concealed handgun permit courses in North Carolina.

The plain meaning of both statutes at hand indicates CJETS does not have authority to establish rules and regulations regarding concealed carry handgun permits. Therefore, the trial court did not err. Liebman should not be enjoined to return the preexisting rules to the Code.

The majority's rationale warrants a response. The majority highlights the main issue: whether the "guidelines" in question are binding such that they function as rules within the meaning of the APA. The majority concluded "guidelines" is ambiguous because it could mean either something with a binding effect or something non-binding more so like a policy.

First, Merriam-Webster defines "guideline," in relevant part, as "an indication or outline of *policy* or conduct." *Guideline*, Merriam-Webster, https://www.merriam-webster.com/dictionary/guideline (last visited Oct. 23, 2026) (emphasis added). By the plain meaning of this word, I do not find "guidelines" to be ambiguous: the definition informs us that guidelines are indeed akin to a *policy*. I acknowledge that

there are some scenarios of binding policies, but the majority does not argue that is the case here.

Additionally, Chapter 17C, by *expressly outlining the scope* of CJETS powers, further supports the indication that "guidelines," in the concealed handgun permit statute, was not meant to be a binding rule. Chapter 17C subsections do not indicate CJETS has rulemaking power related to concealed handgun permit courses.

Moreover, I highlight the majority's examples for binding guidelines all have judicial discretion involved. However, the situation here does not involve judicial discretion; none of these examples are in the context of agency power.

Further, the majority provides examples where guidelines are modified with "suggested" or "mandatory." While I agree those modifiers assist in understanding *those examples* of plain meanings in other situations, it does not apply here. Here, there are no modifiers, so those examples do not move the argument forward.

Assuming arguendo "guidelines" was ambiguous here, we turn to the canon of *in pari materia*, in other words, interpreting statutes harmoniously. The majority presumes our General Assembly "did not intend to leave it up to each private or public entity authorized to sponsor a course to come up with its own rules on these matters." I disagree with this presumption. In applying *in pari materia* to Chapter 17C, I would hold the General Assembly's intent was to only provide the *binding rulemaking* power to CJETS in those *express* powers written out in subsection (a). None of the powers

enumerated in this subsection give CJETS the authority to make binding rules related to the concealed handgun permit courses and instructors. The majority is unable to point to any.

I agree the concealed handgun permit statute indicates that CJETS has the responsibility to provide more information regarding the courses and instructors; however, I think the majority goes too far in determining that such responsibility means that its general guidelines are binding rules. The fact that the General Assembly does not provide a plethora of details as to "how many shots an applicant must fire or how accurate an applicant must be with a handgun" does not necessarily mean that CJETS is the organization responsible for setting the standards for every organization involved.

Further, I am not persuaded that the use of "requirements" in subsection (a)(4)'s phrase, "which would satisfy the requirements of this subdivision," means that the "guidelines" CJETS is responsible for creating are also requirements. Rather, the General Assembly enumerated requirements for the courses, which includes an applicant's completion of "an approved firearms safety and training course which involves the actual firing of handguns and instruction in the laws of this State governing the carrying of a concealed handgun and the use of deadly force." N.C. Gen. Stat. § 14-415.12(a)(4). The majority's claim that the third sentence indicates that "guidelines" means "requirements" is conjecture.

Legislative acquiescence is the doctrine that the legislature's lack of action regarding an appellate court's specific interpretation of a statute indicates that the "lawmakers are satisfied with that interpretation." *Jackson v. Home Depot U.S.A., Inc.*, 388 N.C. 109, 122, 919 S.E.2d 199, 209 (2025) (Newby, C.J., concurring in part and dissenting in part) (citation omitted). The majority, in part, relies on this doctrine. However, respectfully, I believe this canon does not apply here. As an initial matter, there has to be *a specific interpretation of the relevant statute* by a North Carolina court. The majority relies heavily on *State v. Fritsche* in its legislative acquiescence analysis. However, in *Fritsche*, our Supreme Court contemplated a statute which concerned the request for termination of sex offender registration requirement—of course, this is not the statute we are dealing with in this case. *State v. Fritsche*, 385 N.C. 446, 447, 895 S.E.2d 347, 348 (2023). Therefore, *Fritsche* does not apply here as evidence of a specific interpretation. More importantly, the majority does not point to any other specific court interpretation as to the question before us. Consequently, this Court should not rely on this doctrine here.

Lastly, to comment on the majority's constitutional avoidance canon, specifically concerning the private nondelegation doctrine, I note the majority relies heavily on one federal case. The majority fails to: make the logical connection as to why *FCC* is relevant for our state to follow here; define the scope or provide examples of "government functions;" provide any insight as to what government oversight

would be needed or what it would/should entail; explain why CJETS having rulemaking authority for this specific instance would cure the alleged constitutional problem. Moreover, *FCC*, while supposedly dealing with the "private nondelegation doctrine," provides an example of a *constitutional* scheme. The majority does not meaningfully distinguish our question here as to why it is unconstitutional. Why does it matter if the courses vary as long as they adhere to the minimum requirements set forth by the General Assembly?

V. Conclusion

I would have held CJETS exceeded its statutory authority, and the trial court did not err.