



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: State Board of Education

2. Rule citation & name: 16 NCAC 06D .0510 (Three-Year Graduation)

3. Action: Adoption Amendment Repeal

4. Was this an Emergency Rule: Yes No Effective date: 11/16/23

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 11/3/23
- b. Proposed Temporary Rule published on the OAH website: 11/13/23
- c. Public Hearing date: 12/14/23
- d. Comment Period: 11/10/23 – 12/15/23
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 11/10/23
- f. Adoption by agency on: 1/4/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- A serious and unforeseen threat to the public health, safety or welfare.
- The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2023-134, Sections 8A.6.(k)–(s)
Effective date: 10/3/23
- A recent change in federal or state budgetary policy.
Effective date of change:
- A recent federal regulation.
Cite:
Effective date:
- A recent court order.
Cite order:
- State Medical Facilities Plan.
- Other:

Explain: S.L. 2023-134, Sections 8A.6.(k)–(r), required the State Board of Education (“SBE”) to establish a set of graduation requirements that allow students enrolled in North Carolina public high schools to graduate within 3 years of enrollment in 9th Grade. Sections 8A.6.(k) also amended G.S. 115C-12(9d) to prohibit local boards of education from establishing additional requirements beyond those established by the State Board. Section 8A.6.(s) directed the SBE to adopt an emergency rule to implement these requirements by November 1, 2023. S.L. 2023-134 became law on October 3, 2023; the SBE adopted the emergency rule and concurrently proposed the temporary rule during its next regularly scheduled monthly meeting on November 2, 2023. Although the Codifier objected to the emergency rule because it was formally adopted one day after the legislative deadline, the SBE elected to enter the emergency rule into the Administrative Code over the Codifier’s objection to satisfy the substance of the legislative mandate. The emergency rule became effective on November 16, 2023, and the SBE is now prepared to adopt the final temporary rule.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The General Assembly directed the SBE to adopt this rule as an emergency rule by November 1, 2023. In accordance with G.S. 150B-21.1A(a), the SBE was required to simultaneously commence the process for adopting a temporary rule to replace the emergency rule.

Section 8A.6.(s) of S.L. 2023-134 also mandates that “[s]tudents enrolled in tenth grade during the 2023-2024 school year who complete the sequence of courses required for graduation in a three-year period shall be eligible to graduate in the 2024-2025 school year. As a practical matter, PSUs need to be advising students who meet these criteria on course scheduling as soon as possible so that they can satisfy the requirements. Therefore, immediate adoption of the rule is necessary so that PSUs and students know what steps they must take to graduate within three years.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

- Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:
- No

9. Rule-making Coordinator: Ryan Collins

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10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Eric C. Davis

Title: Chair, State Board of Education

E-Mail: eric.davis@dpi.nc.gov

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 16 NCAC 06D .0510 is adopted with changes under temporary procedures as follows:

2
3 **16 NCAC 06D .0510 THREE-YEAR GRADUATION**

4 (a) For the purposes of this Rule, the following definitions shall apply:

5 (1) “Public school unit” or “PSU” is defined in G.S. 115C-5(7a). This Rule shall not apply to a charter school
6 unless the charter school has elected to offer a three-year sequence of courses under G.S. 115C-218.85, or to a
7 regional school unless the regional school has elected to offer a three-year sequence of courses under G.S. 115C-
8 238.66.

9 (2) “Superintendent” means the superintendent of a local school administrative unit or the staff member with the
10 highest decision-making authority for a public school unit, if there is no superintendent.

11 (b) A student enrolled in a PSU who requests to graduate from high school 3 years after entering Grade 9 shall do so
12 in accordance with this Rule. This Rule shall apply to a student who enters Grade 11 ~~at the beginning of the 2024-~~
13 ~~2025 school year or thereafter~~ on or after July 1, 2024 and is at least 16 years of age at the time of graduation.

14 (c) The student shall complete and sign a 3-year graduation request form provided by the student’s PSU. The form
15 must be signed by the student’s parent or legal guardian, unless the student is at least 18 years of age or has been
16 emancipated in accordance with Chapter 7B, Article 35 of the General Statutes.

17 (d) An administrator from the student’s high school or the PSU shall meet with the student and, if the student is under
18 18 years of age and not emancipated, the student’s parent or legal guardian, to discuss the implications of graduating
19 after three years. The administrator shall address, at minimum, the following topics:

20 (1) Plans for transitioning into higher education, employment, or enlistment in the ~~armed forces;~~ Armed
21 Forces of the United States;

22 (2) Discontinued access to high school services and programming, including extracurricular activities and
23 interscholastic athletics; and

24 (3) Support structures available to the student in the high school environment, such as nutrition and school
25 counseling services, which will no longer be available upon graduation.

26 (e) ~~The PSU superintendent or designee shall verify that the student has met the minimum graduation requirements~~
27 ~~established by the State Board of Education, Education (“SBE”), as defined in 16 NCAC 06D .0503, and submit the~~
28 ~~request to the superintendent for approval.~~ 16 NCAC 06D .0503.

29 (f) The superintendent shall approve the request upon verification of the student’s eligibility and compliance with the
30 procedures set forth above, no later than 45 school days after receipt of a request. If the request is approved during the
31 semester after classes have started, the student may elect to graduate immediately or graduate at the end of the
32 semester. However, if the student does not submit the request until after classes have started, the student shall be
33 required to complete the current semester.

34 (g) PSUs shall provide students with information on how to graduate from high school within three years prior to the
35 student selecting the student’s course schedule for Grade 9. Such information shall include the topics listed in
36 Paragraph (d) in this Rule as well as a recommended course schedule to allow the student to satisfy the minimum
37 graduation requirements established by the SBE.

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History Note: Authority G.S. 115C-12(9d); 115C-218.85; 115C-238.66;
Codifier determined that rule did not meet criteria for emergency rule on November 6, 2023.
Emergency Adoption Eff. Nov. 16, 2023.
Temporary Adoption Eff. [DATE DETERMINED BY G.S. 150B-21.3(a)].



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: State Board of Education

2. Rule citation & name: 16 NCAC 06G .0701 (Parental Concern Hearings)

3. Action: Adoption Amendment Repeal

4. Was this an Emergency Rule: Yes No Effective date: 11/16/23

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 11/3/23
- b. Proposed Temporary Rule published on the OAH website: 11/13/23
- c. Public Hearing date: 12/14/23
- d. Comment Period: 11/10/23 – 12/8/23
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 11/10/23
- f. Adoption by agency on: 1/4/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- A serious and unforeseen threat to the public health, safety or welfare.
- The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2023-106, Section 2.(a); S.L. 2023-134, Section 7.81.(d)
Effective date: 10/3/23
- A recent change in federal or state budgetary policy.
Effective date of change:
- A recent federal regulation.
Cite:
Effective date:
- A recent court order.
Cite order:
- State Medical Facilities Plan.
- Other:

Explain: G.S. 116C-76.60, as enacted by S.L. 2023-106, Section 2.(a), provides parents of children in North Carolina public schools the ability to request a parental concern hearing before the State Board of Education (“SBE”) regarding the procedures or practices of a public school unit under Chapter 115C, Article 7B, Part 4 of the General Statutes. The provision also directs the SBE to establish rules for these hearings. S.L. 2023-134, Section 7.81.(d) directed the SBE to adopt an emergency rule for these hearings in order to begin receiving requests by January 30, 2024.

The emergency rule became effective on November 16, 2023, and the SBE is now prepared to adopt the final temporary rule.

7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?

The General Assembly directed the SBE to adopt this rule an emergency in order to begin receiving requests for parental concern hearings by January 30, 2024. Therefore, immediate adoption of the temporary rule is necessary to provide structure and guidance for these hearings by the appointed deadline. In addition, in accordance with G.S. 150B-21.1A(a), the SBE was required to simultaneously commence the process for adopting a temporary rule at the time it adopted the emergency rule.

8. Rule establishes or increases a fee? (See G.S. 12-3.1)

- Yes
Agency submitted request for consultation on:
Consultation not required. Cite authority:
- No

9. Rule-making Coordinator: Ryan Collins

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10. Signature of Agency Head*:



* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Eric C. Davis

Title: Chair, State Board of Education

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RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

1 16 NCAC 06G .0701 is adopted with changes under temporary procedures as follows:

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3 **SECTION .0700 – PUBLIC SCHOOL UNIT OVERSIGHT**

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5 **16 NCAC 06G .0701 PARENTAL CONCERN HEARINGS**

6 (a) For the purposes of this Rule, the following definitions shall apply:

7 (1) “Child” is defined in G.S. 115C-76.1(2).

8 (2) “Hearing officer” means an individual who meets the requirements in G.S. 115C-76.60(b)(1)a.

9 (3) “Parent” is defined in G.S. 115C-76.1(5).

10 (4) “Practice” means a regular method, process, or course of conduct, whether or not established in the written
11 policies of a PSU, by which the PSU provides the notices or information to parents as required by Chapter 115C,
12 Article 7B, Part 4 of the General Statutes. “Practice” does not include isolated incidents or isolated conduct by
13 individual PSU personnel, including those inconsistent with the established procedures of the PSU.

14 ~~(4)~~(5) “Principal” is defined in G.S. 115C-76.1(6).

15 (6) “Procedure” means a regular method or process, as established in the written policies of a PSU, by which the
16 PSU provides the notices or information to parents as required by G.S. 115C-76.45, or age-appropriate instruction
17 on certain topics as described in G.S. 115C-76.55. “Procedure” does not include isolated incidents or isolated
18 conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.

19 ~~(5)~~(7) “Public school unit” or “PSU” is defined in G.S. 115C-5(7a).

20 ~~(6)~~(8) “Superintendent” is defined in G.S. 115C-76.1(8).

21 (b) A parent who wishes to request a parental concern hearing before the State Board of Education (“SBE”) ~~under~~
22 ~~G.S. 115C-76.60~~ regarding the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the
23 General Statutes shall do so in writing. The written request shall be submitted to the SBE, with a copy to the
24 superintendent, and include the following information:

25 (1) The specific procedures or practices of the PSU about which the parent is concerned.

26 (2) The specific concerns that the parent has about the procedures or practices of the PSU.

27 (3) ~~Documented~~ Copies of all written correspondence and summaries of all verbal correspondence with PSU
28 personnel, including date, times, and parties involved for any correspondence conducted by telephone or in
29 person, regarding the parental concern and efforts by the PSU to resolve the concern. The parent shall also include
30 documented evidence that the parent has notified the principal of the school at which the parent’s child is enrolled
31 about these concerns at least 30 days prior to requesting a hearing before the SBE.

32 (4) A description of the relevant facts.

33 (5) An explanation of why the parent believes that the concerns have not been resolved by the PSU.

34 (6) A proposed resolution to address the parent’s concerns.

35 (c) Upon receipt of a request in accordance with Paragraph (b) of this Rule, the SBE shall ~~appoint a hearing officer to~~
36 ~~review the request,~~ or its authorized designee shall review the request and determine whether the SBE has jurisdiction
37 to review the matters therein addressed. The SBE may dismiss the request for any of the following reasons:

- 1 (1) The parent has failed to provide any of the information required by Paragraph (b) of this Rule.
- 2 (2) The parent's concern does not address the procedures or practices of a PSU required by Chapter 115C, Article
- 3 7B, Part 4 of the General Statutes.
- 4 (3) The parent has failed to provide the PSU 30 days to resolve the parent's concern.
- 5 (4) The parent's proposed resolution is not within the legal authority of the PSU or SBE.

6 (d) If the SBE determines that it has jurisdiction to review the matters addressed in the request, the SBE shall appoint
7 a hearing officer to review the request.

8 ~~(d)(e)~~ Upon appointment, the hearing officer shall hold a hearing, subject to the following requirements:

- 9 (1) The parent and the superintendent ~~of the PSU (or the superintendent's designee)~~ shall attend as parties to the
- 10 hearing and may be represented by legal counsel, provided that any party intending to be represented notifies
- 11 the hearing officer at least three business days before the hearing. The hearing officer may delay the hearing
- 12 if a party requests additional time to secure legal representation.
- 13 (2) The hearing officer shall provide the parties with notice of the time and place for the hearing at least five
- 14 business days in advance. The hearing may be held in person or via teleconference, at the discretion of the
- 15 hearing officer.
- 16 (3) Each party shall provide any documentation or written statements to the hearing officer and the other party
- 17 at least three business days before the hearing.
- 18 (4) Each party shall have up to 30 minutes to present the party's case to and answer questions from the hearing
- 19 officer. The hearing officer may extend time for each party's presentation at the hearing officer's discretion.
- 20 (5) The North Carolina Rules of Evidence, codified at Chapter 8C of the General Statutes, shall not apply to the
- 21 hearing, and the hearing officer may consider any information that is relevant to the proceedings.
- 22 (6) The hearing officer shall arrange for audio and video recording of the hearing.

23 ~~(e)(f)~~ Within 30 days of appointment and after having conducted a hearing in accordance with Paragraph (d) of this
24 Rule, the hearing officer shall provide a recommendation to the SBE that includes the following:

- 25 (1) Findings of fact.
- 26 (2) Conclusions of law, including citations to any relevant statutes, rules, or policies.
- 27 (3) A proposed resolution to the ~~ease~~ case, which may include a finding that the parental concern lacks merit.

28 ~~(f)(g)~~ At the next regularly scheduled meeting of the SBE held more than three days after receipt of the hearing
29 officer's recommendation, the SBE shall vote to either approve, reject, or amend the hearing officer's
30 recommendation. The decision of the SBE shall be final.

31 ~~(g)(h)~~ The hearing officer shall provide an invoice to the PSU for the cost of the hearing officer's services, at a rate of
32 two hundred dollars (\$200.00) per hour, within 45 days of submitting the hearing officer's recommendation to the
33 SBE. The PSU shall pay the hearing officer within 60 days of receipt of the invoice.

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35 *History Note: Authority G.S. 115C-76.60;*
36 *Emergency Adoption Eff. Nov. 16, 2023.*
37 *Temporary Adoption Eff. [DATE DETERMINED BY G.S. 150B-21.3(a)].*