

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Education

RULE CITATION: 16 NCAC 06D .0508

DEADLINE FOR RECEIPT: January 23, 2026

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 5, the "A" in "Part 1A" should be capitalized.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: January 9, 2026

1 16 NCAC 06D .0508 is amended as published in 40:07 NCR 636 as follows:

2

3 **16 NCAC 06D .0508 NORTH CAROLINA READ TO ACHIEVE PROGRAM**

4 (a) The governing board of each public school unit shall adopt retention and promotion policies for students in Grade
5 that are consistent with Chapter 115C, Article 8, Part 1a of the General Statutes.

6 (b) For the purpose of ~~implementing the requirements of Chapter 115C, Article 8, Part 1a of the General Statutes,~~
7 ~~assessing reading proficiency under G.S. 115C-83.7(b)(3),~~ local school administrative units shall utilize the alternative
8 assessment approved by the State Board of Education in accordance with G.S. 115C-83.3. Any alternative assessment
9 approved by the SBE shall include the requirements listed in G.S. 115C-83.6(b) and shall not include the use of a
10 "three-cueing system" as defined in G.S. 115C-83.3(9a).

11 (c) The board of directors for a charter school may use an alternative assessment of its choice to ~~satisfy the~~
12 ~~requirements of Chapter 115C, Article 8, Part 1a of the General Statutes;~~ ~~assess reading proficiency under G.S. 115C-~~
13 ~~83.7(b)(3),~~ provided that the board of directors notifies the SBE of the assessment it intends to use no later than
14 ~~December~~ ~~August~~ 1 of the school year in which it intends to use the alternative assessment. ~~The board of directors~~
15 ~~shall be responsible for any expenses associated with utilization of any alternative assessment other than the SBE-~~
16 ~~approved alternative assessment. The provisions of this Paragraph shall also apply to the following:~~

17 (d) ~~The provisions of Paragraph (c) of this Rule shall also apply to the following:~~

18 (1) a local board of education, with respect to any school under the local board's jurisdiction that has
19 been authorized to operate under the Restart Model in accordance with 16 NCAC 06G .0317.

20 (2) a chancellor, with respect to any school operated as a laboratory school under Chapter 116, Article
21 29A of the General Statutes, if the chancellor accepts funding appropriated by the General Assembly
22 to support the Read to Achieve program.

23 (d) The governing body of a public school unit shall be responsible for any expenses associated with utilization of an
24 alternative assessment.

25 (e) For purposes of supplemental tutoring offered in accordance with G.S. 115C-83.8(e), a student is identified as
26 "retained twice" if the student was retained once in Kindergarten, Grade 1, Grade 2, or Grade 3, and was retained
27 again in Grade 3 either by placement in a Grade 3 class or a combined Grades 3 and 4 class in which the student
28 received Grade 3 instruction in reading.

29

30 *History Note:* Authority G.S. 115C-12; 115C-83.1; 115C-83.3; 115C-83.6; 115C-83.7; 115C-83.7A; 115C-83.8;
31 115C-83.10; 115C-174.11; 115C-218.85;

32 *Eff. July 1, 2014;*

33 *Amended Eff. February 1, 2026; January 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Education

RULE CITATION: 16 NCAC 06H .0101

DEADLINE FOR RECEIPT: January 23, 2026

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The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Have you incorporated the various CFR provisions referenced here in another rule? If so, where?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: January 9, 2026

16 NCAC 06H .0101 is readopted as published in 40:07 NCR 637–639 as follows:

SUBCHAPTER 06H - FEDERAL PROGRAMS

SECTION .0100 – OPERATION OF FEDERAL PROGRAMS

16 NCAC 06H .0101 DEFINITIONS

As used in this **Subchapter**: Subchapter, the following definitions apply:

- (1) "Federal agency" is defined in 2 C.F.R. 200.1.
- (2) "Federal award" is defined in 2 C.F.R. 200.1.
- (3) "Federal financial assistance" is defined in 2 C.F.R. 200.1.
- (4) "Federal program" is defined in 2 C.F.R. 200.1.
- (+) (5) "Free appropriate public education" (FAPE) or "FAPE" is defined by ~~34 CFR 300.13~~ in 34 C.F.R. 300.101.
- (2) (6) "Individualized education program" (IEP) or "IEP" is defined by ~~34 CFR 300.340~~ in 34 C.F.R. 300.320.
- (+) (7) "Least restrictive environment" (LRE) or "LRE" is defined by ~~34 CFR 300.550 – 300.556~~ in 34 C.F.R. 300.114.
- (8) "Local education agency" or "LEA" is defined in 34 C.F.R. 303.28(a). For the purpose of federal programs administered by the State Board of Education, the term "LEA" includes any public school unit, as defined in G.S. 115C-5(7a), that is a subrecipient of a federal award.
- (4) (9) "Parent" is defined by 34 CFR 300.20 in 34 C.F.R. 300.30.
- (5) "Willie M." class members are children under age 18 who now or will in the future suffer from serious emotional, mental or neurological handicaps, which handicaps have been accompanied by behavior which is characterized as violent or assaultive; and who are or will be in the future involuntarily placed in institutions or otherwise placed in residential programs; and who have not been provided appropriate treatment and education programs by the state.
- (10) "Recipient" is defined in 2 C.F.R. 200.1. For the purpose of federal programs administered by the State Board of Education, "recipient" includes a "grantee" as defined in 34 C.F.R. 77.1(c).
- (11) "State education agency" or "SEA" is defined in 34 C.F.R. 300.41. The State Board of Education is the SEA for the State of North Carolina.
- (12) "Subaward" is defined in 2 C.F.R. 200.1.
- (13) "Subrecipient" is defined in 2 C.F.R. 200.1. For the purpose of federal programs administered by the State Board of Education, "subrecipient" includes a "subgrantee" as defined in 34 C.F.R. 77.1(c).

History Note: Authority G.S. 115C-144; 115C-106.3; 115C-107.2; 2 C.F.R. 200.1; 34 C.F.R. 300.28; 34 C.F.R. 300.30; 34 C.F.R. 300.41; 34 C.F.R. 300.101; 34 C.F.R. 300.114; 34 C.F.R. 320;

Eff. July 1, 1986;

Amended Eff. December 1, 1999; June 1, ~~1996~~, 1996;

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Education

RULE CITATION: 16 NCAC 06H .0102

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In reviewing this Rule, the staff recommends the following changes be made:

On line 6, "may" is generally a problem in rules without more specific information. What are the circumstances or procedures for withholding funds? Without these details, the rule is potentially vague or unnecessary.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: January 9, 2026

16 NCAC 06H .0102 is readopted as published in 40:07 NCR 637-639 as follows:

16 NCAC 06H .0192 OPERATION OF ~~FEDERAL~~ CHILD NUTRITION PROGRAMS

(a) The Department administers in accordance with applicable federal regulations such federal education programs as are authorized by Congress and accepted by the SBE.

(b) In administering child nutrition programs, the Department will State Board of Education may reclaim and/or or withhold funds from any LEA or program sponsor which subrecipient that fails to comply with current federal regulations and state policies SBE rules until the LEA or program sponsor subrecipient complies.

History Note: Authority G.S. 115C-263; ~~115C-264~~; 115C-409; 2 C.F.R. 200.339;

Eff. July 1, 1986. 1986;

Readopted Eff. February 1, 2026.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Board of Education

RULE CITATION: 16 NCAC 06H .0104

DEADLINE FOR RECEIPT: January 23, 2026

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In reviewing this Rule, the staff recommends the following changes be made:

*Are the sections of the CFR referenced in this rule already incorporated in another rule?
If so, where?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: January 9, 2026

1 16 NCAC 06H .0104 is readopted as published in 40:07 NCR 637-639 as follows:

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3 **16 NCAC 06H .0104 CHILD NUTRITION PROCEDURES SALE OF COMPETITIVE FOODS**

4 (a) National School Lunch Program policies and standards are as follows:

5 (1) A la carte sales are limited to foods contributing to the nutritional well being of the child and aiding
6 in the establishment of good food habits. School food authorities and sponsoring organizations may
7 provide these foods under the following conditions:

8 (A) Sponsors must operate all food and beverage services during or before the established lunch
9 period through the school food service department.

10 (B) The school food service department retains all receipts from the sale of these items.

11 (C) Sponsors must use all food service income for the purpose of the school's non profit child
12 nutrition programs.

13 (D) A la carte items may not include foods of minimum nutritional value, as follows:

14 (i) soda water (soda pop),

15 (ii) water ices,

16 (iii) chewing gum,

17 (iv) processed foods made predominately from sweeteners or artificial sweeteners
18 with a variety of minor ingredients. These foods include hard candy, jellies and
19 gums, marshmallow candies, fondant, licorice, spun candy, and candy coated
20 popcorn; and

21 (v) confections and carbonated drinks.

22 (E) Adults may purchase individual food items without purchasing a complete lunch.

23 (2) Competitive food sales by a school of extra food items in the lunchroom or its general environs must
24 be on a non profit basis. "On a non profit basis" means that the sponsor deposits income from the
25 sale of such food items to the account of the school's non profit lunch and breakfast programs and
26 uses the income solely for these programs.

27 (A) The school may sell extra food items after the established lunch hour is over, only with the
28 approval of the LEA. The established lunch hour is over when the last pupil has been
29 served for the day.

30 (B) Occupational home economics instructional programs which operate under an approved
31 annual vocational education plan and which involve the preparation and sale of foods to
32 individuals other than students are not in competition with the child nutrition program.

33 (C) The Department may deny the opportunity to participate in the program to any school food
34 authority which operates in violation of state policy.

35 (a) As used in this Rule, the following definitions shall apply:

36 (1) "Competitive food" is defined in 7 C.F.R. 210.11(a)(2).

37 (2) "National School Lunch Program" is defined in 7 C.F.R. 210.2.

- (3) "Nonprofit school food service" is defined in 7 C.F.R. 210.2.
- (4) "Nonprofit school food service account" is defined in 7 C.F.R. 210.2.
- (5) "School campus" is defined in 7 C.F.R. 210.11(a)(4).
- (6) "School day" is defined in 7 C.F.R. 210.11(a)(5).

(b) ~~Sponsors must use receipts from child nutrition programs for the cost of operation as outlined in current federal regulations and state policy.~~

(b) All competitive foods shall, at minimum, meet the general nutrition standards established by 7 C.F.R. 210.1.

(c) Each LEA shall maintain records in accordance with 7 CFR 210.11.

(d) Each LEA may sell competitive foods during the school day, on the school campus, under the following conditions:

(1) All receipts from the sale of these items before the cafeteria closes for the day shall be deposited in the nonprofit school food service account.

(2) Adults may purchase individual food items without purchasing a complete lunch.

(e) Instructional programs in culinary arts, which operate under an approved Career and Technical Education plan and involve the preparation and sale of foods to individuals other than students, are not subject to this Rule.

(f) The State Board of Education may deny the opportunity to participate in the National School Lunch Program to any LEA which operates in violation of this Rule.

(e) (g) No full-time public school employee is eligible for part-time employment in nonprofit school food services.

(4) (h) The only adults who may eat in the school food service department nonprofit school food services are school employees, personnel on official school business business, and invited local patrons. These persons shall pay, as a minimum, the adult price for lunch.

History Note: Authority G.S. 115C-263; 115C-264; 7 C.F.R. 210.11(b)(1);

Eff. July 1, 1986. 1986;

Readopted Eff. February 1, 2026.