

Note from the Codifier: The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 984-236-1850 or email oah.postmaster@oah.nc.gov.

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

Notice is hereby given in accordance with G.S. 150B-21.1 that the State Board of Education intends to adopt the rule cited as 16 NCAC 06G .0701.

Codifier of Rules approved this rule as an emergency rule effective November 16, 2023 and received for publication the following notice and proposed temporary rule(s) on: November 3, 2023.

Public Hearing:

Date: December 14, 2023

Time: 10:30 a.m.

Location: <https://ncgov.webex.com/ncgov/j.php?MTID=mc71cb2a60815c84f5270971762b1c2bb>

Reason for Proposed Temporary Action: 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: January 30, 2024. G.S. 116C-76.60, as enacted by S.L. 2023-106, Section 2.(a), provides parents of children in North Carolina public schools 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, of the General Statutes. The provision also directs the SBE to establish rules for these hearings. S.L. 2023-134, Section 7.81.(d) directs the SBE to adopt emergency rules for these hearings in order to begin receiving requests by January 30, 2024. The SBE is providing notice of the proposed temporary rule in accordance with G.S. 150B-21.1A(a).

Comment Procedures: Comments from the public shall be directed to: Ryan Collins, 6301 Mail Service Center, Raleigh, NC 27601; email ryan.collins@dpi.nc.gov. The comment period begins November 10, 2023 and ends December 7, 2023.

CHAPTER 06 - ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 06G - EDUCATION AGENCY RELATIONS

SECTION .0700 – PUBLIC SCHOOL UNIT OVERSIGHT

16 NCAC 06G .0701 PARENTAL CONCERN HEARINGS

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

- (1) "Child" is defined in G.S. 115C-76.1(2).
- (2) "Hearing officer" means an individual who meets the requirements in G.S. 115C-76.60(b)(1)a.
- (3) "Parent" is defined in G.S. 115C-76.1(5).
- (4) "Principal" is defined in G.S. 115C-76.1(6).
- (5) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a).
- (6) "Superintendent" is defined in G.S. 115C-76.1(8).

(b) A parent who wishes to request a parental concern hearing before the State Board of Education ("SBE") under G.S. 115C-76.60 shall do so in writing. The written request shall include the following information:

- (1) The specific procedures or practices of the PSU about which the parent is concerned.
- (2) The specific concerns that the parent has about the procedures or practices of the PSU.
- (3) Documented evidence that the parent has notified the principal of the school at which the parent's child is enrolled about these concerns at least 30 days prior to requesting a hearing before the SBE.
- (4) A description of the relevant facts.
- (5) An explanation of why the parent believes that the concerns have not been resolved by the PSU.
- (6) A proposed resolution to address the parent's concerns.

(c) Upon receipt of a request in accordance with Paragraph (b) of this Rule, the SBE shall appoint a hearing officer to review the request.

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

- (1) The parent and the superintendent of the PSU (or the superintendent's designee) shall attend as parties to the hearing and may be represented by legal counsel, provided that any party intending to be represented notifies the hearing officer at least three business days before the hearing. The hearing officer may delay the hearing if a party requests additional time to secure legal representation.
- (2) The hearing officer shall provide the parties with notice of the time and place for the hearing at least five business days in advance. The hearing may be held in person or via teleconference, at the discretion of the hearing officer.
- (3) Each party shall provide any documentation or written statements to the hearing officer at least three business days before the hearing.
- (4) Each party shall have up to 30 minutes to present the party's case to and answer questions from the hearing officer. The hearing officer may extend time for each party's presentation at the hearing officer's discretion.

- (5) The North Carolina Rules of Evidence, codified at Chapter 8C of the General Statutes, shall not apply to the hearing, and the hearing officer may consider any information that is relevant to the proceedings.
 - (6) The hearing officer shall arrange for audio and video recording of the hearing.
- (e) Within 30 days of appointment and after having conducted a hearing in accordance with Paragraph (d) of this Rule, the hearing officer shall provide a recommendation to the SBE that includes the following:
- (1) Findings of fact.
 - (2) Conclusions of law, including citations to any relevant statutes, rules, or policies.
 - (3) A proposed resolution to the case.

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

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

Authority G.S. 115C-76.60.