

16 NCAC 06D .0307 is proposed for adoption with changes as published in 34:13 NCR 1228 as follows:

**16 NCAC 06D .0307 TEST ADMINISTRATION IN PUBLIC SCHOOLS**

(a) ~~Test Administration~~ Only ~~persons~~ current or retired professional educators as defined in G.S. § 115C-270.1 or teachers who

(1) are employed by ~~the school system, either permanently or contractually,~~ local education agencies (LEAs);  
and

(2) have ~~professional training in education (preferably a North Carolina educator's license)~~ and the state  
Annual Testing Program as required in Rule .0308 of this Section testing program

shall administer secure tests. ~~to students~~

(b) "Secure test" for purposes of this Chapter means "any test developed, adopted, or provided by the State Board of Education that has not been released under G.S. § 115C-174.13."

(c) "Annual Testing Program" for purposes of this Chapter means:

(1) beginning of grade 3 reading proficiency test;

(2) grades 3 through 8 end-of-grade (EOG) English language arts/reading and mathematics;

(2) grades 5 and 8 EOG science;

(3) grade 10 end-of-course (EOC) English II;

(4) grade 11 EOC assessments in NC Math 1, NC Math 3, and EOC Biology;

(5) grade 11 ACT; and

(6) grade 12 Career and Technical Education Concentrators and ACT WorkKeys.

~~(d)~~ (d) The North Carolina Department of Public Instruction (NCDPI) shall supply the secure tests to ~~the local~~  
~~education agencies (LEAs)~~ LEAs. LEAs shall:

~~(A)~~ (1) account to the NCDPI for all secure tests received;

~~(B)~~ (2) provide a secure, locked storage facility for all secure tests received;

~~(C)~~ (3) prohibit the reproduction of any or all parts of ~~the a secure~~ test; and

~~(D)~~ (4) prohibit their employees from disclosing the content of ~~the a secure tests~~ test or specific items  
contained in ~~the a secure tests~~ except as necessary to administer the test to persons other than authorized  
employees of the LEA.

~~(b)(c)~~ LEAs ~~must~~ shall monitor test administration procedures. If ~~a school employee~~ officials discover discovers any  
~~instance of improper administration~~ violation of the Rules in this Subchapter and determine that the validity of the test  
~~results has been affected, they must~~ he or she shall notify the ~~local board of education, declare a misadministration,~~  
~~and order the affected students to be re-tested~~ principal, charter school director, or school test coordinator who shall  
notify the superintendent or the LEA test coordinator. Only If the superintendent and/or the LEA test coordinator  
determines that the violation affected the validity of the test for its intended purpose, he or she shall have the authority  
to order the affected students to be retested, have the authority to declare misadministrations at the local level.

~~(e)(f)~~ The the Superintendent of Public Instruction may conduct audits of LEAs if he/she receives written complaints  
which allege improper test administration, and he/she may If NCDPI determines that the failure to administer a test

1 in accordance with the Rules in this Subchapter produced a result which is invalid for measuring student achievement,  
2 then NCDPI may remedy the error or order the LEA to remedy the error, including require the requiring retesting re-  
3 testing of students.

4 ~~(d) The NCDPI shall score or have scored all tests in the North Carolina Testing Program. In addition, the department~~  
5 ~~shall provide score interpretative services to the LEAs.~~

6 ~~(e)~~ (g) LEAs shall, at the beginning of each school year, provide information to students and parents or guardians  
7 advising them of the districtwide and ~~state~~State-mandated tests that students will be required to take during that school  
8 year. In addition, LEAs shall advise students and parents or guardians of the dates the tests will be administered and  
9 how the results from the tests will be used. Also, information provided to parents shall include whether the State  
10 Board of Education or the local board of education requires the test(s).

11 ~~(f)~~ (h) LEAs shall report scores resulting from the administration of ~~districtwide and state~~State-mandated tests from  
12 the Annual Testing Program to students and parents or guardians no later than 30 days after the test is administered  
13 and along with available score interpretation information within thirty (30) 30 days from generation of the score at the  
14 LEA level or receipt of the scores and interpretive documentation from the NCDPI.

15 ~~(g) In order to ensure adequate representation and the generalizability of the data used to develop tests and to conduct~~  
16 ~~evaluation studies, selected~~ Selected LEAs and schools, determined through stratified random samples, shall  
17 participate in field testing and other sample ~~testing~~ testing.

18 (i) LEAs shall participate in ~~such as the~~ National Assessment of Educational Progress (NAEP) and other national or  
19 international assessments as designated by ~~the department or~~ the SBE.

20  
21 *History Note: Authority G.S. 115C-12(9); 115C-174.10; 115C-174.11; 115C-174.12; 115C-174.13; 115C-*  
22 *174.16;*

23 *~~Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b).~~*

24 *Emergency Rule Eff. August 20, 2019;*

25 *Eff. March 1, 2021.*

16 NCAC 06D .0308 is proposed for adoption with changes as published in 34:13 NCR 1229 as follows:

**16 NCAC 06D .0308 ~~ROLE OF THE TESTING COORDINATOR~~ TEST COORDINATORS,**  
**ADMINISTRATORS AND PROCTORS**

(a) The local superintendent in a local education agency (LEA) shall act as or appoint ~~a school system an~~  
LEA test testing and accountability coordinator to assist in the local administration, reporting, and  
interpretation of test results ~~and other accountability measures~~ of any “secure test,” as defined in Rule  
.0307(b) of this Section, administered in the North Carolina Annual Testing Program, as defined in Rule  
.0307(c) of this Section

(b) ~~LEA testing and accountability~~ test coordinators shall attend required monthly test administration  
training sessions provided by the North Carolina Department of Public Instruction ~~regarding on subjects~~  
including proper test administration, test security, appropriate use of accommodations, scanning and scoring  
answer sheets, and preparation of test materials for scoring at a central site.

(c) LEA test coordinators shall in turn conduct ~~in person~~ training in the Annual Testing Program for ~~the~~  
any school test coordinators coordinators. ~~for the purpose of providing instruction to school test~~  
~~coordinators in their LEAs~~

(d) School test coordinators shall conduct training in the Annual Testing Program for any test administrators  
~~and/or~~ proctors. ~~LEA testing and accountability~~

(e) The LEA test coordinator coordinators shall arrange for the scanning, scoring, and reporting of results  
for any secure test administered in the Annual Testing Program from tests adopted by the State Board of  
Education.

*History Note: Authority G.S. 115C-12(9); G.S. 115C-174.11; 115-174.12;*

*Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b).*

*Emergency Rule Eff. August 20, 2019;*

*Eff. March 1, 2020.*

16 NCAC 06D.0311 is proposed for adoption with changes as published in 34:13 NCR 1230 as follows:

**16 NCAC 06D .0311 TESTING CODE OF ETHICS**

(a) This Rule ~~sets out the administrative testing procedures and testing code of ethics and shall apply to all public school unit (PSU) employees or agents, including charter school and regional school employees, who are involved in the state testing program while they are administering the Annual Testing Program defined in Rule 06D .0307(c) of this Section.~~

(b) The ~~superintendent/charter school director or superintendent's/charter school director's designee~~ PSU shall develop local policies and procedures to ensure maximum test security in coordination with the policies and procedures developed by the test publisher.

(c) The ~~superintendent/charter school director or superintendent's/charter school director's designee~~ PSU shall require all testing coordinators, school test coordinators, test administrators and proctors to be trained as required in Rule .0308 of this Section. ~~instruct personnel who are responsible for the testing program in testing administration procedures. This instruction shall include test administrations that require testing accommodations and shall emphasize the need to follow the directions outlined by the test publisher.~~

(d) The ~~superintendent/charter school director or superintendent's/charter school director's designee~~ PSU shall designate the personnel who are authorized to have access to secure test materials. "Access" to test materials by school personnel means handling the materials but does not include reviewing tests or analyzing test items.

(1) Persons who have access to secure test materials shall not use those materials for ~~personal gain~~ any purpose other than test administration.

(2) No person ~~may~~ shall copy, reproduce, or paraphrase ~~in any manner or for any reason~~ the test materials without the express written consent of the test publisher.

(e) ~~The principal shall ensure test security within the school building. The principal shall store test materials in a secure, locked facility to which only the principal has access. The principal shall not allow anyone access to the test materials except as necessary for administration. allow test materials to be distributed immediately before the test administration.~~

(f) ~~Any breach of security. When PSU personnel discover loss of materials, failure to account for materials, or any other deviation from required security procedures evidence of unauthorized access to the materials, they shall report the discovery without delay be reported immediately to the principal, school test coordinator, school system (LEA) test coordinator, superintendent/ or charter school director, and regional accountability coordinator/director.~~

(g) ~~Preparation for testing. The superintendent/charter school director~~ PSUs shall ensure that ~~school system (LEA)~~ test coordinators:

~~(1)~~ (1) ~~secure necessary materials;~~

~~(2)~~ (1) plan and implement training for school test coordinators, test administrators, and proctors;

~~(3)~~ (2) ensure each school test coordinator and test administrator is trained in accordance with Rule .0308 of this Section; ~~before each test administration on the policies and procedures for conducting a proper test administration and for processing and returning test materials; and~~

- ~~(4)(3)~~ in conjunction with program administrators, ensure ~~the need for~~ test accommodations to students entitled to testing accommodations as defined in 16 NCAC 06G .0315; ~~is~~ are documented and provided ~~that accommodations are limited to the specific need.~~
- (h) The principal or the principal's designee shall serve as school test coordinator.
- (i) The principal shall ensure the school test coordinator maintains test security and accountability of test materials, including taking the following actions:
- (1) before each test administration, the school test coordinator shall ~~accurately~~ count and distribute test ~~materials, and materials;~~
  - (2) ~~immediately~~ after each test administration, the school test coordinator shall without delay collect, count, and return all test materials to the ~~secure, locked storage facility;~~ facility;
  - (3) establishes ~~any needed school policies and~~ procedures to assure all eligible students participating in the Annual Testing Program ~~are tested fairly~~ have an equal opportunity to demonstrate their knowledge on the test; and
  - (34) identifies and trains personnel, proctors, and backup personnel for test ~~administrations;~~ and administrations.
  - (45) ~~encourages a positive atmosphere for testing.~~
- ~~(j) Test administrators shall be school personnel who have professional training in education and the state testing program.~~
- ~~(k)(j)~~ Teachers shall provide instruction that meets or exceeds the state adopted curriculum standards to meet the needs of the specific students in the class. ~~(l)~~ Teachers may help students improve test-taking skills by:
- ~~(2)(1)~~ helping students become familiar with test formats using curricular content;
  - ~~(3)(2)~~ teaching students test-taking strategies and providing practice sessions;
  - ~~(4)(3)~~ helping students learn ways of preparing to take tests; and
  - ~~(5)(4)~~ using resource materials such as test questions from test item banks and linking documents in instruction and test preparation.
- ~~(4)(k)~~ With respect to test administration, ~~the superintendent/charter school director or superintendent's/charter school director's designee~~ PSUs shall:
- (1) assure each school establishes procedures to ensure all test administrators comply with test publisher guidelines;
  - (2) inform the local board of education of any breach of this code of ethics; and
  - (3) inform ~~school system (LEA)~~ test coordinators and principals of their responsibilities.
- ~~(m)(l)~~ The school test coordinator shall:
- (1) assure school personnel know the content of state Rules in this Section and local testing policies;
  - (2) implement the school system and local testing policies and procedures to assure all eligible students are tested fairly participating in the Annual Testing Program have an equal opportunity to demonstrate their knowledge on the test;
  - (3) ensure ~~trained~~ proctors are trained assigned to test administrations ~~by the principal;~~ and

- 1 (4) ensure ~~all violations of testing irregularities~~ Rules in this Section and local testing policies are  
2 reported to the school system (LEA) test coordinator.
- 3 ~~(n)(m)~~ Test administrators shall:
- 4 (1) administer tests according to the directions in the assessment guide and any subsequent updates  
5 developed by the test publisher;
- 6 (2) administer tests to all ~~eligible students~~ enrolled in a grade or course that requires a test in the Annual  
7 Testing Program;
- 8 (3) report all ~~violations of testing irregularities~~ Rules in this Section and local testing policies to the  
9 school test coordinator; and
- 10 ~~(4) provide a positive test taking environment.~~
- 11 ~~(n)~~ Proctors shall serve as additional monitors to help the test administrator assure that students testing occurs fairly  
12 have an equal opportunity to demonstrate their knowledge on the test.
- 13 ~~(p)~~ (o) Scoring. The school system test coordinator shall:
- 14 (1) ensure each test is scored according to the procedures and guidelines defined for the test by the test  
15 publisher;
- 16 (2) maintain quality control during the entire scoring process, which consists of handling and editing  
17 documents, scanning answer documents, and producing electronic files and reports. Quality control  
18 shall address ~~at a minimum~~ scoring accuracy and scoring consistency.
- 19 (3) maintain security of tests and data files at all times, including;
- 20 (A) protecting the confidentiality of students at all times when publicizing test results; and
- 21 (B) maintaining test security of answer keys and item-specific scoring rubrics.
- 22 ~~(q) (p) Analysis and reporting. Educators shall use test scores appropriately. This means that the educator recognizes~~  
23 ~~that a test score is only one piece of information and must be interpreted together with other scores and indicators.~~  
24 ~~Test data help educators understand educational patterns and practices. Educators shall use test scores as one piece of~~  
25 ~~information to be interpreted together with other scores and indicators when determining a student's grade. The PSU~~  
26 ~~superintendent shall ensure that school personnel analyze and report test data ethically and within the limitations~~  
27 ~~described in this paragraph Paragraph.~~
- 28 (1) Educators shall maintain the confidentiality of individual students. PSU personnel shall not  
29 Publicizing—publicize test scores or any written material containing personally identifiable  
30 information from the student's educational records ~~shall not be disseminated or otherwise made~~  
31 ~~available to the public by a member of the State Board of Education, any employee of the State~~  
32 ~~Board of Education, the State Superintendent of Public Instruction, any employee of the North~~  
33 ~~Carolina Department of Public Instruction, any member of a local board of education, any employee~~  
34 ~~of a local board of education, or any other person, except as permitted under the provisions of the~~  
35 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g and regulations adopted  
36 pursuant thereto.

- (2) ~~Educators shall release test scores to students, parents, legal guardians, teachers, and the media with interpretive materials as needed.~~
- (32) Staff development relating to testing must enable school personnel to respond knowledgeably to questions related to testing, including the tests, scores, scoring procedures, and other interpretive materials.
- (4) ~~Items and associated materials on a secure test shall not be in the public domain. Only items that are within the public domain may be used for item analysis.~~
- (5) ~~Data analysis of test scores for decision-making purposes shall be based upon:~~
- (A) ~~disaggregation of data based upon student demographics and other collected variables;~~
- (B) ~~examination of grading practices in relation to test scores; and~~
- (C) ~~examination of growth trends and goal summary reports for state-mandated tests.~~
- (q) Unethical testing practices include, ~~but are not limited to,~~ the following practices:
- (1) encouraging students to be absent the day of testing;
- (2) encouraging students not to do their best;
- (3) using secure test items or modified secure test items for instruction;
- (4) changing student responses at any time;
- (5) interpreting, explaining, or paraphrasing the test directions or the test items;
- (6) classifying students ~~solely~~ for the purpose of avoiding ~~state~~State testing;
- (7) not testing all ~~eligible~~ students enrolled in a grade or course that requires a test in the Annual Testing Program;
- (8) failing to provide required accommodations during testing to students entitled to testing accommodations as defined in 16 NCAC 6G .0315;
- (9) modifying scoring programs including answer keys, equating files, and lookup tables;
- (10) modifying student records ~~solely~~ for the purpose of raising test scores;
- (11) using a single test score to ~~make individual decisions~~ place a student in a grade or a course; and
- (12) ~~misleading the providing inaccurate test results and interpretations to the public concerning the results and interpretations of test data-public.~~
- (r) In the event of a violation of this Rule, the State Board of Education may, ~~in accordance with the contested case provisions of Chapter 150B of the General Statutes,~~ impose any one or more of the following sanctions:
- (1) withhold any ~~applicable~~ monetary incentive awards;
- (2) file a civil action against the person or persons responsible for the violation for copyright infringement or for any other available cause of action;
- (3) seek criminal prosecution of the person or persons responsible for the violation; and
- (4) in accordance with the provisions of 16 NCAC 6C .0312, suspend or revoke the professional license of the person or persons responsible for the violation.
- History Note:* Authority *G.S. 115C-12(9); 115C-174.11; 115C-174.12; 115C-218.85(a)(3);*  
*Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);*

1                    *Emergency Rule Eff. August 20, ~~2019~~2019;*  
2                    *Eff. March 1, 2020.*  
3



16 NCAC 06E .0204 is proposed for adoption with changes as published in 34:13 NCR 1234 as follows:

**16 NCAC 06E .0204      INTERSCHOLASTIC ATHLETICS**

(a) Local Education Agencies (LEAs) ~~and charter school boards~~ are authorized to determine whether and to what extent students in grades 6-12 may participate in interscholastic athletics; provided, however, that students in sixth grade are not eligible to participate in football.

(b) In order to qualify for participation in public school athletics, a student shall meet the following requirements:

(1) The student shall meet the residence criteria of G.S. 115C-366(a). The student shall participate only at the school to which the student is assigned by the LEA or, if over the age requirements, the school to which the student would be assigned at the next higher grade level.

(2) The student shall meet age requirements at each grade level to participate. The principal shall have evidence of the legal birth date of the student. A student who is ineligible to participate at one grade level due to age is eligible to participate at the next higher grade level only. However, no student is eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into sixth grade. No student shall participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade nine or participation on a high school team, whichever occurs first.

~~However, no student shall participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade nine or participation on a high school team, whichever occurs first. No student is eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into sixth grade.~~

(A) A student shall not participate on a sixth, seventh, or eighth grade team if the student becomes 15 years of age on or before August 31 of that school year.

~~A student is eligible to participate in high school athletic contests during a school year if the student does not reach the 19th birthday on or before August 31 of that school year.~~

(B) A student shall not participate on a ninth grade junior high school team if the student becomes 16 years of age on or before August 31 of that school year.

(C) A student is eligible to participate in high school athletic contests during a school year if the student does not reach his or her 19th birthday on or before August 31 of that school year.

~~A student shall not participate on a sixth, seventh or eighth grade team if the student becomes 15 years of age on or before August 31 of that school year.~~

(c) To be eligible to compete during any semester in grades 6, 7, and 8, the student shall have passed at least one less course than the number of required core courses the immediate prior semester and meet promotion standards established by the LEA. To be eligible to compete during any semester in grades 9-12, the student shall have passed at least five courses (or the equivalent for non-traditional school schedules) the immediate prior semester and meet

~~promotion standards established by the LEA. Regardless of the school organization pattern, a student who is promoted from the fifth grade to the sixth grade automatically meets the courses passed requirement for the first semester of the sixth grade. Regardless of the school organization pattern, a student who is promoted from the eighth grade to the ninth grade automatically meets the courses passed requirement for the first semester of the ninth grade. In grades 9-12, the student shall pass at least five courses (or the equivalent for non-traditional school schedules) each semester to be eligible anytime during the present semester and meet promotion standards established by the LEA/Charter School. In grades 6, 7 and 8, the student shall pass at least one less course than the number of required core courses each semester and meet promotion standards established by the LEA/Charter School. Regardless of the school organization pattern, a student who is promoted from the eighth grade to the ninth grade automatically meets the courses passed requirement for the first semester of the ninth grade. Regardless of the school organization pattern, a student who is promoted from the fifth grade to the sixth grade automatically meets the courses passed requirement for the first semester of the sixth grade.~~

(d) The student shall receive a medical examination each year by a ~~du~~ licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9, 90-18.1, and 90-18.2.

(e) The student shall not participate in interscholastic athletics after any of the following:

- (1) graduation;
- (2) becoming eligible to graduate;
- (3) signing a professional athletic contract;
- (4) receiving remuneration as a participant in an athletic contest; or
- (5) participating on an all-star team or in an all-star game that is not sanctioned by the association of which the student's school is a member. The student is ineligible only for the specific sport involved.

(f) Each principal of a school that participates in interscholastic athletics shall certify a list of eligible students for each sport.

(g) Any student-athlete, ~~each~~ coach, or school official in grades 6-12 who is ejected from any athletic contest shall at least be penalized as follows:

- (1) for the first offense, the person shall be reprimanded and suspended for the next game at that level of play (varsity or junior varsity) and for any intervening games at either level;
- (2) for a second offense, the person shall be placed on probation and suspended for the next two games at that level of play (varsity or junior varsity) and for any intervening games at either level;
- (3) for a third offense, the person shall be suspended for one calendar year;
- (4) a coach who is suspended at any level of grades 6-12 (middle school, junior high or high school) ~~may~~ shall not coach in any other grade level in grades 6-12 during the period of suspension.
- (5) Penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.

(h) LEAs ~~and charter schools~~ may allow their schools to belong to the North Carolina High School Athletic Association (NCHSAA), which has established as a minimum the rules adopted by the SBE. The NCHSAA may

waive any eligibility requirement contained in this Rule, except the age requirement, if it finds that the rule fails to accomplish its purpose, or it works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible such as prolonged illness or injury. ~~when applied to a particular student.~~ The NCHSAA may enforce penalties for the violation of this Rule at the high school level.

(i) The LEA ~~or Charter School~~ that has jurisdiction over the high school may impose additional penalties. LEAs or ~~charter schools or~~ conferences may adopt and impose penalties at the middle and junior high school levels.

*History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4);  
~~Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b)~~;  
Emergency Rule Eff. August 20, ~~2019~~-2019;  
Eff. March 1, 2021.*

16 NCAC 06E .0206 is proposed for adoption with changes as published in 34:13 NCR 1235 as follows:

**16 NCAC 06E .0206        ATHLETIC TRAINERS**

(a) Each Local Education Agency (LEA) ~~shall~~ **must** designate for each high school within its jurisdiction either a licensed athletic trainer who is qualified pursuant to Article 34 of Chapter 90 of the General Statutes of North Carolina or a first responder. These persons may be employed on a full-time or part-time basis or may serve as a volunteer.

(b) If not a licensed athletic trainer, a first responder shall:

- (1) have completed and continue to maintain certification in cardiopulmonary resuscitation as certified by an organization such as the American Red Cross or the American Heart Association;
- (2) have completed and continue to maintain certification in first aid as certified by an organization such as the American Red Cross or the American Heart Association;
- (3) have completed and continue to maintain training in concussion management as offered by an organization such as the National Federation of State High School Associations (NFHS).
- (4) have completed and continue to maintain continuing education in injury prevention and management as offered by an organization such as the National Federation of State High School Associations (NFHS); and
- (5) complete 10 hours ~~total~~ of staff development each school year specific to first aid, aid and injury recognition and prevention. The 10 hours may include hours necessary for ~~recertification/renewals~~ recertifications or renewals.

(c) The licensed athletic trainer or first responder ~~shall~~ **may** not have concurrent coaching responsibilities during the time in which the person is working as a licensed athletic trainer or first responder.

(d) A licensed athletic trainer or first responder shall attend all football practices and games, unless excused by the superintendent due to emergency.

(e) Each LEA shall monitor school athletic trainer's or the first responder's compliance with this Rule. ~~rule~~.

~~(f) LEAs shall work toward having a licensed athletic trainer or first responder available for all school practices and games of all sports at both the high school and middle school.~~

*History Note: Authority G.S. 115C-12(12); ~~115C-12(23)~~; 115C-12(23);*

*~~Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);~~*

*~~Emergency Rule Eff. August 20, 2019; 2019;~~*

*Eff. March 1, 2021.*

September 18, 2020

Thomas Ziko  
Interim General Counsel, State Board of Education  
**Sent via email only: Thomas.Ziko@dpi.nc.gov**

Re: Objection to Rules 16 NCAC 06D .0211, .0212, .0307, .0308, .0309, .0310, and .0311

Dear Mr. Ziko:

At its September 17, 2020 meeting, the Rules Review Commission objected to the above-referenced Rules in accordance with G.S. 150B-21.10.

The Commission objected to 16 NCAC 06D .0211 for failure to comply with the APA, ambiguity, and lack of necessity. The Rule refers to an “Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina.” In Item (1), the Rule states the Invitation provides “the required procedures for submission, evaluation, and adoption of textbooks and a schedule for the process.” The Invitation also includes the “criteria used to evaluate textbooks presented for adoption for their conformity to the North Carolina Standard Course of Study.” These contents meet the definition of a “rule” in G.S. 150B-2(8a). Referring to the Invitation rather than stating its contents in rule circumvents the permanent rulemaking process set forth in G.S. 150B-21.2. As written, this allows the agency to amend the Invitation outside the rulemaking process, changing the substance of this Rule without public notice, comment, or RRC review. Failure to provide these procedural requirements in Rule also makes the process for submitting and evaluating textbooks unclear. Therefore, the Commission objected for failure to comply with the APA and ambiguity.

The Commission also objected to Item (2) for lack of necessity. Item (2) directs the General Counsel of the State Board to “review and approve” the Invitation. This statement concerns only the internal management of the agency and is therefore unnecessary. G.S. 150B-2(8a)(a).

The Commission objected to 16 NCAC 06D .0212 for failure to comply with the APA, ambiguity, and lack of necessity. The Rule refers to an “Invitation to Submit Textbooks for Evaluation and Adoption in North Carolina.” In Paragraph (b) the Rule states “Publishers are required to follow

the procedures set forth in the invitation. Failure to comply with all procedure, including stated deadlines, may result in disqualification.” Subparagraph (d)(3) states the Invitation includes the “procedure for reconsideration.” These procedures meet the definition of a “rule” in G.S. 150B-2(8a). Referring to the Invitation rather than stating its contents in rule circumvents the permanent rulemaking process set forth in G.S. 150B-21.2. As written, this allows the agency to amend the Invitation outside the rulemaking process, changing the substance of this Rule without public notice, comment, or RRC review. Failure to provide these procedural requirements in rule also makes the process for submitting and evaluating textbooks unclear. Therefore, the Commission objected for failure to comply with the APA and ambiguity.

Additionally, the Commission objected to 16 NCAC .0212(a) for lack of necessity because it repeats the requirements of G.S. 115C-94.

The Commission objected to 16 NCAC 06D .0307 for lack of necessity, clarity, and statutory authority. The Rule is unnecessary because it repeats portions of 16 NCAC 06D .0302, an existing permanent rule.

The Commission objected to Paragraph (f) for lack of statutory authority. The proposed Rule requires LEAs to report scores on districtwide and statewide standardized tests “within thirty (30) days from generation of the score at the LEA level or receipt of the score and interpretive documentation from the NCDPI.” However, G.S. 115C-174.15 requires scores for local tests be provided within 30 days of administration.

16 NCAC 06D .0307 also contained unclear or undefined terms including “secure tests,” “improper administration,” and other unclear terms as set forth in the requests for technical changes. As a result, the Commission objected for lack of clarity.

The Commission objected to 16 NCAC 06D .0308 for lack of necessity and clarity. The proposed Rule is unnecessary because it repeats 16 NCAC 06D .0303, an existing permanent rule. The Rule is also unclear due to ambiguous or undefined terms including “accountability measures,” “North Carolina Testing Program,” “proper,” and “appropriate.”

The Commission objected to 16 NCAC 06D .0309 for lack of necessity, clarity, and statutory authority. The proposed Rule is unnecessary and unclear because it repeats or conflicts with 16 NCAC 06D .0305, an existing permanent rule. The Commission further objected for lack of clarity due to unclear terms including “eligible students,” “alternative assessments,” “Occupational Course of Study,” “immediately,” and other unclear or undefined terms as detailed in the requests for technical changes.

Additionally, the Commission objected for lack of statutory authority to Paragraphs (d), (j), and (k). The agency did not provide, and Commission staff was not able to locate statutory authority for these Paragraphs.

The Commission objected to 16 NCAC 06D .0310 for lack of clarity. As written, it is unclear what purposes are “approved by the Division of Accountability Services and the State Board of Education” for use of State tests.

The Commission objected to 16 NCAC 06E .0311 for lack of necessity, clarity, and compliance with the APA. The proposed Rule is unnecessary because it repeats portions of 16 NCAC 06D .0306, an existing permanent rule.

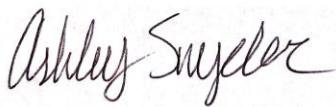
Additionally, the Commission objected to Paragraph (k) for lack of clarity and failure to comply with the APA. The Rule requires teachers to provide instruction that “meets or exceeds the state-adopted curriculum standards.” The curriculum standards appear to be part of the “Standard Course of Study governed by G.S. 115C-81.5. The Commission is not aware of any authority for the Board to adopt curriculum standards outside the rulemaking process. Without the curriculum standards set in rule, the agency can amend the standards outside the rulemaking process, changing the substance of this Rule without public notice, comment, or RRC review. Failure to provide these requirements in rule also makes the requirement for teachers to “provide instruction that meets or exceeds the state-adopted curriculum standards” unclear as written. Therefore, the Commission objected to (k) for failure to comply with the APA and lack of clarity.

The Commission further objected to 16 NCAC 06E .0311 for lack of clarity because it is unclear under what circumstances the Rule applies. This Rule sets forth a “testing code of ethics,” but it is unclear whether the requirements of this Rule apply to all standardized tests, final exams, EOCs, or all tests. This Rule also contains unclear terms including “secure,” “immediately,” “proper,” “eligible students,” “fairly,” and other unclear or undefined terms as detailed in the requests for technical changes.

Apart from submission of a revised rule for 16 NCAC 06D .0310, the agency did not respond to technical change requests to clarify terms or questions of statutory authority in advance of the Commission meeting.

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission’s actions, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Ashley Snyder". The ink is dark and the signature is fluid.

Ashley Snyder  
Commission Counsel

August 20, 2020

Thomas Ziko  
Interim General Counsel, State Board of Education  
**Sent via email only: Thomas.ziko@dpi.nc.gov**

Re: Objection to Rules 16 NCAC 06E .0204 and .0206

Dear Mr. Ziko:

At its meeting this morning, the Rules Review Commission objected to 16 NCAC 06E .0204 and .0206 in accordance with G.S. 150B-21.10.

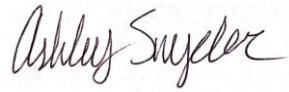
The Commission objected to Rule 16 NCAC 06E .0204 for lack of clarity, necessity, and statutory authority. The Commission objected for lack of clarity and necessity because the Rule repeats or conflicts with the requirements of 16 NCAC 06E .0202. The Commission objected to the Rule for lack of statutory authority because the State Board did not cite authority to regulate the athletics of charter schools absent a provision to do so in the school's charter. Generally, charter schools are exempt from statutes and rules applicable to local boards of education. G.S. 115C-218.10. The State Board's authority to regulate participation in athletics applies to "interscholastic athletic activities conducted by local boards of education." As written, the Rule applies to all charter schools and therefore exceeds the agency's statutory authority.

The Commission objected to Rule 16 NCAC 06E .0206 for lack of necessity and clarity. The Rule is unnecessary because it repeats portions of 16 NCAC 06E .0203 and is unclear because it differs from portions of 16 NCAC 06E .0203.

Please respond to these objections in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's actions, please let me know.



Sincerely,

A handwritten signature in dark ink, appearing to read "Ashley Snyder". The signature is fluid and cursive, with the first name "Ashley" written in a larger, more prominent script than the last name "Snyder".

Ashley Snyder  
Commission Counsel

Cc: Lou Martin, [lou.martin@dpi.nc.gov](mailto:lou.martin@dpi.nc.gov)

## **RRC STAFF OPINION**

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0204

RECOMMENDED ACTION:

- ☐ Approve, but note staff's comment
- ☒ Object, based on:
  - ☒ Lack of statutory authority
  - ☒ Unclear or ambiguous
  - ☒ Unnecessary
  - ☐ Failure to comply with the APA
- ☐ Extend the period of review

COMMENT:

*Staff recommends objection for lack of clarity, necessity, and statutory authority. Staff recommends objection for lack of clarity because this Rule conflicts with requirements in 16 NCAC 06E .0202, a permanent rule last amended in 2000. The existing permanent Rule is attached, and conflicting portions are annotated. This Rule is also unclear because the provisions of the waiver allowed in Paragraph (h) are tied to unclear factors such as "undue hardship."*

*Staff recommends objection for necessity because this Rule repeats portions 16 NCAC 06E .0202. The repetitive portions of the Rule are noted in the attached annotated version.*

*Staff also recommends objection for lack of statutory authority because the State Board has not provided authority to regulate the athletics of charter schools unless a provision to do so is included in the school's charter. Generally, charter schools are exempt from statutes and rules applicable to local boards of education. See G.S. 115C-218.10. The State Board's authority to regulate participation in athletics applies to "interscholastic athletic activities conducted by local boards of education." As written, this proposed rule applies to all charter schools. If an exception applies allowing the State Board to regulate charter school athletics, staff has not been able to find it and it was not provided by the agency in the history note. Therefore, staff recommends objection for lack of clarity, necessity, and statutory authority.*

Ashley Snyder  
Commission Counsel

## § 115C-218.10. Charter school exemptions.

Except as provided in this Article and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit.

## § 115C-12. Powers and duties of the Board generally.

- (23) Power to Adopt Eligibility Rules for Interscholastic Athletic Competition. - The State Board of Education shall adopt rules governing interscholastic athletic activities conducted by local boards of education, including eligibility for student participation. With regard to middle schools and high schools, the rules shall provide for the following: ...

---

**Annotated version of existing permanent Rule 16 NCAC 06E .0202. Staff notes in red refer to Paragraphs in the proposed Rule. Highlighted portions conflict with the proposed Rule.**

### 16 NCAC 06E .0202      INTERSCHOLASTIC ATHLETICS

(a) Only students in grades 7-12 may participate in interscholastic athletic competition. In order to qualify for public school participation, a student must meet the following requirements: Paragraph (a) says grades 6-12 may participate; exempts grade 6 for football. The existing Rule does not regulate charter schools.

- (1) The student must meet the residence criteria of G.S. 115C-366(a). The student may participate only at the school to which the student is assigned by the LEA, or, if over the age requirements, the school to which the student would be assigned at the next higher grade level. Repeats (a)(1).
- (2) The student must meet age requirements at each grade level to participate. The principal must have evidence of the legal birth date of the student. A student who is ineligible to participate at one grade level due to age is eligible to participate at the next higher grade level only. However, no student may participate at the high school level for a period lasting more than eight consecutive semesters, beginning with the student's first entry into grade nine or participation on a high school team, whichever occurs first. Repeats (a)(2).
  - (A) A student is eligible to participate in high school athletic contests during a school year if the student does not reach the 19th birthday on or before October 16 of that school year.
  - (B) A student shall not participate on a ninth grade junior high school team if the student becomes 16 years of age on or before October 16 of that school year.
  - (C) A student shall not participate on a seventh or eighth grade team if the student becomes 15 years of age on or before October 16 of that school year. Proposed rule uses August 31 as the cut-off date instead of October 16.
- (3) In grades 9-12, the student must pass at least 75% of the maximum of possible courses each semester and meet promotion standards established by the LEA. In grades 7 and 8, the student must pass at least one less course than the number of required core courses each semester and meet promotion standards established by the LEA. Regardless of the school organization pattern, a student who is promoted from the eighth grade to the ninth grade automatically meets the courses passed requirement for the first semester of the ninth grade. Proposed rule requires students in grades 9-12 to pass "at least five courses." Remainder of this Subparagraph repeats Paragraph (c).
- (4) The student must receive a medical examination each year (365 days) by a duly licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9, G.S. 90-18.1, and G.S. 90-18.2. Repeats (d).
- (5) The student may not participate after any of the following: Repeats (e).
  - (A) graduation;
  - (B) becoming eligible to graduate;
  - (C) signing a professional athletic contract;
  - (D) receiving remuneration as a participant in an athletic contest; or

- (E) participating on an all-star team or in an all-star game that is not sanctioned by the association of which the student's school is a member. The student is ineligible only for the specific sport involved.
- (b) Each principal of a school which participates in interscholastic athletics must certify a list of eligible students for each sport. **Repeats (f).**
- (c) Any student-athlete, coach or school official in grades 7-12 who is ejected from any athletic contest shall be penalized as follows: **Repeats (g). Proposed Rule refers to grades 6-12 instead of 7-12.**
- (1) for the first offense, the person shall be reprimanded and suspended for the next game at that level of play (varsity or junior varsity) and for any intervening games at either level;
  - (2) for a second offense, the person shall be placed on probation and suspended for the next two games at that level of play (varsity or junior varsity) and for any intervening games at either level.
  - (3) for a third offense, the person shall be suspended for one calendar year.
  - (4) a coach who is suspended at any level of grades 7-12 (middle school, junior high or high school) may not coach in any other grade level in grades 7-12 during the period of suspension.
  - (5) penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.
- (d) LEAs may allow their schools to belong to the North Carolina High School Athletic Association (NCHSAA), which has established as a minimum the rules adopted by the SBE. The NCHSAA may waive any eligibility requirement contained in this Rule, except the age requirement, if it finds that the rule fails to accomplish its purpose or it works an undue hardship when applied to a particular student. The NCHSAA may enforce penalties for the violation of this Rule at the high school level. **Repeats (h).**
- (e) The LEA which has jurisdiction over the school may impose additional penalties. LEAs or conferences may adopt and impose penalties at the middle and junior high school levels. **Repeats (i).**

*History Note:* Filed as a Temporary Amendment Eff. December 27, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;  
Codifier of Rules Objected to the Findings of Need for the Temporary Rule Eff. December 9, 1994;  
Authority G.S. 115C-47(4);  
Eff. July 1, 1986;  
Amended Eff. June 1, 1996; July 1, 1995; July 1, 1994; July 1, 1990;  
Amended Eff. August 1, 2000.

16 NCAC 06E .0204 is proposed for adoption as follows:

**16 NCAC 06E .0204      INTERSCHOLASTIC ATHLETICS**

(a) Local Education Agencies (LEAs) and charter school boards are authorized to determine whether and to what extent students in grades 6-12 may participate in interscholastic athletics; provided, however, that students in sixth grade are not eligible to participate in football.

(b) In order to qualify for participation in public school athletics, a student shall meet the following requirements:

(1) The student shall meet the residence criteria of G.S. 115C-366(a). The student shall participate only at the school to which the student is assigned by the LEA or, if over the age requirements, the school to which the student would be assigned at the next higher grade level.

(2) The student shall meet age requirements at each grade level to participate. The principal shall have evidence of the legal birth date of the student. A student who is ineligible to participate at one grade level due to age is eligible to participate at the next higher grade level only. However, no student shall participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade nine or participation on a high school team, whichever occurs first. No student is eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into sixth grade.

(A) A student is eligible to participate in high school athletic contests during a school year if the student does not reach the 19th birthday on or before August 31 of that school year.

(B) A student shall not participate on a ninth grade junior high school team if the student becomes 16 years of age on or before August 31 of that school year.

(C) A student shall not participate on a sixth, seventh or eighth grade team if the student becomes 15 years of age on or before August 31 of that school year.

(c) In grades 9-12, the student shall pass at least five courses (or the equivalent for non-traditional school schedules) each semester to be eligible anytime during the present semester and meet promotion standards established by the LEA/Charter School. In grades 6, 7 and 8, the student shall pass at least one less course than the number of required core courses each semester and meet promotion standards established by the LEA/Charter School. Regardless of the school organization pattern, a student who is promoted from the eighth grade to the ninth grade automatically meets the courses passed requirement for the first semester of the ninth grade. Regardless of the school organization pattern, a student who is promoted from the fifth grade to the sixth grade automatically meets the courses passed requirement for the first semester of the sixth grade.

(d) The student shall receive a medical examination each year by a duly licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9, 90-18.1, and 90-18.2.

(e) The student shall not participate in interscholastic athletics after any of the following:

(1) graduation;

(2) becoming eligible to graduate;

(3) signing a professional athletic contract;

(4) receiving remuneration as a participant in an athletic contest; or

- 1           (5) participating on an all-star team or in an all-star game that is not sanctioned by the association of  
2           which the student's school is a member. The student is ineligible only for the specific sport involved.
- 3 (f) Each principal of a school that participates in interscholastic athletics shall certify a list of eligible students for each  
4 sport.
- 5 (g) Any student-athlete, coach or school official in grades 6-12 who is ejected from any athletic contest shall at least  
6 be penalized as follows:
- 7           (1) for the first offense, the person shall be reprimanded and suspended for the next game at that level  
8           of play (varsity or junior varsity) and for any intervening games at either level;
- 9           (2) for a second offense, the person shall be placed on probation and suspended for the next two games  
10           at that level of play (varsity or junior varsity) and for any intervening games at either level;
- 11           (3) for a third offense, the person shall be suspended for one calendar year;
- 12           (4) a coach who is suspended at any level of grades 6-12 (middle school, junior high or high school)  
13           may not coach in any other grade level in grades 6-12 during the period of suspension.
- 14           (5) Penalties are cumulative from sport to sport and from sport season to sport season. If no member of  
15           the school's coaching staff is present to assume an ejected coach's duties, the contest shall be  
16           terminated by a forfeit.
- 17 (h) LEAs and charter schools may allow their schools to belong to the North Carolina High School Athletic  
18 Association (NCHSAA), which has established as a minimum the rules adopted by the SBE. The NCHSAA may  
19 waive any eligibility requirement contained in this Rule, except the age requirement, if it finds that the rule fails to  
20 accomplish its purpose, or it works an undue hardship when applied to a particular student. The NCHSAA may enforce  
21 penalties for the violation of this Rule at the high school level.
- 22 (i) The LEA or Charter School that has jurisdiction over the high school may impose additional penalties. LEAs or  
23 charter schools or conferences may adopt and impose penalties at the middle and junior high school levels.

24  
25 *History Note: Authority G.S. 115C-12(12); 115C-12(23);*

26 *Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);*

27 *Emergency Rule Eff. August 20, 2019.*  
28

## **RRC STAFF OPINION**

*PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.*

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0206

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
  - Lack of statutory authority
  - X Unclear or ambiguous
  - X Unnecessary
  - Failure to comply with the APA
- Extend the period of review

COMMENT:

*Staff recommends objection for lack of necessity and clarity. Portions of this Rule are unnecessary because they repeat portions of 16 NCAC 06E .0203, a permanent Rule last amended in 2002. Staff recommends objection for lack of clarity because the rule differs from requirements set in Rule .0203.*

*Repetitive and differing provisions are noted in the attached annotated version of .0203.*

**Annotated version of existing permanent Rule 16 NCAC 06E .0203. Staff notes in red refer to Paragraphs in the proposed Rule. Highlighted portions differ from the proposed Rule.**

**16 NCAC 06E .0203      ATHLETIC INJURY MANAGEMENT**

(a) Each LEA must designate for each high school within its jurisdiction either a licensed athletic trainer who is qualified pursuant to G.S. 90, Article 34 or a first responder. These persons may be employed on a full-time or part-time basis or may serve as a volunteer. **Repeats Paragraph (a)**

(b) A first responder must complete and maintain certification or be in the process of completing courses in the following:

- (1) cardio-pulmonary resuscitation as certified by an organization such as the American Red Cross or the American Heart Association; **Repeats (b)(1)**
- (2) first aid as certified by an organization such as the American Red Cross or the American Heart Association; and **Repeats (b)(2)**
- (3) injury prevention and management as certified by an organization such as the National Athletic Trainers Association, the North Carolina Athletic Trainers Association, or the North Carolina High School Athletic Association. **Repeats (b)(4)**

**Note: The contents of (b)(3) are not included in the existing rule.**

In addition, each first responder must complete **20 hours** in staff development each school year. **Compare to (b)(5) which requires 10 hours.**

(c) The licensed athletic trainer or first responder may not have coaching responsibilities during the season in which the person is working as a licensed athletic trainer or first responder. A licensed athletic trainer or first responder must attend all football practices and games, unless excused by the superintendent due to emergency. The LEA may require a licensed athletic trainer or first responder to attend practices or games that involve other sports. **Repeats (c), (d), and (e).**

**The contents of the last sentence are proposed to be deleted in the new Rule.**

*History Note: Authority G.S. 115C-12(12); N.C. Constitution, Article IX, Sec. 5;  
Eff. July 1, 1986;  
Codifier determined that findings did not meet criteria for temporary rule on December 10, 2001;  
Temporary Amendment Eff. December 31, 2001;  
Amended Eff. September 30, 2002 (Executive Order No. 33).*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0206

**DEADLINE FOR RECEIPT: July 10, 2020**

**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 call our office to inquire concerning the staff recommendation.

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

*Please compare this Rule with Rule .0203 of this Section. Please avoid repetition.*

*In (a), please change "must" to "shall."*

*At line 5, is "first responder" defined?*

*In (b)(5), are you requiring 10 hours total or 10 hours in each type of training listed?*

*In (b)(5), please add a comma after "recognition" or replace the comma with an "and" after "first aid" if "injury recognition and prevention" is one topic.*

*In (c), line 18, do you mean "may" or "shall?"*

*At line 21, please define "emergency." Or, is the definition of "emergency" up to each local superintendent?*

*In (e), please capitalize "Rule."*

*Why is (f) necessary? Specifically, what are you requiring LEAs to do?*

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

Ashley Snyder  
Commission Counsel  
Date submitted to agency: June 29, 2020

1 16 NCAC 06E .0206 is proposed for adoption as follows:

2 **16 NCAC 06E .0206      ATHLETIC TRAINERS**

3 (a) Each Local Education Agency (LEA) must designate for each high school within its jurisdiction either a licensed  
4 athletic trainer who is qualified pursuant to Article 34 of Chapter 90 of the General Statutes of North Carolina or a  
5 first responder. These persons may be employed on a full-time or part-time basis or may serve as a volunteer.

6 (b) If not a licensed athletic trainer, a first responder shall:

7        (1)      have completed and continue to maintain certification in cardiopulmonary resuscitation as certified  
8            by an organization such as the American Red Cross or the American Heart Association;

9        (2)      have completed and continue to maintain certification in first aid as certified by an organization  
10           such as the American Red Cross or the American Heart Association;

11       (3)      have completed and continue to maintain training in concussion management as offered by an  
12           organization such as the National Federation of State High School Associations (NFHS).

13       (4)      have completed and continue to maintain continuing education in injury prevention and  
14           management as offered by an organization such as the National Federation of State High School  
15           Associations (NFHS); and

16       (5)      complete 10 hours of staff development each school year specific to first aid, injury recognition and  
17           prevention. The 10 hours may include hours necessary for recertification/renewals.

18 (c) The licensed athletic trainer or first responder may not have concurrent coaching responsibilities during the time  
19 in which the person is working as a licensed athletic trainer or first responder.

20 (d) A licensed athletic trainer or first responder shall attend all football practices and games, unless excused by the  
21 superintendent due to emergency.

22 (e) Each LEA shall monitor school athletic trainer's or the first responder's compliance with this rule.

23 (f) LEAs shall work toward having a licensed athletic trainer or first responder available for all school practices and  
24 games of all sports at both the high school and middle school.

25  
26 History Note:    Authority G.S. 115C-12(12); 115C-12(23).

27 Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);

28 Emergency Rule Eff. August 20, 2019.