



# TEMPORARY RULE-MAKING

## FINDINGS OF NEED

[Authority G.S. 150B-21.1]

**OAH USE ONLY**

VOLUME: \_\_\_\_\_

ISSUE: \_\_\_\_\_

<b>1. Rule-Making Agency:</b> State Board of Education	
<b>2. Rule citation &amp; name:</b> 16 NCAC 06E .0204 Interscholastic Athletics and Administering Organizations for High School Athletics	
<b>3. Action:</b> <input checked="" type="checkbox"/> Adoption <input type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input type="checkbox"/> Yes                      Effective date: <input checked="" type="checkbox"/> No	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: 03-07-2-22 b. Proposed Temporary Rule published on the OAH website: 03-10-2022 c. Public Hearing date: 03-24-2022 d. Comment Period: 03-14-2022 - 05-02-2022 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 03-07-2022 f. Adoption by agency on: 05-05-2022 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]: July 1, 2022  h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b>  <input type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input checked="" type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: S.L. 2021-184, Part 1, Section 1.(b) Effective date: 11/23/2021 <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input type="checkbox"/> Other:	
<b>Explain:</b> Notwithstanding G.S. 150B-21.1(a2), for 180 days following the effective date of this act, the State Board of Education is authorized to submit temporary rules for high school interscholastic athletic activities to the Rules Review Commission. Notwithstanding G.S. 150B-21.1(a4), the State Board of Education shall not be required to submit a written statement of its findings of need with its submission of temporary rules for high school interscholastic athletic activities during this period (see S.L. 2021-184 Section 1.(b)). Except as otherwise provided in this subsection, the requirements of Article 2A of Chapter 150B of the General Statutes shall apply.  G.S. 150B-21.1(a4) also states that, when promulgating a rule that establishes a fee, an agency must comply with the G.S. 12-3.1 which requires agencies to request a consultation with the Joint Legislative Oversight Commission on Government Operations and the Fiscal Research Division of the General Assembly. This temporary rule does not establish a fee; the rule only delegates the authority to establish a fee to the administering organization. Therefore, this temporary rule is not subject to G.S. 12-3.1. Nevertheless, the State Board of Education has informed the Joint Legislative Oversight Commission on Government Operations and the Fiscal Research Division of the General Assembly that it is filing this temporary rule with OAH and provided them with the information required in a request for consultation.	

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

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

Yes

Agency submitted request for consultation on: 03-08-022  
Consultation not required. Cite authority:

No

9. Rule-making Coordinator:

Thomas Ziko

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10. Signature of Agency Head\*:

*Eric C. Davis*

\* 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:

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**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021**

**SESSION LAW 2021-184  
HOUSE BILL 91**

AN ACT TO RESTRUCTURE OVERSIGHT OF PUBLIC HIGH SCHOOL  
INTERSCHOLASTIC ATHLETIC ACTIVITIES TO ENSURE ACCOUNTABILITY AND  
FAIR PLAY.

The General Assembly of North Carolina enacts:

**PART I. REGULATION OF HIGH SCHOOL INTERSCHOLASTIC ATHLETIC  
ACTIVITIES**

**SECTION 1.(a)** Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 29E.

"High School Interscholastic Athletic Activities.

**"§ 115C-407.50. Definitions.**

The following definitions apply in this Article:

- (1) Administering organization. – A nonprofit organization that has entered into and is in compliance with a memorandum of understanding with the State Board of Education to administer and enforce the adopted rules and requirements of this Article for interscholastic athletic activities at the high school level.
- (2) – (5) Reserved for future codification purposes.
- (6) Parent. – The parent or legal guardian of a student participating or seeking to participate in interscholastic athletic activities.
- (7) Participating school. – A high school that elects to offer interscholastic athletic activities.

**"§ 115C-407.55. Rules for high school interscholastic athletic activities.**

The State Board of Education shall adopt rules governing high school interscholastic athletic activities conducted by public school units that include the following:

- (1) Student participation rules. – These rules shall govern student eligibility to participate in interscholastic athletic activities and shall include, at a minimum, academic standards, enrollment and transfer requirements, attendance requirements, medical eligibility requirements, recruiting limitations, and hardship exceptions.
- (2) Student health and safety rules. – These rules shall govern requirements to ensure student health and safety during participation in interscholastic athletic activities, including rules related to concussions and emergency action plans as required by G.S. 115C-12(23).
- (3) Penalty rules. – These rules shall establish a system of demerits for infractions of rules which may result in reprimands, probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications. The State Board may by rule delegate the authority to establish all or a portion of the penalty rules to an administering organization.



- (4) Appeals rules. – These rules shall establish an appeals process for enforcement of rules that provides for an independent appeals board, notice of the infraction and the appeals process to the party that receives the penalty, and an opportunity to be heard before the independent appeals board.
- (5) Administrative rules. – These rules shall govern classifications of schools into divisions and conferences, administration of games, and requirements for coaching, officiating, sportsmanship, and scheduling of seasons. The State Board may by rule delegate the authority to establish all or a portion of the administrative rules to an administering organization.
- (6) Gameplay rules. – These rules shall be adopted in accordance with the requirements of the governing organization for each sport, including the requirements of the National Federation of State High School Associations. The State Board may by rule delegate the authority to establish all or a portion of the gameplay rules to an administering organization.
- (7) Fees. – These rules shall establish the fees and other amounts that may be charged to a participating school for participation in interscholastic athletic activities. The State Board may by rule delegate the authority to establish all or a portion of the fees to an administering organization.
- (8) Administering organization rules. – These rules shall require that to be designated as an administering organization, a nonprofit must enter into and remain compliant with a memorandum of understanding with the State Board. The rules shall also require the following:
  - a. The State Board may, by majority vote, invalidate any rule or regulation adopted by the administering organization.
  - b. The administering organization be audited annually by a reputable independent auditing firm, engage in open meetings as set out in the memorandum of understanding, and provide the State Board access to records of the administering organization, including financial information, annual audit reports, and any matters related to or impacting participating schools.
  - c. The administering organization shall enter into written agreements with each participating school.
  - d. The memorandum of understanding shall incorporate by reference any subsequent changes to rules or statutes made after the parties enter into the memorandum.
- (9) Reporting rules. – These rules shall establish a process for reporting issues or concerns related to the administration of interscholastic athletic activities.

**"§ 115C-407.60. Administration and enforcement of high school interscholastic athletic activity rules.**

(a) The State Board of Education may enter into a memorandum of understanding for a term of four years with one or more nonprofit organizations to administer and enforce the requirements of this Article and the rules adopted by the State Board for interscholastic athletic activities at the high school level. A memorandum of understanding shall comply with the requirements of this Article. If the State Board by rule delegates the authority to establish certain rules to an administering organization, as provided in G.S. 115C-407.55, the administering organization shall not be required to comply with the requirements of Chapter 150B of the General Statutes in establishing those rules.

The State Auditor is authorized to conduct audits of any administering organization in the same manner as for State agencies in accordance with Article 5A of Chapter 147 of the General Statutes, if the State Auditor deems an audit necessary.

(b) If the State Board is unable to enter into a memorandum of understanding, the State Board shall assign the administration of high school interscholastic athletic activities to the Department of Public Instruction and establish fees sufficient to support the administration of the program.

**"§ 115C-407.65. Conduct of high school interscholastic athletic activities by public school units.**

(a) All public school units with participating schools shall conduct high school interscholastic athletic activities in accordance with the rules adopted by the State Board of Education and as administered and enforced by either an administering organization that is in compliance with the memorandum of understanding or the Department of Public Instruction. Public school units shall not be regulated by any other entities for regular and postseason high school interscholastic athletics.

(b) Participating schools shall purchase catastrophic insurance for high school interscholastic athletic activities as provided in Part 2 of Article 31A of Chapter 58 of the General Statutes."

**SECTION 1.(b)** Notwithstanding G.S. 150B-21.1(a2), for 180 days following the effective date of this act, the State Board of Education is authorized to submit temporary rules for high school interscholastic athletic activities to the Rules Review Commission. Notwithstanding G.S. 150B-21.1(a4), the State Board of Education shall not be required to submit a written statement of its findings of need with its submission of temporary rules for high school interscholastic athletic activities during this period. Except as otherwise provided in this subsection, the requirements of Article 2A of Chapter 150B of the General Statutes shall apply.

**SECTION 1.(c)** The State Board of Education shall negotiate an initial memorandum of understanding to be in effect for four years. The initial memorandum may be renewed for a term of four years. If the State Board of Education has not entered into such a memorandum of understanding by March 15, 2022, the State Board of Education may designate governance of high school interscholastic athletic activities to the Department of Public Instruction for the 2022-2023 school year.

**SECTION 1.(d)** This section is effective when it becomes law and applies to public school units beginning with the 2022-2023 school year. Rules adopted by the State Board of Education as provided in Article 29E of Chapter 115C of the General Statutes, as enacted by this section, shall apply to public school units no earlier than July 1, 2022.

**PART II. CONFORMING CHANGES**

**SECTION 2.(a)** G.S. 115C-12(23) reads as rewritten:

"(23) Power to Adopt ~~Eligibility~~ Rules for Interscholastic Athletic Competition-Activities. – The State Board of Education shall adopt rules governing interscholastic athletic activities conducted by local boards of education, including eligibility for student ~~participation~~ participation, in accordance with this subdivision and Article 29E of this Chapter. With regard to middle schools and high schools, the rules shall provide for the following:

...

~~The State Board of Education may authorize a designated organization to apply and enforce the Board's rules governing participation in interscholastic athletic activities at the high school level."~~

**SECTION 2.(b)** G.S. 115C-47(4) reads as rewritten:

"(4) To Regulate Extracurricular Activities. – Local boards of education shall make all rules and regulations necessary for the conducting of extracurricular activities in the schools under their supervision, including a program of athletics, where desired, without assuming liability therefor; provided, that all interscholastic athletic activities shall be conducted in accordance with rules

~~and regulations prescribed adopted~~ by the State Board of Education, in accordance with G.S. 115C-12(23) and Article 29E of this Chapter."

**SECTION 2.(c)** G.S. 115C-366(f) reads as rewritten:

"(f) This section shall not be construed to allow students to transfer from one local school administrative unit to another for athletic participation purposes in violation of eligibility requirements ~~established adopted~~ by the State Board of Education ~~and the North Carolina High School Athletic Association.~~ Education."

**SECTION 2.(d)** G.S. 116-235(b) is amended by adding a new subdivision to read:

"(4) Interscholastic Athletics. – If the Board of Trustees elects to provide a program of interscholastic athletics, that program shall be conducted in accordance with rules adopted by the State Board of Education, in accordance with Article 29E of Chapter 115C of the General Statutes."

**SECTION 2.(e)** G.S. 143-291(c) is repealed.

**SECTION 2.(f)** This section becomes effective July 1, 2022.

### **PART III. STUDENT-ATHLETIC CATASTROPHIC INSURANCE COVERAGE PROVIDED THROUGH THE DEPARTMENT OF INSURANCE**

**SECTION 3.(a)** Article 31A of Chapter 58 of the General Statutes reads as rewritten:

"Article 31A.

"State Insurance ~~of for~~ Public Education Property. Education.

"Part 1. Public Education Property.

#### **"§ 58-31A-1. Definitions.**

The following definitions shall apply in this ~~Article:~~Part:

...

"Part 2. Student-Athletic Catastrophic Insurance.

#### **"§ 58-31A-60. Catastrophic insurance for covered activities.**

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

(1) Administering organization. – As defined in G.S. 115C-407.50.

(2) Covered activities. – Interscholastic athletic activities that are authorized, sanctioned, or scheduled by a participating school or by an administering organization, including school-supervised practice, game-related activity, and related travel.

(3) Covered persons. – Students or school personnel participating in or responsible for supervising covered activities.

(4) Participating school. – As defined in G.S. 115C-407.50.

(b) The Commissioner of Insurance shall have the duty to offer catastrophic insurance coverage for covered persons to participating schools for covered activities.

(c) Premiums for catastrophic insurance for covered activities shall be paid by each participating school in accordance with rates fixed by the Commissioner, and the Commissioner may purchase from insurers admitted to do business in North Carolina such insurance as may be necessary."

**SECTION 3.(b)** This section is effective when it becomes law and applies to catastrophic insurance coverage beginning with the 2022-2023 school year.

**PART IV. EFFECTIVE DATE**

**SECTION 4.** Except as otherwise provided herein, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18<sup>th</sup> day of November, 2021.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 10:21 a.m. this 23<sup>rd</sup> day of November, 2021

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0204

**DEADLINE FOR RECEIPT: Friday, May 13, 2022**

***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:

*In (f)(3), p.2, line 24, I'm reading this to mean that there are two ideas here, one that the item be consumable AND nontransferable, or two, the item be labeled in a permanent manner. Thus, I believe a comma should be added between "nontransferable" and "or labeled".*

*In (h), p.2, with respect to the rules imposing penalties upon students, coaches, and schools, do your rules otherwise provide for how notice is to be given of the infraction? The version of 115C-407.55(4) in the SL states that appeals rules "shall establish" a process "that provides for... notice of the infraction...." I don't see anything here discussing notice of the infraction.*

*In (k)(1), p.3, line 17-21, can you delegate the ability to waive eligibility requirements to an AO? 115C-407.55 explicitly places student participation rules in the Board's purview, and does not state that the Board can by rule delegate its authority over student participation rules to the AO.*

*In (l)(5), p.4, line 7, delete the period following "level."*

*In (m), p. 4, does the language regarding appeals comply with the version of 115C-407.55(4) in the SL? The language of the SL says that the Board "shall establish an appeals process for enforcement of rules...." While Paragraph (m) does establish an appeals board, it limits its jurisdiction to "appeals from final decisions of an administering organization..." I understand that the Board intends to enter into a MOU with an AO, but the statute does provide that if an MOU is not reached, the administration of HS athletics goes to DPI. Should the Rule not also provide for appeals from DPI, in the event you do not reach a MOU?*

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

Brian Liebman  
Commission Counsel

Date submitted to agency: May 12, 2022



1 16 NCAC 06E .0204 is proposed for adoption under temporary procedures as follows:

2 **16 NCAC 06E .0204      INTERSCHOLASTIC ATHLETICS AND ADMINISTERING ORGANIZATIONS**  
3 **FOR HIGH SCHOOL ATHLETICS**

4 (a) Local Education Agencies (LEAs) Definitions:

5       (1)     "Administering organization" is defined in G.S. 115C-407.50(1).

6       (2)     "Participating school" is defined in G.S. 115C-407.50(7).

7       (3)     "Public school unit" is defined in G.S. 115C-5(7a).

8 (b) Public school units (PSUs) are authorized to determine whether and to what extent students in grades 6-12 6  
9 through 12 may participate in interscholastic athletics; provided, however, that students in sixth grade 6 are not eligible  
10 to participate in tackle football. This Rule shall not apply to charter school athletic programs in kindergarten through  
11 grade 8.

12 ~~(b)(c) In order to qualify for participation~~ To participate in public school interscholastic athletics, a student shall meet  
13 the following requirements:

14       (1)     ~~The A student shall meet the residence criteria of G.S. 115C-366(a), who attends a school supervised~~  
15 ~~by a local board of education~~ The student shall only participate only at in the school to which the  
16 student is assigned by the LEA or, if under G.S. 115C-366. A student enrolled in a charter, regional,  
17 statewide public school, or school operated by the University of North Carolina, must meet all the  
18 enrollment criteria for that school and attend that school. If a student is over the age requirements,  
19 for the school the student attends, the student may participate at the school to which the student  
20 would be assigned or attend at the next higher grade level.

21       (2)     ~~The A student shall meet the age requirements at each grade level to participate. The principal PSUs~~  
22 ~~shall have determine the age of participating students based on a preponderance of the evidence of~~  
23 ~~the legal birth date of the student, known to them.~~ A student who is ineligible to participate at one  
24 grade level due to age is shall be eligible to participate at the next higher grade level only. However,  
25 only, provided, no student is shall be eligible to participate at the middle school level for a period  
26 lasting longer than six consecutive semesters, beginning with the student's entry into sixth grade.  
27 grade 6, and No no student shall be eligible to participate at the high school level for more than eight  
28 consecutive semesters, beginning with the student's first entry into grade nine 9 or participation on  
29 a high school team, whichever occurs first.

30       (A)     A student shall not participate on a ~~sixth, seventh, or eighth~~ 6, 7, or 8 team if the  
31 student becomes 15 years of age on or before August 31 of that school year.

32       (B)     A student shall not participate on a ~~ninth~~ 9 through 12 ~~junior high school~~ team if the  
33 student becomes ~~16~~ 19 years of age on or before August 31 of that school year.

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

1 ~~(e)~~(d) To be eligible to ~~compete~~ participate during any semester in grades 6, 7, ~~and or~~ 8, the student shall have passed  
2 at least one less course than the number of required core courses the immediate prior semester and meet promotion  
3 standards established by the LEA. PSU, provided, a student who is promoted from grade 5 to grade 6 shall be deemed  
4 to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 6. To be eligible  
5 to compete during any semester in grades ~~9-12, 9 through 12~~, the student shall have passed at least five courses (or  
6 the equivalent for non-traditional school schedules) the immediate prior semester and meet promotion standards  
7 established by the LEA. Regardless of the school organization pattern, PSU, provided, a student who is promoted  
8 from the fifth grade to the sixth grade automatically meets the courses passed requirement for the first semester of the  
9 sixth grade. Regardless of the school organization pattern, a student who is promoted from the eighth grade 8 to the  
10 ninth grade 9 automatically meets the courses passed requirement for the first semester of the ninth grade shall be  
11 deemed to have satisfied the requirement set forth in Paragraph to participate in the first semester of grade 9.

12 ~~(d)~~(e) ~~The~~ To be eligible to participate, a student shall receive a medical examination each year every 395 days by a  
13 licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9, 90-18.1, and 90-  
14 18.2.

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

- 16 (1) ~~graduation;~~ graduation, except that the student may continue to participate in playoff and state  
17 championship contests in spring sports after graduation;
- 18 ~~(2)~~ becoming eligible to graduate;
- 19 ~~(3)~~(2) signing a professional athletic ~~contact;~~ contract, except that the student may continue to participate  
20 in any sport for which the student has not signed a professional contract;
- 21 ~~(4)~~(3) receiving remuneration as a participant in an athletic ~~contest, or~~ contest, except that the student may  
22 accept a gift, merchandise, trophy, or other thing of value, provided that:
  - 23 (A) the value does not exceed two hundred fifty dollars (\$250.00) per student per sports season;
  - 24 (B) the item is totally consumable and nontransferable or labeled in a permanent manner, for  
25 example, monogrammed or engraved items; and
  - 26 (C) the item is approved by the student's principal and superintendent; or
- 27 ~~(5)~~(4) participating on an all-star team or in an all-star game that is not sanctioned by the ~~association~~  
28 administering organization of which the student's school is a member. ~~The member, provided, the~~  
29 student is shall be ineligible only for the specific sport involved.

30 ~~(f)~~(g) Each PSU shall require the principal of a school that participates in interscholastic athletics ~~shall~~ to certify a  
31 list of eligible students for each sport.

32 ~~(g)~~(h) Any A PSU shall impose at least the following penalties on a student, student athlete, coach, or school official  
33 in grades ~~6-12~~ 6 through 12 who is ejected from ~~any an interscholastic~~ athletic contest shall at least be penalized as  
34 follows:

- 35 (1) for the first offense, the person shall be reprimanded and suspended from participating in ~~for~~ the  
36 next game at that level of play (varsity or junior varsity); ~~varsity) and for any intervening games at~~  
37 either level;

1 (2) for a second offense, the person shall be placed on probation and suspended from participating in  
2 for the next two games at that level of play (varsity or junior varsity); varsity) and for any intervening  
3 games at either level;

4 (3) for a third offense, the person shall be suspended for one calendar year; and

5 (4) a coach who is suspended at any level of grades 6-12 (middle school, junior high or high school)  
6 shall not coach any team for in any other grade level in grades 6-12 during the period of suspension.

7 ~~(5)~~ Penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's  
8 coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.

9 ~~(h)(i) LEAs PSUs~~ may allow their schools to belong to ~~the North Carolina High School Athletic Association~~  
10 ~~(NCHSAA), which has established as a minimum the rules adopted by the SBE.~~ an administering organization  
11 designated by the State Board of Education. The NCHSAA

12 (j) An administering organization entering into a memorandum of understanding with the State Board of Education  
13 for the purpose of administering interscholastic athletics under this Rule must apply and enforce all of the requirements  
14 of this Rule.

15 (k) The State Board of Education may delegate to an administering organization its authority over participating  
16 schools to:

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

22 (2) adopt, apply, and enforce penalty rules that establish a system of demerits that includes reprimands,  
23 probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications;

24 (3) adopt, apply, and enforce administrative rules, as defined in G.S. 115C-407.55(5);

25 (4) adopt, apply, and enforce gameplay rules, as defined in G.S. 115C-407.55(6); and

26 (5) establish and collect from all its members a uniform membership fee of either:

27 (A) one thousand dollars (\$1,000) for each participating school, or

28 (B) one dollar (\$1.00) for each student enrolled in a participating school.

29 (l) An administering organization shall:

30 (1) enter into a memorandum of understanding with the State Board of Education no later than March  
31 15 prior to the academic year in which it is to begin administering interscholastic athletics and before  
32 each subsequent renewal of a memorandum of understanding;

33 (2) be audited by a reputable independent auditing firm and submit the audit to the State Board of  
34 Education no later than March 15 each year;

35 (3) broadcast the meetings of its membership and board of directors in a manner that is announced on  
36 its website and which may be viewed electronically by any member of the public;

1           (4)     provide to the State Board of Education within 30 days any requested organizational records,  
2                   including but not limited to, financial information, annual audit reports, and any matters related to  
3                   or impacting participating schools;

4           (5)     enter into written agreements with PSUs that allow their eligible schools to participate in  
5                   interscholastic sports, which agreements shall include an explanation of the fees to be charged, the  
6                   obligations of the PSU and participating schools, penalties for the violation of this Rule at the high  
7                   school level. that may be imposed, and an explanation of the process to contest or appeal adverse  
8                   decisions; and

9           (6)     publish the organization's rules through a link on the first page of its website.

10   (m) The State Board of Education will appoint an appeals board to hear and act upon appeals from final decisions of  
11   an administering organization regarding student eligibility, penalties, fees imposed, retaliation, or discrimination.  
12   Panels of no fewer than three members of the appeals board may hear and decide matters on behalf of the board. A  
13   PSU aggrieved by a final decision of the administering organization may file an appeal with the State Board of  
14   Education's Office of General Counsel within five days after receipt of the administering organization's final decision.

15   The PSU's appeal shall:

16           (1)     be in writing;

17           (2)     include a description of the facts of the dispute;

18           (3)     include any evidence submitted to the administering organization;

19           (4)     present an argument explaining why the PSU believe the administering organization's final decision  
20                   was not based on substantial evidence or affected by an error of law.

21   The administering organization may file a response to the PSU's submissions within five days. The panel may shorten  
22   the time to for filing the administering organization's response if the decision affects a student's or coach's eligibility  
23   to participate in an intervening athletic contest. All documents filed in the appeal shall be simultaneously served on  
24   all parties. Any hearing shall be recorded.

25   No later than 30 days after the State Board of Education's receipt of the appeal, a panel of the appeals board shall issue  
26   its decision. The panel shall affirm the administering organization's final decision unless a majority of the panel  
27   determines that the final decision is not supported by substantial evidence or affected by an error of law.

28   The panel's decision shall be final.

29   ~~(i)(n)~~ The LEA PSU that has jurisdiction over the high a school may impose additional penalties. penalties in addition  
30   to those imposed by an administering organization. If there is no administering organization governing a group of  
31   schools, a PSU LEAs or conferences may adopt and impose penalties at the middle and junior high school levels. for  
32   schools under its jurisdiction.

33  
34   *History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50, 115C-407.55; 115C-407.60;*  
35                   *115C-407.65; 116-235(b);*  
36                   *Emergency Adoption Eff. August 20, 2019;*  
37                   *Amended Eff. March 1, 2021;*

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*Eff. July 1, 2022.*