

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: NC State Board of Education

RULE CITATION: 16 NCAC 06C .0326-.0346

RECOMMENDED ACTION:

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

COMMENT:

It is staff's recommendation that the Rules Review Commission object to the temporary rules filed by the State Board of Education because the agency failed to comply with Session Law 2019-149, s. 4. This Section of the Session Law directed the agency to "adopt the rule" by October 1, 2019. As indicated on the Temporary Findings of Need Form for each rule, the agency did not adopt these Rules until November 7, 2019.

The Agency's Temporary Findings of Need Forms indicated that the agency engaged in temporary rulemaking as a result of a recent act of the General Assembly, specifically S.L. 2019-149. In box 7 of the Form, the agency stated that "the General Assembly directed the State Board of Education to adopt by October 1, 2019, a rule required by N.C. Gen. Stat. 115C-269.45(c1)." Based upon the language in box 7, the agency appears to be relying exclusively upon Sections 2 and 4 of S.L. 2019-149 as the authority for this temporary rulemaking. Those Sections state as follows:

SECTION 2. G.S. 115C-269.45 is amended by adding a new subsection to read:
"(c1) Small Group Exception. – Notwithstanding the provisions of subsection (a) of this section, the State Board of Education shall adopt a rule to establish a small group exception for circumstances in which there is a risk of identifying individual program participants. The rule shall include the number of students necessary to qualify for the exception and the alternative method of performance assessment and assignment of

Amber C. May
Commission Counsel

sanctions. The Rule may provide for measuring performance of small student groups cumulatively over multiple years for EPP accountability purposes."

SECTION 4. By October 1, 2019, the State Board of Education shall adopt the rule required by G.S. 115C-269.45(c1), as enacted by this act, and shall report on the rule to the Joint Legislative Education Oversight Committee. The State Board shall apply the rule beginning with data collected from the 2018-2019 academic year for the purposes of the annual report made available to the public by December 15, 2019, and annually thereafter, pursuant to G.S. 115C-269.50.

Section 4 of S.L. 2019-149 specifically provides that the State Board "shall adopt the rule required by G.S. 115C-269.45(c1)" by October 1, 2019. The agency did not take final action on these rules until November 7, 2019. Based upon the legislative mandate, it is Staff's opinion that the Agency's authority to adopt temporary rules has expired.

In addition, for all rules, except for 16 NCAC 06C .0340 which specifically addresses the small group exception, Staff does not believe that the remaining Rules are contemplated by the limited and narrow scope of the mandate contained in Section 2 of S.L. 2019-149. Staff notes that these Rules include two repeals of rules previously made emergency rules in accordance with S.L. 2019-154. The remaining rules are adoptions that deal with general accountability measures, evaluations, and sanctions for Educator Preparation Programs, while Section 2 of S.L. 2019-149 speaks only to creating a small-group exception regarding EPP accountability.

Given the narrow and limited scope of the statutory mandate that the agency is relying upon for authority to engage in temporary rulemaking, these Rules appear to go beyond the limited scope set forth in Section 2 of S.L. 2019-149.

16 NCAC 06C .0326 is proposed for repeal under temporary procedures as follows:

16 NCAC 06C .0326 SANCTIONS FOR EDUCATOR PREPARATION PROGRAMS (EPPS)

History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.45

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

Temporary Repeal Eff. December 16, 2019.

1 16 NCAC 06C .0329 is proposed for repeal under temporary procedures as follows:

2
3 **16 NCAC 06C .0329 EDUCATOR PREPARATION PROGRAM (EPP) ACCOUNTABILITY**
4 **REQUIREMENTS & RISK FACTORS**

5
6 *History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40*

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

8 *Temporary Repeal Eff. December 16, 2019.*
9

1 16 NCAC 06C .0334 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0334 EDUCATOR PREPARATION PROGRAM ACCOUNTABILITY MEASURES**

4 (a) The North Carolina Department of Public Instruction shall collect data for each recognized Educator Preparation
5 Program (“EPP”) in order to compute and evaluate the following required program accountability measures: Annual
6 Teacher Evaluation, Student Growth and Recent Graduate Survey. The North Carolina State Board of Education shall
7 have the authority to determine the pass rates for each of the three accountability measures.

8 (b) For the purposes of this section, “beginning teacher” shall mean a professional educator in North Carolina who is
9 in the first three years of teaching and who holds a Standard Professional 1 license.

10
11 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40;115C-269.35

12 Temporary Adoption Eff. December 16, 2019

1 16 NCAC 06C .0335 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0335 ANNUAL TEACHER EVALUATION**

4 (a) Data from the North Carolina Educator Evaluation System (NCEES) is used to constitute the Annual Teacher
5 Evaluation accountability measure for each recognized Educator Preparation Program. (EPP)

6 (b) The NCEES evaluation standards identify the knowledge, skills, and dispositions expected of all teachers. School
7 administrators shall annually rate the level at which teachers, including beginning teachers, meet five different
8 standards as follows:

9 (1) Teachers Demonstrate Leadership

10 (2) Teachers Establish a Respectful Environment for a Diverse Population of Students

11 (3) Teachers Know the Content they Teach

12 (4) Teachers Facilitate Learning for their Students; and

13 (5) Teachers Reflect on their Practice.

14 (c) For each NCEES standard, a beginning teacher is evaluated on a Continuum of Teaching Practice rubric with
15 ratings of “developing,” “proficient,” “accomplished,” or “distinguished” depending on observation of their teaching.
16 The principal at the beginning teacher’s school shall complete the beginning teacher’s NCEES evaluation.

17 (d) For EPP accountability purposes, the calculation for Annual Teacher Evaluation shall be the percentage of
18 graduates from the EPP in their first three years of teaching who achieve a rating of “proficient,” “accomplished,” or
19 “distinguished” on each of the five NCEES standards.

20 (e) When a beginning teacher does not receive an annual evaluation, that graduate is not included in the EPP’s Annual
21 Teacher Evaluation accountability measure.

22
23 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40;115C-269.35

24 Temporary Adoption Eff. December 16, 2019

1 16 NCAC 06C .0336 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0336 STUDENT GROWTH**

4 (a) Data from the North Carolina Education Value Added Assessment System (EVAAS) constitutes the Student
5 Growth accountability measure for each recognized Educator Preparation Program (EPP).

6 (b) The EVAAS Student Growth indicator is a measure of the amount of academic progress that a teacher's students
7 have made over the course of a grade or class using data from quality assessments such as End-of-Grade or End-of-
8 Course assessments.

9 (b) For EPP accountability purposes, the measure of Student Growth is calculated as the percentage of graduates from
10 the EPP in their first three years of teaching who achieve a growth rating of "meets expected growth" or "exceeds
11 expected growth" as measured by the EPP's graduate's composite EVAAS scores.

12 (1) In this calculation, no school-level EVAAS data shall be used for an individual teacher.

13 (2) When a beginning teacher is not assigned an EVAAS growth rating, that graduate is not included in
14 the EPP's Student Growth measure.

15
16 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40; 115C-269.35

17 Temporary Adoption Eff. December 16, 2019

1 16 NCAC 06C .0337 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0337 RECENT GRADUATE SURVEY**

4 (a) The Recent Graduate Survey accountability measure for each recognized Educator Preparation Program (EPP)
5 shall be prepared by the Department of Public Instruction using data about beginning teachers' perceptions of their
6 teacher preparation collected from the Recent Graduate Survey administered by NCDPI or its designee.

7 (b) The Recent Graduate Survey instrument contains 25 questions designed to capture first year teachers' perceptions
8 of their preparation to enter the profession, over three broad topic areas classified as: Instruction, Supportive Learning
9 Environments, and Teaching Diverse Learners. Data comes from 25 questions which cover how well the EPP prepared
10 a graduate to:

- 11 (1) set challenging and appropriate goals for student learning and performance;
- 12 (2) empower students to become self-directed and productive learners;
- 13 (3) maintain discipline and an orderly, purposeful learning environment;
- 14 (4) develop positive and supportive relationships with students;
- 15 (5) create an environment of high expectations for all students;
- 16 (6) teach in ways that support English Language Learners;
- 17 (7) teach in ways that support students with diverse ethnic, racial, cultural, and socioeconomic
18 backgrounds;
- 19 (8) teach in ways that support special education students;
- 20 (9) teach in ways that support academically gifted students;
- 21 (10) develop a classroom environment that promotes respect and group responsibility;
- 22 (11) teach the concepts, knowledge, and skills of your discipline(s);
- 23 (12) align instruction with state standards;
- 24 (13) relate classroom teaching to the real world;
- 25 (14) develop lessons that build on students' experiences, interests, and abilities;
- 26 (15) develop a variety of assessments (e.g. tests, observations, portfolios, performance tasks);
- 27 (16) provide purposeful feedback to students to guide their learning;
- 28 (17) differentiate instruction;
- 29 (18) use technology in the classroom to improve learning outcomes;
- 30 (19) help students think critically and solve problems;
- 31 (20) develop students' questioning and discussion skills;
- 32 (21) analyze student performance data (e.g. formative and summative assessments, standardized tests,
33 performance tasks, etc.) to improve instruction;
- 34 (22) adapt practice based on research and student performance data;
- 35 (23) self-assess and reflect on own practices;
- 36 (24) collaborate with colleagues to improve student learning; and
- 37 (25) work with parents and families to better understand students to support their learning.

1 (c) For each general area of preparation, a respondent may choose “not addressed,” “not well,” “somewhat well,”
2 “well,” and “very well.”

3 (d) The calculation for the Recent Graduate Survey indicator shall be the percentage of questions for which the
4 respondent indicated “well” or “very well.” The percentage for each respondent is aggregated up to the program level.

5 (e) All public school units with a Beginning Teacher Support Program shall require their beginning teachers to
6 participate in the Recent Graduate Survey. When a beginning teacher does not respond to the Recent Graduate Survey,
7 that graduate is not included in the EPP’s Recent Graduate Survey calculation.

8
9 *History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40; 115C-269.35*

10 *Temporary Adoption Eff. December 16, 2019*

1 16 NCAC 06C .0338 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0338 CONDITIONS FOR DETERMINING ACCOUNTABILITY**

4 For the purposes of Educator Preparation Program accountability standard measurement, Annual Teacher Evaluation
5 and Student Growth shall be calculated using data of all beginning teachers in North Carolina. Standard deviations for
6 these measurements shall be determined using the aggregate of beginning teachers at each approved North Carolina
7 Educator Preparation Program. The Recent Graduate Survey accountability measure shall be determined as a
8 percentage of “well” or “very well” responses to questions as answered by each beginning teacher respondent.
9 Individual percentages of “well” or “very well” responses from beginning teachers shall be aggregated to the program
10 level.

11
12 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40;115C-269.35

13 Temporary Adoption Eff. December 16, 2019

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: NC State Board of Education

RULE CITATION: 16 NCAC 06C .0339 and .0342 through .0346

RECOMMENDED ACTION:

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

COMMENT:

It is staff's recommendation that the Rules Review Commission object to the above referenced Rules for lack of statutory authority and ambiguity.

Rule .0339 creates a point system that is to be applied in the designation of sanctions, including "warned", "probation", and "revoked." Paragraph (b) of this Rule says "Level 1 status for any overall group may result in... issuing of program sanctions pursuant to G.S. 115C-269.45(a)." The remainder of these Rules address specifics regarding these sanctions and when sanctions will be issued. G.S. 115C-269.45 addresses sanctions of EPPs and set forth specific criteria for when an EPP will be assigned each sanction. It is unclear to staff whether these Rules contradict the specific criteria contained in 115C-269.45(a)(1) through (3) or whether the intent of these Rules is to address the "performance measures" as referenced in Statute. Therefore, Staff is recommending objection for lack of statutory authority and ambiguity.

§ 115C-269.45. Sanctions.

(a) Accountability Statuses. - The State Board shall at least annually review the accountability status of each EPP. The State Board shall adopt rules necessary for the sanction of EPPs that do not meet accountability standards or comply with State law or rules. The rules shall provide for the assignment of warned, probation, or revoked statuses according to the following criteria:

- (1) Warned. - An EPP shall be assigned warned status if the program meets any of the following criteria:
 - a. Fails to meet the performance standards set by the State Board for the overall performance of all its students on any of the indicators set forth in G.S. 115C-269.35(a) in any one year.

Amber C. May
Commission Counsel

- b. Fails to meet the performance standards in any two sex, race, or ethnicity demographic groups on any of the indicators set forth in G.S. 115C-269.35(a) in any one year.
 - c. Fails to meet the performance standards for a sex, race, or ethnicity demographic group on any of the indicators set forth in G.S. 115C-269.35(a) for two consecutively measured years, regardless of whether the deficiency is in the same demographic group or standard.
 - d. The State Board determines that the EPP has violated applicable laws or rules that should result in warned status.
- (2) Probation. - An EPP shall be assigned probation status if the program meets any of the following criteria:
 - a. Fails to meet the performance standards set by the State Board for the overall performance of all its students on any of the indicators set forth in G.S. 115C-269.35(a) for two consecutively measured years.
 - b. Fails to meet the performance standards in any three sex, race, or ethnicity demographic groups on any of the indicators set forth in G.S. 115C-269.35(a) in any one year.
 - c. Fails to meet the performance standards for a sex, race, or ethnicity demographic group on any of the indicators set forth in G.S. 115C-269.35(a) for three consecutively measured years, regardless of whether the deficiency is in the same demographic group or standard.
 - d. The State Board determines that the EPP has violated applicable laws or rules that should result in probation status.
- (3) Revoked. - An EPP shall be assigned revoked status and its approval to recommend students for educator licensure revoked if it meets any of the following criteria:
 - a. Is assigned probation status for three consecutively measured years.
 - b. Has been on probation status for one year and the State Board determines that revoking the program's approval is reasonably necessary to achieve the purposes of this Article.
- (b) Revocation. - Any revocation of an EPP's accountability status shall meet the following criteria:
 - (1) Complies with the requirements of notice as described in subsection (f) of this section.
 - (2) Upon assignment of revoked status of EPP approval, the EPP shall not admit new students, but may complete the training of students already admitted by the program and recommend them for licensure. If necessary, the State Board and other EPPs shall cooperate to assist the previously admitted students of the revoked EPP to complete their training.
 - (3) A revocation shall be effective for a period of at least two years. After two years, the program may seek initial authorization to prepare educators for licensure.
- (c) Range of Sanctions. - In addition to revocation as provided in subsections (a) and (b) of this section, the rules described in subsection (a) of this section shall provide for the State Board to assign other sanctions deemed necessary, including one or more of the following:
 - (1) Requiring the EPP to obtain technical assistance approved by the State Board.
 - (2) Requiring the EPP to obtain professional services under contract with another entity.
 - (3) Appointing a monitor to participate in and report to the State Board on the activities of the EPP.
 - (4) Managing the EPP's enrollment.
- (d) Particular Fields of Licensure. - Any sanction authorized or required to be taken against an EPP under subsection (c) of this section may also be taken with regard to a program for a particular field of licensure authorized to be offered by an EPP.

(e) Costs. - Any costs associated with the sanctions under subsection (c) of this section shall be paid by the EPP.

(f) Notice, Hearing, and Appeal. - The State Board shall give written notice to the EPP by certified mail of an EPP's revocation of authorized status, including a written explanation of the basis for the revocation. An EPP may commence a contested case as provided in Article 3 of Chapter 150B of the General Statutes as to the revocation by the State Board. (2017-189, s. 2(i).)

1 16 NCAC 06C .0339 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0339 FOUR POINT SYSTEM FOR EVALUATING EDUCATOR PREPARATION**
4 **PROGRAM EFFECTIVENESS**

5 (a) Accountability thresholds shall utilize a four-point level system for the purposes of evaluating North Carolina
6 Educator Preparation Programs by the North Carolina Department of Public Instruction:

7 (1) Level 4 are those EPPs that perform more than one standard deviation above the mean.

8 (2) Level 3 are those EPPs that perform between and including 0 and 1 standard deviation above the
9 mean.

10 (3) Level 2 are those EPPs that perform below 0 through and including -1 standard deviations below
11 the mean.

12 (4) Level 1 are those EPPs that perform more than one standard deviation below the mean.

13 (b) Level 1 status for any overall group or subgroup can result in program sanctions.

14 (c) The mean value for each Accountability Measure shall be calculated using data from all North Carolina beginning
15 teachers. The standard deviations for each accountability threshold shall be derived from the performance data of all
16 program completers in aggregate from all North Carolina-recognized EPPS.

17 (1) Established accountability thresholds shall remain in effect for five years. At or before the end of a
18 five-year cycle, NCDPI shall re-calculate the standard deviations for each accountability threshold,
19 which shall be used to measure EPP program effectiveness during the next five-year cycle, using
20 the three most recent years of data shall determine.

21 (2) The initial standard deviation calculations to support the four point system of accountability
22 thresholds shall be empirically derived from the performance data of all the State's beginning
23 teachers during the 2017-18 academic year, and the two preceding years: 2015-16 and 2016-17.

24
25 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40; 115C-269.35

26 Temporary Adoption Eff. December 16, 2019
27

1 16 NCAC 06C .0340 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0340 ACCOUNTABILITY MEASURE CONDITIONS, SAMPLE SIZE, AND SMALL**
4 **GROUP EXCEPTION**

5 (a) The North Carolina Department of Public Instruction shall measure Educator Preparation Program performance
6 on each of the accountability measures in the aggregate overall level.

7 (b) NCDPI shall measure EPP performance on each of the accountability measures using disaggregated data to gauge
8 the performance of the following subgroups, gender (male/female), and race/ethnicity (American Indian, Asian, Black,
9 Hispanic, Multiracial, Pacific Islander, White).

10 (c)The minimum sample size shall be 10.

11 (d) If an EPP has no subgroups that meet the minimum sample size over three years, the assessment shall be conducted
12 only at the overall, aggregate level.

13 (e) If an EPP's overall aggregate measure falls below the designated sample size, then its three-year cumulated overall
14 performance shall be measured against the standards, regardless of how small the cumulated number of group
15 members may be.

16
17 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40;115C-269.35

18 Temporary Adoption Eff. December 16, 2019
19

1 16 NCAC 06C .0341 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0341 ANNUAL PERFORMANCE REPORTS**

4 All recognized Educator Preparation Programs shall submit to the State Board of Education annual performance
5 reports containing the following indicators:

- 6 (1) Data related to the EPP's compliance with requirements for field supervision of students during their
7 internship and residency experiences.
- 8 (2) The following information, disaggregated by race, sex, and ethnicity:
 - 9 (a) The number of students who apply to candidacy of the EPP;
 - 10 (b) The number of students admitted as candidates of the EPP;
 - 11 (c) The number of students completing the program;
 - 12 (d) The number of graduates of the EPP licensed in North Carolina;
 - 13 (e) The number of graduates of the EPP employed in North Carolina;
 - 14 (f) The number and percentage of students who convert from a residency license to either an
15 initial professional license or a continuing professional license; and
 - 16 (g) Any other information required by federal law.
- 17 (3) Quality of students entering the EPP, including the average grade point average and average score
18 on preprofessional skills tests or college entrance exams that assess reading, writing, mathematics,
19 and other competencies.
- 20 (4) Graduation rates.
- 21 (5) Time to graduation rates.
- 22 (6) Pass rates of graduates on professional, pedagogy, and content area examinations for the purpose of
23 licensure.
- 24 (7) Percentage of graduates receiving initial professional licenses.
- 25 (8) The activities offered by the program that are designed to prepare educators, including general
26 education teachers and special education teachers, to effectively teach the following:
 - 27 (a) Students with disabilities; and
 - 28 (b) Students of limited English proficiency.
- 29 (9) The activities offered by the program that are designed to prepare educators to do the following:
 - 30 (a) Integrate technology effectively into curricula and instruction, including activities
31 consistent with the principles of universal design for learning.
 - 32 (b) Use technology effectively to collect, manage, and analyze data to improve teaching and
33 learning for the purpose of increasing student academic achievement.
- 34 (10) The retention of beginning educators in the profession for at least two full academic years after
35 licensure in North Carolina.

1 (11) The results of surveys given to school principals that involve evaluation of the program's
2 effectiveness in preparing participants to succeed in the classroom, based on experience with
3 employed program participants.

4 (12) Any other information necessary to enable the State Board to assess the effectiveness of the program
5 on the basis of educator retention and success criteria adopted by the State Board.

6
7 *History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.40;115C-269.35*

8 *Temporary Adoption Eff. December 16, 2019*
9

1 16 NCAC 06C .0342 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0342 EDUCATOR PREPARATION PROGRAM SANCTIONS**

4 (a) To assess the ongoing quality of Educator Preparation Programs, the North Carolina Department of Public
5 Instruction will issue the following annual reports for each North Carolina EPP:

6 (1) EPP Annual Performance Report;

7 (2) EPP Report Card; and

8 (3) Risk Assessment.

9 (b) The State Board of Education will use information from these reports to levy sanctions, as needed.

10 (c) Educator Preparation Programs that have been assigned a sanction by the State Board of Education shall be
11 subject to additional reporting obligations and remediation to support the program back into compliance. The
12 additional reporting requirements applicable to a sanctioned EPP are a function of the sanction imposed and the
13 duration it remains in place.

14 (d) NCDPI shall oversee the administration of EPP accountability sanctions.

15
16 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.45

17 Temporary Adoption Eff. December 16, 2019

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10

3

4
5
6

8
9

16 NCAC 06C .0344 is adopted under temporary procedures as follows:

16 NCAC 06C .0344 WARNED STATUS SANCTIONS

(a) A Warned status due to either a Level 1 designation for overall performance on a program accountability measure or due to a Level 1 designation for the performance of any two subgroups on any indicators in one year shall require the EPP to develop a self-assessed action plan for continuous improvement and return to compliance (Level 2 or higher) with the option to include a peer review in the development of the improvement plan.

(b) A Warned status for a Level 1 designation on one subgroup over two years shall necessitate an action plan for continuous improvement and return to compliance (Level 2 or higher). The plan shall be reviewed and endorsed by another EPP with an overall rating of Level 3 or higher in the area of deficiency.

History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.45

Temporary Adoption Eff. December 16, 2019

1 16 NCAC 06C .0345 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0345 PROBATION STATUS SANCTIONS**

4 (a) A Probation status due to a Level 1 designation in three subgroups within one year shall require the Education
5 Preparation Program to develop an action plan for continuous improvement and return to compliance (Level 2 or
6 higher) with peer technical assistance selected with North Carolina Department of Public Instruction consultation.

7 (b) The designation of Probation status due to Level 1 accountability of the overall program two years in a row
8 shall require the EPP to develop an action plan for continuous improvement and return to compliance (Level 2 or
9 higher) with peer technical assistance selected with NCDPI consultation.

10 (c) A Probation status issued due to any one subgroup meeting a Level 1 designation following two prior years
11 of Warned status shall require the following:

12 (1) An action plan for continuous improvement and return to compliance (Level 2 or higher);

13 (2) An on-site review by NCDPI; and

14 (3) The EPP's provision of notification to all of its enrolled students of its potential Revocation status
15 and the EPP's plan for supporting students through the licensure process.

16
17 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.45

18 Temporary Adoption Eff. December 16, 2019

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: NC State Board of Education

RULE CITATION: 16 NCAC 06C .0346

RECOMMENDED ACTION:

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

COMMENT:

It is staff's recommendation that the Rules Review Commission object to the above referenced Rule for lack of statutory authority. As written, this Rule directly contradicts G.S. 115C-269.45.

Specifically, Paragraph (b) allows for "an EPP on revoked status" to "continue to admit students..."; however, G.S. 115C-269.45(b)(2) states "upon assignment of revoked status of EPP approval, the EPP shall not admit new students."

Further, Paragraph (c) of this Rule provides an EPP the ability to recommend students for licensure for two years once it is placed on revoked status; however, G.S. 115C-269.45(a)(3) states that "An EPP shall be assigned revoked status and its approval to recommend students for educator licensure revoked..." when specific requirement are met. Staff reads the pertinent statute to immediately suspend the ability of an EPP who is on revoked status to recommend approval for licensure.

Amber C. May
Commission Counsel

1 16 NCAC 06C .0346 is proposed for adoption under temporary procedures as follows:

2
3 **16 NCAC 06C .0346 REVOKED STATUS SANCTIONS**

4 (a) A Revoked status issued to an Educator Preparation Program following three consecutive years of Probation
5 status shall require:

6 (1) The EPP to create an action plan for continuous improvement and return to compliance (Level 2 or
7 higher);

8 (2) An on-site review of the EPP by NCDPI; and

9 (3) The EPP's provision of notification to all of its enrolled students of the programs "Revoked" status
10 and the EPP's plan for supporting students through the licensure process.

11 (b) An EPP on Revoked status may continue to admit students to its program but must agree to pay for the North
12 Carolina New Teacher Support program for each North Carolina graduate recommended for licensure.

13 (c) If an EPP remains on Revoked status for more than two years, it shall not recommend students for North
14 Carolina licensure.

15
16 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.45

17 Temporary Adoption Eff. December 16, 2019