

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.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

SESSION LAW 2019-149
HOUSE BILL 107

AN ACT TO MAKE CHANGES TO THE EDUCATOR PREPARATION PROGRAM
PERFORMANCE STANDARDS AND DATA REPORTING SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-269.35 reads as rewritten:

"§ 115C-269.35. Accountability for educator preparation programs.

(a) Performance Measures. – The State Board shall adopt rules necessary to establish standards of performance to govern the continuing accountability of all EPPs. At a minimum, the performance standards shall be based on the following information that is disaggregated with respect to race, sex, and ethnicity:

- (1) Performance based on the standards and criteria for annual evaluations of licensed employees.
- (2) Proficiency and growth of students taught by educators holding an initial professional license, to the extent practicable. When available, EVAAS data shall be used to measure student proficiency and growth.
- (3) Results from an educator satisfaction survey, developed by the State Board with stakeholder input, performed at the end of the educator's first year of teaching after receiving an initial professional license.
- (4) ~~Quality of students entering the EPP, including the average grade point average and average score on preprofessional skills tests or college entrance exams that assess reading, writing, mathematics, and other competencies.~~

(b) Annual Performance Reports. – The State Board shall require all recognized EPPs to submit annual performance reports. The performance reports shall provide the State Board with a focused review of the EPPs and the current authorization process in order to ensure that the programs produce graduates that are well prepared to teach. At a minimum, the annual report shall contain the following indicators:

- (1) Performance data from subsection (a) of this section.
- (2) Data related to the EPP's compliance with requirements for field supervision of students during their internship and residency experiences.
- (3) The following information, disaggregated by race, sex, and ethnicity:
 - a. The number of students who ~~apply~~ apply to candidacy of the EPP.
 - b. The number of students ~~admitted~~ admitted as candidates of the EPP.
 - c. ~~The number of students retained.~~ The number of students completing the program.
 - d. ~~The number of students completing the program.~~ The number of graduates of the EPP licensed in North Carolina.
 - e. ~~The number of students employed as beginning teachers under initial professional licenses by not later than the first anniversary of completing the program.~~ The number of graduates of the EPP employed in North Carolina.



- f. ~~The amount of time required by students employed as beginning teachers under residency licenses to be issued initial professional licenses.~~ The number and percentage of students who convert from a residency license to either an initial professional license or a continuing professional license.
- g. ~~The number of students retained in the profession.~~ Any other information required by federal law.
- h. ~~Any other information required by federal law.~~
- (4) ~~The ratio of field supervisors to students completing an internship or residency.~~ Quality of students entering the EPP, including the average grade point average and average score on preprofessional skills tests or college entrance exams that assess reading, writing, mathematics, and other competencies.
- (5) Graduation rates.
- (6) Time-to-graduation rates.
- (7) ~~Average scores~~ Pass rates of graduates on professional, pedagogy, and content area examinations for the purpose of licensure.
- (8) Percentage of graduates receiving initial professional licenses.
- (9) ~~The extent to which the activities offered by the program that are designed to prepares~~ prepare educators, including general education teachers and special education teachers, to effectively teach the following:
 - a. Students with disabilities.
 - b. Students of limited English proficiency.
- (10) The activities offered by the program that are designed to prepare educators to do the following:
 - a. Integrate technology effectively into curricula and instruction, including activities consistent with the principles of universal design for learning.
 - b. Use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of increasing student academic achievement.
- (11) ~~The perseverance-retention of beginning educators in the profession, as determined on the basis of the number of beginning educators who maintain status as active contributing members in the North Carolina State Employee Retirement System profession for at least three two years after licensure in comparison to similar programs.~~ licensure in North Carolina.
- (12) The results of surveys given to school principals that involve evaluation of the program's effectiveness in preparing participants to succeed in the classroom, based on experience with employed program participants.
- (13) Any other information necessary to enable the State Board to assess the effectiveness of the program on the basis of educator retention and success criteria adopted by the State Board.
- (c) Submission of Annual Performance Reports. – Performance reports shall be provided annually to the following:
 - (1) The State Board.
 - (2) The board of trustees or board of directors of the entity submitting the report.
- (d) Information Requests by EPPs. – The State Board of Education shall annually provide, upon request, the data required to be included in an EPP's annual performance report related to subdivisions (1) and (2) of subsection (a) of this section and subdivision (11) of subsection (b) of this section. The State Board of Education shall provide this information to an EPP as aggregate data and disaggregated by race, sex, and ethnicity. Notwithstanding Article

21A of this Chapter, local school administrative units shall provide to the State Board of Education for the purposes of these information requests any North Carolina Educator Evaluation System effectiveness status assigned to teachers based on queries from the State Board. The State Board of Education shall not report aggregated or disaggregated data to the EPP that reveals confidential information in a teacher's personnel file, as defined by Article 21A of this Chapter, such as making the effectiveness status personally identifiable to an individual teacher."

SECTION 1.5. G.S. 115C-269.45(a) reads as rewritten:

"(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.
 - 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-any one~~ 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-any one~~ 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."

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

SECTION 3.(a) The State Board of Education, in consultation with the Department of Public Instruction and the Professional Educator Preparation and Standards Commission (PEPSC), shall develop a formulaic, performance-based weighted model for the purposes of comparing the annual report card information between each educator preparation program (EPP) pursuant to G.S. 115C-269.50. The State Board, in consultation with the Department and PEPSC, shall do at least the following in designing the weighted model:

- (1) Identify and select measures from the annual performance reports required by G.S. 115C-269.35(b), as amended by this act, to be used in the weighted model.
- (2) Assign weight to each measure, including making rounding decisions for awarding points.
- (3) Determine the number of years of data that will be used to calculate measures, such as three or five years.
- (4) Examine potential reasons for excluding EPPs from the reporting, including if there are missing or too few data points for certain measures.
- (5) Establish targets and minimum standards. To the extent practicable, EPPs shall be measured against objective criteria rather than norm-referenced criteria.
- (6) Consider whether the weighted model should be used solely for public accountability and to inform policymakers or if the weighted model may also be used as a corrective or compliance tool.
- (7) Examine how an information dashboard system could be used as part of the reporting system, including any challenges related to integrating data from both public and private EPPs in one information dashboard system.
- (8) Examine whether additional information should be included in the weighted model to most effectively achieve the following:
 - a. Meet federal and State law requirements.
 - b. Hold EPPs accountable for established standards.
 - c. Assist EPPs in improving performance.
 - d. Communicate EPP performance to policymakers and the public.
- (9) Identify any necessary changes to State law that would enable a transition to the new weighted model.

SECTION 3.(b) By February 15, 2020, the State Board, in consultation with the Department and PEPSC, shall report to the Joint Legislative Education Oversight Committee on (i) the development of the formulaic, performance-based weighted model for EPPs as required by subsection (a) of this section, (ii) recommendations on the purposes and uses of the weighted model, (iii) recommendations on the time line for possible implementation of the weighted model, and (iv) any legislative changes needed for implementation of the model. The State Board shall not implement the weighted model without express authorization from the General Assembly.

SECTION 3.5. The State Board of Education, in consultation with the Professional Educator Preparation and Standards Commission (PEPSC), shall study the inclusion as a performance measure for EPPs the two-year retention rate for individuals who completed the EPP and became initially licensed and employed in a North Carolina public school. By February

15, 2020, the State Board shall submit a report on the study, including a recommended retention-rate performance standard for EPPs, to the Joint Legislative Education Oversight Committee. The State Board shall not implement the two-year retention rate as a performance measure without express authorization from the General Assembly.

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 5. This act is effective when it becomes law. Section 1 of this act applies to (i) educator preparation programs (EPPs) authorized by the State Board of Education on or after the date this act becomes law and (ii) reports submitted to the State Board and reviews by the State Board of an EPP beginning with those based on data from the 2019-2020 academic year.

In the General Assembly read three times and ratified this the 11th day of July, 2019.

s/ Carl Ford
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 11:18 a.m. this 22nd day of July, 2019

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: November 18, 2019

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:

In the Findings of Need Forms you've indicated that you need these Rules for a Report to be made public by December 15, 2019; however, these Rules will not be effective until December 16, 2019 per your filing. Was this intentional?

Please submit an original and 2 copies of all Rules.

Please only print on one side of the paper.

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0326; Sanctions for Educator Preparation Programs (EPPs)

3. Action: ☐ Adoption ☐ Amendment ☒ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

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.



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0329; Educator Preparation Programs (EPP) Accountability Requirements and Risk Factors

3. Action: ☐ Adoption ☐ Amendment ☒ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0334; Educator Preparation Programs (EPP) Accountability Measures

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0334

DEADLINE FOR RECEIPT: November 18, 2019

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:

Since 115C-269.1 provides a definition for "recognized EPP", you may want to provide a cross-reference or add this citation to your History Note.

Overall, I'm a bit confused by what this Rule is doing. Is it intended to apply to the performance measures set forth in 115C-269.35(a)? If so, please be sure to use consistent terminology and make this more clear. Also, if this is intended to address 115C-269.35(a), (b) refers to a "standard professional 1 license" while 115C-269.35(a) refers to an initial professional license." Are these the same thing?

In (a), what kind of data are they required to collect?

By (a), do you mean something like "The North Carolina Department of Public Instruction shall collect any necessary data, such as (provide some examples), and shall compute and evaluate the accountability measures set forth in Rules .0335 through .0337 of this Section"? Also, is "compute" accurate here?

In (a), what is meant by "the North Carolina Board of Education shall have the authority to determine the pass rates for each of the three accountability measures"? First, what is the pass rate? Is this passing score specifically exempted from the rulemaking process? If not, please provide it here or delete this language.

In (b), capitalize "section"

Why is G.S. 115C-268.5 included in your History Note? This mandates the Professional Educatory Preparation and Standards Commission to provide recommendations to the Board. Is this included because the Board didn't take the recommendations in accordance with (c)?

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0335; Annual Teacher Evaluation

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

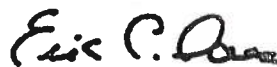
E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0335

DEADLINE FOR RECEIPT: November 18, 2019

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:

Overall, is this Rule intended to address 115C-269.35(a)(1)?

In (a), what is this System? Is that how DPI is supposed to obtain the data required by .0334 with regard to teacher evaluations? If so, please make that more clear. Perhaps something like "The Department of Instruction shall obtain data for each recognized EPP from the North Carolina Educatory Evaluation System in order to perform annual teacher evaluations." Otherwise, a lot of (a) appears simply to be informational as opposed to a requirement.

In (a), move the (EPP) inside the period.

In (b), are school administrators supposed to enter the ratings into the NCEES in order for DPI to evaluate? Overall, this is unclear.

In (b), what is the intent of (b)? Again, this appears to be solely informational. Can you delete the entire first sentence? By the remaining, do you mean something like "School administrators shall annually rate teachers, including beginning teachers, in accordance with Paragraph (c) of this Rule on the teacher's ability to:"

In (b)(1) through (5) begin each line with a lower case letter and, if you take any variation of the suggestion, delete "teachers" at the beginning of each Subparagraph. Also, if you keep this, is the intent here that the administrator rate them as a group or as individuals? If it's individuals, shouldn't it be "teacher's"?

Why are the words in (b)(1) through (5) capitalized?

End (b)(1) through (3) with semi-colons

(b)(1) through (5) are very subjective. How is the administrator to make these determinations?

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

What is the difference in “developing”, “proficient”, “accomplished”, and “distinguished”? Are these defined elsewhere in rule or statute?

What is the difference in (c) and the general requirement that these be done specifically for beginning teachers? (b) says that this has to be done for everyone, but (c) through (e) only speaks to beginning teachers. If this intended to apply to everyone, but about the teachers who have more than 3 years experience? If not, please revise Paragraph (b) for clarity.

In (d), is this the calculation that DPI is supposed to use? Again, this is unclear.

I don’t understand (e). You’ve said that beginning teachers have to have this evaluation. When would they not receive an annual evaluation? To the extent that you need this and can clarify, please change “is not” to “shall not be”

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

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0336; Student Growth

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0336

DEADLINE FOR RECEIPT: November 18, 2019

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:

Overall, is this Rule intended to address 115C-269.35(a)(2)?

In (a), what is this System? Is that how DPI is supposed to obtain the data required by .0334 with regard to student growth?

In (b), do you mean something like "Data from the North Carolina Education Value Added Assessment System (EVAAS) shall be used to measure proficiency and growth in accordance with 115C-269.35(a)(2). Data to be include in the EVAAS shall include measures such as End-of-Grade or End-of-Course assessments."

Please note that you have two (b) Paragraphs. Please make the second one (c).

In the second (b), by "EPP accountability purposes", do you mean "For purposes of measuring student proficiency and growth..."

Change "is" to "shall be" to "is calculated"

In the second (b), who is "their"? Beginning teachers?

In the second (b), what is the difference between "meets expected growth" an "exceeds expected growth"?

Why are (b)(1) and (2) separated out as Subparagraphs? It seems as though (b)(2) would stand alone as its own Paragraph and (b)(1) could be included with the second (b). If there is a reason that these are separated out, please provide some introductory language.

What is the intent of (b)(1)? What is school-level EVAAS data?

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0337; Recent Graduate Survey

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0337

DEADLINE FOR RECEIPT: November 18, 2019

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:

In (a), what is the "data about beginning teachers' perceptions..." Is it not the questionnaire referenced in (b)?

In (b), is the "data" the same as the "instrument" in (b)? Please use consistent terminology so as to eliminate any potential clarity issues.

Much of (b) appears to be unnecessary and confusing. Please clarify the actual requirement. Here, I believe that you mean something like "DPI shall measure beginning teachers' perceptions of their teacher preparation by an EPP using a Recent Graduate Survey. The survey shall include the following information." Please note that this combines (a) and (b).

In (c), what is a "general area of preparation"? Is this the questions set forth in Paragraph (b)? If so, just say that.

In (e), what is your authority to tell public schools to require participation from their beginning teachers? You very well may have it.

In (e), change "is not" to "shall not be"

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 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*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0338; Conditions for Determining Accountability

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0338

DEADLINE FOR RECEIPT: November 18, 2019

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 consider breaking this Rule out into Items. I think that it might be more clear that way. It would look something like this:

- (a) EPP accountability standard measures required by 115C-269.35(a) shall be in accordance with the following: ‘*
 - 1. teacher evaluations in accordance with Rule .0335 and student growth in accordance with Rule .0336 shall be calculated using data of all beginning teachers in North Carolina; and*
 - 2. the recent graduate survey in accordance with .0336 shall be calculated as a percentage...*
- (b) Standard deviations shall be determined using...*
- (c) Individual percentages..*

On line 4, what is the “Educatory Preparation Program accountability standard measurement”? Do you mean “the EPP Performance measures required by 115C-269.35(a)”?

On line 6, who shall determine the “standard deviation”?

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 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*



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0339; Four Point System for Evaluating Educator Preparation Program Effectiveness

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

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).)

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0339

DEADLINE FOR RECEIPT: November 18, 2019

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:

Add "as follows" at the end of "Public Instruction" in (a).

End (a)(1) through (3) with semi-colons and add an "and" at the end of (a)(3).

In (b), change "can" to "may."

Also in (b), how will it be determined whether this status is going to result in sanctions? Who will make this determination? What factors are they to use?

Why are (c)(1) and (2) separated out? Please either provide some introductory language, make these their own Paragraphs, or otherwise clarify the intent.

In (c)(2), why are the specific years included here? I'm not necessarily implying a change is needed, but I'm trying to understand the intent.

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0340; Accountability Measure Conditions, Sample Size, and Small Group Exceptions

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0340

DEADLINE FOR RECEIPT: November 18, 2019

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:

In (b), change the comma to a colon after "subgroups" and list the subgroups into a list. Alternatively, delete "the following subgroups,"

In (b), change the slashes to "and" or "or", whichever is intended.

In (b), add "and" or "or" before white.

In (e), delete "then"

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0341; Annual Performance Reports

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0341

DEADLINE FOR RECEIPT: November 18, 2019

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:

Much of this Rule recites 115C-269.35(b) and is therefore unnecessary. What is the overall intent?

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0342; Educator Preparation Program Sanctions

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0342

DEADLINE FOR RECEIPT: November 18, 2019

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:

In (a), change "will" to "shall."

Overall, I'm having a hard time understanding what the intent of (a) and DPI's responsibility. Please see additional information below. Perhaps "issue" is not what is meant?

Regarding (a)(1), 115C-269.35(b) says that recognized EPPs shall submit annual performance reports. What is DPI's responsibility here? Also, .0341 (though I don't think it's necessary) says that EPPs shall submit the annual performance reports.

In (a)(2), what is your authority to give this task to DPI? 115C-269.50 says that "the State Board shall create an annual report card for each EPP..."

In (a)(3), what is involved in a "risk assessment"? I don't see this spoken to in statute or otherwise in rule.

In (b), change "will" to "shall."

In (b), what is meant by "as needed"? What factors will be used in making this determination? Rather than "as needed", do you mean "in accordance with 115C-269.45(a)"? I don't read this Statute to give discretion regarding these sanctions. I read this statute to provide when these sanctions will occur.

In (c), what are the "additional reporting obligations and remediation"? Please provide some additional information. Is this trying to get to 115C-269.45(c)?

Also, what is meant by "The additional reporting requirements applicable to a sanctioned EPP are a function of the sanction imposed and the duration it remains in place"? Is the intent here to provide some additional information as to how this will be determined? If so, that's not clear.

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

Is (d) necessary? To the extent it is necessary, how does this go with 115C-269.45 which says that "the State Board shall annually review the accountability status"?

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0343; Assigning Sanctions

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

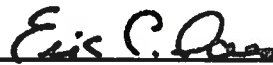
E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0343

DEADLINE FOR RECEIPT: November 18, 2019

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:

How will it be determined which sanction will be assigned to a Level 1 EPP? It's possible that the intent that this is addressed specifically in .0344, .0345, and .0346, but I don't think that's clear. Also, it appears as though when each sanction will be assigned is set by 115C-269.45(a)(1) through (3). I don't understand how these go together and am very concerned about your authority to do this since the Statute appears to provide when each sanction will occur. Please review and clarify.

Why is the last sentence necessary? This is addressed in .0339(4).

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

16 NCAC 06C .0343 is adopted under temporary procedures as follows:

16 NCAC 06C .0343 ASSIGNING SANCTIONS

The State Board shall assign a sanction of “Warned,” “Probation,” or “Revoked” to an Educator Preparation Program if the EPP achieves a Level 1 status on a State Board of Education accountability measure. Any EPP that performs one or more standard deviations below the mean of all North Carolina EPPs shall be designated Level 1 status.

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

Temporary Adoption Eff. December 16, 2019



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0344; Warned Status Sanctions

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

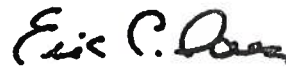
E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0344

DEADLINE FOR RECEIPT: November 18, 2019

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 write this Rule to be in active voice and say who shall do what. As written, I'm not sure what the actual requirement is and I think this could be much more clear. Please review and review.

Just to make sure that I understand, the program accountability measures are the teacher evaluations, student growth, and the recent graduate survey?

115C-269.45(a)(1) appears to provide when an EPP would be put in "warned status." I don't understand the inclusion of the levels. How does this go with the statutory requirement? Overall, I have concerns regarding your authority for this Rule as written.

In(b), what is meant by "The plan shall be reviewed and endorsed by another EPP with an overall rating of Level 3 or higher in the area of the deficiency"? An EPP has to find another EPP to essentially sponsor them? I don't understand what is going on here.

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

1 16 NCAC 06C .0344 is adopted under temporary procedures as follows:

2
3 **16 NCAC 06C .0344 WARNED STATUS SANCTIONS**

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

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

11
12 History Note: Authority G.S. 115C-12(9); 115C-268.5; 115C-269.45

13 Temporary Adoption Eff. December 16, 2019



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0345; Probation Status Sanctions

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No Effective date:

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0345

DEADLINE FOR RECEIPT: November 18, 2019

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:

Overall, I have concerns regarding your authority for this Rule as written. To the extent that you all have authority, please review for purposes of clarity.

Please review this Rule in light of 115C-269.45(a)(2), which provides when probation will be assigned.

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 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



**TEMPORARY RULE-MAKING
FINDINGS OF NEED**
[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: North Carolina State Board of Education

2. Rule citation & name: 16 NCAC 06C .0346; Revoked Status Sanctions

3. Action: ☒ Adoption ☐ Amendment ☐ Repeal

4. Was this an Emergency Rule: ☐ Yes ☒ No **Effective date:**

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 09/23/19
- b. Proposed Temporary Rule published on the OAH website: 09/30/19
- c. Public Hearing date: 10/30/19
- d. Comment Period: 09/30/19 – 10/30/19
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 09/24/19
- f. Adoption by agency on: 11/07/19
- 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]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.

- ☐ A serious and unforeseen threat to the public health, safety or welfare.
- ☒ The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2019-149
Effective date: 07/22/19
- ☐ A recent change in federal or state budgetary policy.
Effective date of change:
- ☐ A recent federal regulation.
Cite:
Effective date:
- ☐ A recent court order.
Cite order:
- ☐ State Medical Facilities Plan.
- ☐ Other:

Explain: See attached Session Law 2019-149.

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

With Session Law 2019-149 § 4, 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). That provision of the General Statutes generally concerns an accountability framework for the State's Educator Preparation Programs. Section 4 of S.L. 2019-149 further instructs the State Board to "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."

In order for this rule to be applied to data for the annual report published on December 15, 2019, an accelerated schedule to adopt and implement the rules must be followed which satisfies the requirements set forth in G.S. § 150B-21.1(a)(2).

Rules to implement G.S. 115C-269.45(c1) were submitted to OAH for publication as proposed temporary rules on September 30, 2019. These rules have been approved by the State Board of Education for adoption and repeal as temporary rules on November 7, 2019 and submitted to the Rules Review Commission for review on or prior to November 8, 2019.

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

☐ Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

☒ No

9. Rule-making Coordinator: Eric Snider

Phone: 919-807-3405

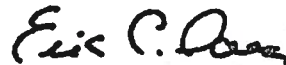
E-Mail: eric.snider@dpi.nc.gov

Agency contact, if any:

Phone:

E-Mail:

10. Signature of Agency Head*:



* 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:

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

TEMPORARY RULE
REQUEST FOR TECHNICAL CHANGE

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0346

DEADLINE FOR RECEIPT: November 18, 2019

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:

Overall, I have concerns regarding your authority for this Rule as it appears to conflict with 115C-269.45(a)(3) and (b).

In (a), I don't understand "following three consecutive years of probation status..." 115C-269.45(a)(3) provides when a revocation will occur and includes more than just the three year probation.

What is the overall intent of (a)(1) through (3)? Is the intent how an EPP will get out of a revocation? If so, that's unclear. If that is the intent, what is your authority to do so? 115C-269.45(a)(3) says that "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."

115C-269.45(b)(2) says "upon assignment of revoked status of EPP approval, the EPP shall not admit new students..." Paragraph (b) of this Rule says "an EPP on revoked status may continue to admit students." This is a direct contradiction of statute.

115C-269.45(a)(3) says that once an EPP is on revoked status "its approval to recommend students for educator licensure is revoked." What is your authority to say "if it remains on revoked status for more than two years" in (c)? I read 115C-269.45(a)(3) to say as soon as they are revoked, they can no longer recommend students.

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

Amber C. May
Commission Counsel
Date submitted to agency: November 14, 2019

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