

1 16 NCAC 06C .0101 is readopted with changes as published in 40:13 NCR 1073–1096 as follows:

2
3 **SUBCHAPTER 06C PUBLIC SCHOOL PERSONNEL**

4
5 **SECTION .0100 - GENERAL PROVISIONS QUALIFICATIONS OF PUBLIC SCHOOL PERSONNEL**

6
7 **16 NCAC 06C .0101 DEFINITIONS**

8 As used in this ~~Subchapter~~ Section, the following definitions apply:

9 (1) ~~—"Convicted" or "Conviction" means and includes the entry of:~~

10 (a) ~~— a plea of guilty;~~

11 (b) ~~— a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted,~~
12 ~~established, and recognized adjudicating body, tribunal, or official, either civilian or~~
13 ~~military; or~~

14 (c) ~~— a plea of no contest, nolo contendere, or the equivalent.~~

15 (2) ~~—"Institution of higher education" (IHE) means a senior college or university.~~

16 (3) ~~—"Instructional personnel" means all teachers as defined by G.S. 115C 325, with the exception of~~
17 ~~supervisors, and non teaching principals, assistant principals, social workers, counselors and~~
18 ~~psychologists. The term includes principals, assistant principals, or counselors who teach any part~~
19 ~~of the day, librarians and instructional aides, except that:~~

20 (a) ~~— aides are not included for the purpose of applying Rule .0403 of this Subchapter; and~~

21 (b) ~~— aides are not included for the purpose of applying Rule .0301 of this Subchapter.~~

22 [(1) ~~—"Certified personnel" means a person who is employed in a position that requires either:~~

23 (A) ~~— A license issued by the State Board of Education; or~~

24 (B) ~~— Certification by the State Board of Education on the State Salary Schedule.]~~

25 [(2) ~~—"Classified personnel" means an employee of a public school unit who does not hold a professional~~
26 ~~educator license.]~~

27 [(3) (1) ~~"Fiscal year" means a calendar year beginning on July 1 of one year and ending on June 30 of the~~
28 ~~following year.~~

29 [(4) (2) ~~"Full-time employee" means a person employed by a local board of education for the number of~~
30 ~~hours per week that the local board considers full-time for the position in which the person is~~
31 ~~employed, but no less than 30 hours per week.~~

32 (4) (3) ~~"License" has the same meaning as the term "certificate" as used in 16 NCAC 1A .0001(2). means~~
33 ~~a professional educator license issued by the State Board of Education in accordance with this~~
34 ~~Subchapter and Chapter 115C, Article 17E of the General Statutes.~~

35 (5) ~~—"National Teachers' Examination" (NTE) means the standard examination adopted by the SBE~~
36 ~~pursuant to G.S. 115C 284(e), 115C 296 and 115C 315(d).~~

37 (6) ~~—"Other personnel" means those persons not included within the definition of instructional personnel.~~

- 1 ~~(5)~~ "Non-certified personnel" means a person employed by a public school unit in a position that
2 requires neither a license issued by the State Board of Education nor certification by the SBE on the
3 State Salary Schedule.]
- 4 (7) ~~(6)~~ (4) "Part-time employee" means a person employed for at least 20 hours per week, week but fewer
5 than the number of hours per week of a full-time employee in ~~[a similar position,]~~ the same position
6 classification.
- 7 (8) ~~(7)~~ (5) "Permanent employee" means a person who is ~~not a student enrolled in the school system who~~
8 ~~is employed;~~ employed by a local board of education ~~[for more than 30 hours per week for at least~~
9 ~~six months.]~~ either:
10 (A) In a position that the local board intends to be permanent; or
11 (B) To replace one or more permanent employees who are on a leave of absence or to fill a
12 vacancy until a qualified permanent employee is hired, provided the employee is employed
13 for at least six full consecutive months.
- 14 A permanent employee shall not lose permanent status during any period of temporary or interim
15 assignment to another position in the same local school administrative unit, provided the local board
16 of education employee anticipates returning the employee to a permanent position.
- 17 (a) ~~other than on an interim basis, to fill a position which is to become permanent if current~~
18 ~~needs and funds continue; or~~
- 19 (b) ~~for at least six months under one contract, to replace one or more employees who are on~~
20 ~~leave without pay.~~
- 21 (9) "Professional public school employee" means and includes:
22 (a) ~~teachers;~~
23 (b) ~~administrators (superintendents, assistant or associate superintendents, principals, assistant~~
24 ~~principals, and supervisors); and~~
25 (c) ~~education specialists (counselors, school social service workers, curriculum instructional~~
26 ~~specialists, school psychologists, and media personnel).~~
- 27 (10) ~~"Renewal credit" means credit earned by a certificated employee for certificate renewal purposes.~~
- 28 (11) ~~(8)~~ (6) "SACS" "SACSCOC" means the Southern Association of Colleges and Schools
29 Commission on Colleges.
- 30 (12) "Substitute" means a person who holds a teacher's certificate, or who is a college graduate, or who
31 has been determined by a local board to be capable of performing the duties of a substitute teacher.
- 32 (13) "Teacher education program" means the curriculum, instructional resources and faculty that
33 contribute to the quality of instruction and the acquisition of knowledge, skills and competencies
34 required for professional personnel to perform effectively in the public schools.
- 35 ~~(9)~~ (7) "State Salary Schedule" means the salary schedule for teachers and other public school personnel
36 administered by the State Board of Education in accordance with G.S. 115C-12(9)a. and 115C-
37 12(16).

1 ~~(9)~~ (8) "Teacher" is defined in G.S. 115C-270.1(5).

2 (9) "Temporary employee" means a person who is employed to fill a vacancy and is either:

3 (A) Working fewer than 20 hours per week; or

4 (B) Employed for fewer than six full consecutive months.

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8 *History Note:* Authority G.S. 115C-12; 115C-269.1; 115C-270.1; 115C-284.1;

9 *Filed as a Temporary Amendment Eff. October 10, 1995 for a period of 180 days or until the*
10 *permanent rule becomes effective, whichever is sooner;*

11 *Authority N.C. Constitution, Article IX, Sec. 5;*

12 *Eff. July 1, 1986;*

13 *Amended Eff. August 1, 1987;*

14 *ARRC Objection Lodged February 22, 1990;*

15 *Amended Eff. June 1, 1996; July 1, 1995; August 1, ~~1990~~ 1990;*

16 *Readopted Eff. July 1, 2026.*

1 16 NCAC 06C .0401 is readopted with changes as published in 40:17 NCR 1335–1346 as follows:

2
3 **SECTION .0400 – SALARIES AND BENEFITS**
4

5 **16 NCAC 06C .0401 VACATION LEAVE DEFINITIONS**

6 ~~(a) All full time or part time permanent public school employees who are working or on paid leave for at least one~~
7 ~~half of the calendar days in a month shall earn vacation leave, based on length of state service in North Carolina.~~

8 ~~(b) A part time permanent employee in a budgeted position shall earn vacation leave on a pro rata basis.~~

9 ~~(c) Local boards of education may choose to record leave earned in hours. If leave is recorded in hours, the leave~~
10 ~~earned as indicated in this Paragraph shall be multiplied times the regular number of hours worked per day. Employees~~
11 ~~shall earn vacation leave as follows:~~

12	Yrs. of _____	Days Per Month
13	State Service _____	of Employment
14	Less than 2 yrs. _____	1.00
15	2 but less than 5 yrs. _____	1.15
16	5 but less than 10 yrs. _____	1.40
17	10 but less than 15 yrs. _____	1.65
18	15 but less than 20 yrs. _____	1.90
19	20 yrs. or more _____	2.15

20 ~~(d) LEAs shall credit state service for full time or part time permanent employment figured on the same basis as for~~
21 ~~longevity pay. The LEA must establish the anniversary date for each employee on the basis of the employee's state~~
22 ~~service.~~

23 ~~(e) The LEA may advance vacation leave to an employee.~~

24 ~~(f) The LEA shall transfer unused vacation leave when an employee transfers between LEAs. An employee may have~~
25 ~~leave transferred to or from a state agency or institution, community college or technical institute, a position subject~~
26 ~~to the State Personnel Act in a local mental health center, public health, social services or emergency management~~
27 ~~agency, if the receiving agency is willing to accept the leave; otherwise, the employee shall be paid in a lump sum for~~
28 ~~accumulated leave not to exceed 30 workdays or 240 hours, according to the earning rate.~~

29 ~~(g) Leave payment at separation shall be subject to the following:~~

30 ~~(1) An employee who is overdrawn on leave when he or she separates will have the excess leave~~
31 ~~corrected through a deduction from the final salary check.~~

32 ~~(2) Payment for leave may be made on the regular payroll or on a supplemental payroll. The LEA shall~~
33 ~~make payment from the same source of funds and in the same proportion as the employee's salary~~
34 ~~is paid.~~

35 ~~(3) Terminal leave payment shall be subject to the same deductions as salary, including retirement.~~

36 ~~(4) The receipt of lump sum payment and retirement benefit shall not be deemed dual compensation.~~

1 ~~(5) The LEA shall make payment for unpaid salary, terminal leave and travel of a deceased employee~~
2 ~~to the personal representative of the deceased employee, or if there is no personal representative, to~~
3 ~~the Clerk of Superior Court of the county in which the employee resided.~~

4 ~~(h) Each LEA shall maintain leave records for all employees. LEAs must inform employees of their leave balances~~
5 ~~at least once a year. LEAs must retain leave records for separated employees for at least five years from the date of~~
6 ~~separation.~~

7 ~~(i) Leave must be taken in one half days, whole days, or hours as determined for earning purposes by the local board.~~

8 ~~(j) School bus drivers and instructional personnel who require a substitute may take vacation leave only on days when~~
9 ~~students are not in attendance. Instructional personnel who do not require a substitute may take vacation leave on any~~
10 ~~day school is in session. LEAs may designate specific scheduled workdays for required attendance. Employees may~~
11 ~~charge leave taken only to scheduled teacher workdays and the ten vacation leave days scheduled in the school~~
12 ~~calendar.~~

13 ~~(k) Other employees may take vacation leave instead of sick leave. These employees must have an opportunity to~~
14 ~~take annual leave earned in the school year.~~

15 As used in this Section, the following definitions shall apply:

16 (1) "Career employee" is defined in G.S. 115C-325(a)(1a).

17 (2) "Creditable service" is defined in G.S. 135-1(8).

18 (3) "Disability benefits" means benefits received under Chapter 135, Article 6 of the General Statutes.

19 (4) "Full-time employee" means a person employed by a local board of education for the number of
20 hours per week that the local board considers full-time for the position in which the person is
21 employed, but no less than 30 hours per week.

22 (5) "Immediate family member" means a spouse, parent, child, grandchild, brother, sister, half-sibling,
23 step-sibling, or dependent living in the employee's household. The term applies to any such
24 relationship whether by blood, adoption, or marriage.

25 (6) "Instructional personnel" includes any of the following:

26 (A) Teachers, as defined in [Subparagraph] Item (13) of this Rule.

27 (B) Student services personnel, as classified by 16 NCAC 06C .0306.

28 (7) "Interim employee" means a person employed temporarily to replace an employee who is on leave
29 without pay but is expected to return to work.

30 (8) "Part-time employee" means a person employed for at least 20 hours per week but fewer than the
31 number of hours per week of a full-time employee in the same position classification.

32 (9) "Permanent employee" means a person who is employed by a local board of education either:

33 (A) In a permanent position; or

34 (B) To replace one or more permanent employees who are on a leave of absence or to fill a
35 vacancy until a qualified permanent employee is hired, provided the employee is employed
36 for at least six full consecutive months.

1 A permanent employee shall not lose permanent status during any period of temporary or interim
2 assignment to another position in the same local school administrative unit, provided the local board
3 of education employee anticipates returning the employee to a permanent position.

4 (10) "Retirement" is defined in G.S. 135-1(20).

5 (11) "School year" means either:

6 (A) For a year-round school, as defined in G.S. 115-84.2(f)(5), a calendar year beginning on
7 July 1 of one year and ending on June 30 of the following year.

8 (B) For a traditional school with a summer break, the time between the opening and closing
9 date for the local school administrative unit, as established by the local board of education
10 pursuant to G.S. 115C-84.2.

11 (12) "Substitute employee" or "substitute" means a person employed to fulfill the duties of a permanent
12 employee on a temporary basis while the permanent employee is on paid leave.

13 (13) "Teacher" means a permanent employee of a local board of education:

14 (A) Whose major responsibility is classroom teaching; and

15 (B) **[Holds]** **Who holds** a current professional educator license.

16 (14) "Temporary employee" means a person who is employed to fill a vacancy and is either:

17 (A) Working fewer than 20 hours per week; or

18 (B) Employed for fewer than six full consecutive months.

19 (15) "Workers' compensation" means compensation received under Chapter 97, Article 1 of the General
20 Statutes.

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22 *History Note: Authority G.S. 115C-272; 115C-285; 115C-302.1; 115C-316;*

23 *Eff. July 1, 1986;*

24 *Amended Eff. July 1, 1994; October 1, 1993; December 1, 1991; March 1, 1990;*

25 *Temporary Amendment Eff. November 15, 1995;*

26 *Amended Eff. July 1, 2001- 2001;*

27 *Readopted Eff. July 1, 2026.*

1 16 NCAC 06C .0402 is readopted with changes as published in 40:17 NCR 1335–1346 as follows:

2
3 **16 NCAC 06C .0402 SICK LEAVE**

4 ~~(a) Public school employees who earn vacation leave shall also earn sick leave. Full time employees shall earn one~~
5 ~~day per month or the number of hours worked daily by a full time employee in that class of work. Part time employees~~
6 ~~shall earn and may use sick leave in proportion to the part of the day for which they are employed.~~

7 ~~(b) The LEA may allow sick leave to be used for temporary disability which prevents an employee from performing~~
8 ~~his or her usual duties, illness in the employee's immediate family and attendant medical appointments which require~~
9 ~~the employee's attendance, death in the immediate family and medical appointments for the employee. For purposes~~
10 ~~of this Rule the term immediate family shall include spouse, children, parents, brothers, sisters, grandparents,~~
11 ~~grandchildren, and dependents living in the household. The term shall also include the step, half, and in law~~
12 ~~relationships. An employee of any public school system may contribute vacation or sick leave to another immediate~~
13 ~~family member who is employed by any State agency or public school system.~~

14 ~~(c) Employees must take leave in one half days, whole days, or hours as determined for earning purposes by the local~~
15 ~~board.~~

16 ~~(d) Employees may accumulate sick leave indefinitely and may transfer sick leave as in the case of vacation leave.~~

17 ~~(e) LEAs may advance sick leave not to exceed the amount which would be earned within the school year.~~

18 ~~(f) An employee who is overdrawn on sick leave when the employee separates from service will have the excess leave~~
19 ~~corrected through a deduction from the final salary check.~~

20 ~~(g) If the period of sick leave taken is less than 30 days, the employee will return to his or her position with the LEA.~~
21 ~~If the period of temporary disability exceeds 30 days, the superintendent shall determine when the employee is to be~~
22 ~~reinstated. The superintendent makes this decision based on the welfare of the students and the need for continuity of~~
23 ~~instruction.~~

24 ~~(h) The LEA shall credit an employee who separates from service and returns within 60 months with all sick leave~~
25 ~~accumulated to the time of separation.~~

26 ~~(i) Permanent full or part time instructional personnel, excluding teacher assistants, who are absent due to their~~
27 ~~personal illness or injury in excess of their accumulated sick leave, shall be allowed extended sick leave of up to 20~~
28 ~~work days throughout the regular term of employment. These days do not have to be consecutive. A new employee~~
29 ~~must have reported to work to be eligible for extended sick leave. The superintendent may require a doctor's certificate~~
30 ~~or other proof acceptable to the superintendent of the reason for the absence.~~

31 ~~(j) An LEA may establish a voluntary sick leave bank for its employees. Any employee of an LEA that establishes a~~
32 ~~voluntary sick leave bank may, but is not required to, participate in the voluntary sick leave bank.~~

33 (1) — The LEA shall develop and implement a plan for participation that shall include those factors listed
34 in G.S. 115C-336(b)(i)-(vii) and the following:

35 (A) — a uniform number of days to be contributed to the bank by participants;

36 (B) — provisions for legitimate usage of days by participants;

37 (C) — means to protect against overdraft of total contributed days; and

1 (D) ~~— safeguards to prevent abuses by participants.~~

2 (2) ~~— The LEA shall establish a sick leave bank committee to administer the sick leave bank.~~

3 (A) ~~— The LEA shall assure that all local personnel are equitably represented on the committee.~~

4 (B) ~~— The LEA shall develop operational rules for the efficient and effective functioning of the~~
5 ~~bank.~~

6 (C) ~~— The LEA shall develop procedures for participants' usage of days based upon requirements~~
7 ~~in the plan.~~

8 (D) ~~— The LEA shall specify the limits of the committee's authority.~~

9 (E) ~~— The committee shall notify all participating employees of the ways in which their~~
10 ~~participation will affect their state retirement account.~~

11 (3) ~~— The LEA shall ensure that its operational procedures require:~~

12 (A) ~~— that payment of substitutes and matching social security are charged to the appropriate~~
13 ~~program report code; and~~

14 (B) ~~— the reporting to the division of school business services of the Department of the number~~
15 ~~of employees participating itemized by job classification, the number of sick leave days~~
16 ~~withdrawn, the cost of the leave, and other data required for fiscal and programmatic~~
17 ~~accountability.~~

18 (a) This Rule shall govern the use of sick leave by employees of a local board of education ("local board") pursuant
19 to G.S. 115C-336. The local board may adopt additional policies to govern the use of sick leave, provided they are
20 consistent with this Rule.

21 **(b) Eligibility for Sick Leave**

22 (1) A permanent full-time employee who works or is on paid leave (including State holidays and days
23 for which the employee is receiving workers' compensation) for at least one-half of the workdays in
24 a calendar month shall earn either:

25 (A) One day of sick leave per month; or

26 (B) The number of hours in sick leave per month that is equivalent to the number of hours in a
27 workday for a permanent full-time employee in that position classification, up to a
28 maximum of eight hours.

29 (2) A permanent part-time employee who works or is on paid leave (including State holidays and days
30 for which the employee is receiving workers' compensation) for at least one-half of the workdays in
31 a calendar month shall earn sick leave on a pro rata basis relative to the amount of leave earned by
32 a permanent full-time employee in the same position classification. A permanent part-time employee
33 who was previously employed in a full-time position shall retain any sick leave earned in the full-
34 time position upon transferring to the part-time position.

35 (3) An employee may accumulate unused sick leave from year to year without limit.

36 (4) An employee who is not eligible to earn sick leave may not use previously accumulated sick leave.

37 **(c) Use of Sick Leave**

1 (1) A permanent employee may use sick leave for any of the following purposes:

2 (A) Personal illness or injury that renders the employee unable to perform the employee's
3 professional duties.

4 (B) Personal medical appointments of the employee.

5 (C) Caretaking for a newborn child or child placed with the employee for adoption or foster
6 care, subject to the requirements of G.S. 115C-336.1.

7 (D) Caretaking for an immediate family member due to the family member's illness or injury,
8 including taking the family member to medical appointments.

9 (E) Death of an immediate family member.

10 (2) The employee shall provide advanced notice to the administrative unit ("LSAU") of the employee's
11 intent to use paid sick leave for elective medical procedures or childbirth, in accordance with policies
12 adopted by the local board of education. When possible, the employee shall provide notice at least
13 30 days in advance.

14 (3) The employee shall, upon the request of the local superintendent or designee, provide medical
15 documentation to verify that the employee's use of sick leave is for a permissible purpose.

16 (4) The employee shall not use sick leave for paid holidays, days for which the employee was previously
17 scheduled to use vacation leave, or days in which the employee is on leave without pay. Any period
18 of absence for which the employee is receiving workers' compensation is not considered leave
19 without pay.

20 (d) An LSAU may advance sick leave to an employee based on the amount of sick leave the employee is anticipated
21 to earn in the remainder of the current fiscal year, provided that the LSAU shall assume financial responsibility for
22 any advanced sick leave not earned at the time the employee separates from employment or at the end of the fiscal
23 year, whichever is earlier.

24 (e) An employee is not entitled to compensation for accumulated sick leave, except as permitted by the North Carolina
25 Teachers and State Employees Retirement System.

26 (f) Separation from Employment

27 (1) If an employee separates from employment with a local board or transfers to a temporary employee
28 position, the employee shall retain the employee's accrued sick leave balance for 60 months.

29 (2) If the employee returns to employment in a full-time or part-time permanent position with a local
30 board within 60 months, the employee shall regain access to the accumulated sick leave.

31 (3) If the individual was employed on a 10-month contract at the time of separation, the employee shall
32 retain the leave for 63 months, provided the person returns to employment on another 10-month
33 contract.

34 (g) Transfer of Sick Leave

35 (1) An employee may transfer accumulated sick leave from one LSAU to another LSAU upon transfer
36 of employment, provided that any variance in the number of working hours per day that is
37 considered "full-time" between the new position and the previous position shall not result in an

1 increase or decrease in the total number of sick leave days of available as a result of the transfer. To
2 calculate the equitable value of the transferred leave:

3 (A) The sending LSAU shall divide the total number of hours of accumulated sick leave by the
4 number of working hours per day that is considered "full-time" in the departing employee's
5 previous position. This generates a total number of sick leave days available for transfer to
6 the receiving LSAU.

7 (B) The receiving LSAU shall then multiply the number of transferred sick leave days by the
8 number of working hours per day that is considered "full-time" in the incoming employee's
9 previous position. This generates the total number of sick leave hours available for use by
10 the employee in the new position.

11 (2) An employee may transfer accumulated sick leave to a State agency or any of the entities listed in
12 25 NCAC 01E .0309 upon transfer of employment to such agency or entity, if the agency or entity
13 is willing to accept the leave. A person employed by the agency or entity may transfer accumulated
14 sick leave to an LSAU upon transfer of employment to such LSAU if such LSAU is willing to accept
15 the leave and, consistent with Subparagraph (g)(1), any variance in the number of working hours
16 per day that is considered "full-time" between the new position with the LSAU and the previous
17 position with the agency or entity shall not result in an increase or decrease in the total number of
18 leave days available as a result of the transfer.

19 (3) An employee may only transfer accumulated sick leave from one leave-earning position to another
20 leave-earning position, even if the new position is within the same local school administrative unit.

21 (h) Extended Sick Leave

22 (1) Full-time teachers and instructional personnel may request extended sick leave.

23 (2) To qualify for extended sick leave, the employee must:

24 (A) Be absent due to personal illness or injury that renders the employee unable to perform the
25 employee's professional duties;

26 (B) Require a substitute employee; and

27 (C) Have exhausted all other available paid leave except personal leave under G.S. 115C-
28 302.1(d).

29 (3) A qualified employee is entitled to up to 20 days of extended sick leave per school year.

30 (4) The employee shall, upon the request of the local superintendent or designee, provide medical
31 documentation to verify that the employee's use of extended sick leave is for a permissible purpose.

32 (5) Unused extended sick leave days shall not accumulate from year to year.

33 (6) Extended sick leave shall not be available beyond the mandatory waiting period for workers'
34 compensation or short-term disability benefits.

35 (i) Use of Vacation Leave for Catastrophic Illness

1 (1) If an employee who requires a substitute employee is unable to perform the employee's professional
2 duties due to a catastrophic personal illness and has exhausted the employee's available sick leave,
3 the employee may use vacation leave for days in which students are in attendance.

4 (2) The local superintendent or designee shall determine whether a condition constitutes a catastrophic
5 personal illness based on an evaluation of the following factors:

6 (A) The debilitating nature of the condition;

7 (B) The life-threatening potential of the condition;

8 (C) The monetary hardship incurred by the employee because of the condition;

9 (D) The anticipated length of the employee's absence due to the condition; and

10 (E) Other forms of relief available to the employee, such as disability benefits.

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13 *History Note: Authority G.S. 115C-12(8); 115C-336; 115C-336.1; 126-5; 135-4; 135-1;*
14 *Eff. July 1, 1986;*
15 *Amended Eff. June 1, 1994; October 1, 1993; July 1, 1992; March 1, 1990;*
16 *Temporary Amendment Eff. November 8, 1999;*
17 *Amended Eff. April 1, ~~2001~~ 2001;*
18 *Readopted Eff. July 1, 2026.*
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1 16 NCAC 06C .0403 is readopted with changes as published in 40:17 NCR 1335–1346 as follows:

2
3 **16 NCAC 06C .0403 SUBSTITUTES SUBSTITUTE EMPLOYEES**

4 (a) ~~LEAs~~ Each local school administrative unit ("LSAU") shall employ all substitutes deemed substitute employees
5 that the local superintendent or designee deems necessary for the efficient operation of the ~~unit.~~ LSAU, subject to the
6 requirements of this Rule. The superintendent determines the need to employ a substitute for a non-teaching assistant
7 principal, principal or supervisor.

8 (b) Substitute Teachers

9 (1) The LSAU shall, to the extent feasible, hire licensed teachers to serve as substitute teachers.

10 (2) ~~LEAs~~ The LSAU shall employ substitute teachers in units of half or whole days.

11 (3) If the LSAU employs a teacher assistant as a substitute, the LSAU shall pay the substitute an amount
12 equivalent to the daily salary rate for a first-year teacher with a bachelor-level teaching license.

13 (4) The minimum pay rate for a substitute teacher who holds a current North Carolina teaching license
14 shall be at least 65 percent of the daily pay rate of a licensed first-year teacher with a bachelor-level
15 teaching license.

16 (5) The minimum pay for a substitute teacher who does not hold a current North Carolina teaching
17 license shall be paid at least 50 percent of the daily pay rate of a licensed first-year teacher with a
18 bachelor-level teaching license but shall not exceed the minimum pay of a substitute teacher who
19 holds such a license.

20 (6) If a teacher takes extended sick leave under 16 NCAC 06C .0402(h), the LSAU shall deduct fifty
21 dollars (\$50.00) per day from the teacher's salary, regardless of whether the LSAU hires a substitute
22 teacher.

23 (7) The LSAU shall pay the substitute teacher from the same source of funds (local, state, or federal) as
24 the regular teacher, unless otherwise specified by this Section.

25 (8) A substitute teacher shall be considered a long-term substitute if employed for at least 30 hours per
26 week for an anticipated duration of at least six months. A long-term substitute teacher is not an
27 interim employee and is entitled to the same benefits as permanent full-time employees if the
28 substitute otherwise meets the eligibility requirements for those benefits.

29 (c) Other Substitute Employees

30 (1) The local superintendent shall determine the need to hire a substitute employee for a school
31 counselor, assistant principal, principal, or other administrator who does not have teaching
32 responsibilities; or for non-licensed employees such as school nurses, custodians, or clerical staff.

33 (2) The LSAU shall pay for any substitute employee hired to replace such an employee from local
34 funds.

35 (3) The LSAU may temporarily assigns a teacher to fulfill the duties of a principal who is on sick leave
36 for at least 10 days. Under such circumstances, the LSAU shall not deduct any money from the
37 teacher's salary to pay for a substitute teacher for the teacher's regular classroom.

1 ~~(c) The LEA pays substitutes as follows:~~

2 ~~(1) — A person who substitutes for a non-teaching assistant principal, principal or supervisor is paid from~~
3 ~~local funds.~~

4 ~~(2) — Unless required to be otherwise, a substitute for the regular teacher is paid from the same source of~~
5 ~~funds as the regular teacher is paid.~~

6 ~~(d) Absences not covered in Rule .0404 require the appropriate amount of substitute teacher pay to be deducted from~~
7 ~~the regular teacher's salary. These absences include extended sick leave as explained in Paragraph (f) of this Rule,~~
8 ~~personal leave and in-state meetings of no longer than 3 days or out-of-state meetings of no longer than 5 days, and~~
9 ~~not to exceed a total of 10 days within the school year, for professional responsibilities and attendance at professional~~
10 ~~meetings. The superintendent must approve these absences. The time limitations of this Rule do not apply to a person~~
11 ~~who is the local or district president or president elect or a state or national officer of an educational professional~~
12 ~~organization, or to a person selected as National Teacher of the Year from this state.~~

13 ~~(e) Teachers earn personal leave at the rate of one-half day for every two and one-half months .20 days for full month~~
14 ~~of employment and may accumulate five personal leave days. Teachers may transfer these days between LEAs. A~~
15 ~~teacher who requests personal leave at least five days in advance of the date desired is not required to give a reason~~
16 ~~for the leave. No teacher may take personal leave on the first day teachers are required to report for the school year,~~
17 ~~required teacher workdays, the day before or the day after holidays or scheduled vacation days, except as approved~~
18 ~~by the principal. The LEA shall credit a teacher who has separated from service and is reemployed within 60 months~~
19 ~~from the date of separation with all personal leave, up to the five-day maximum, accumulated at the time of separation.~~
20 ~~The LEA may not advance personal leave beyond that which a teacher earns. Teachers may take personal leave in~~
21 ~~units of one-half or whole days.~~

22 ~~(f) If the regular vacates a teaching position during the school year, that teacher receives the regular compensation for~~
23 ~~the actual days employed during the current month, adjusted for overdrawn leave or unpaid longevity pay. If the LEA~~
24 ~~employs an interim teacher to fill the vacancy until a regular is available, the LEA pays the interim teacher as follows:~~

25 ~~(1) — For service of no more than 10 teaching days, the person is paid as a substitute.~~

26 ~~(2) — For service in excess of 10 teaching days, the person is paid on the basis of the person's certified~~
27 ~~salary rating. The person may elect to be paid as a substitute.~~

28 ~~(d) An LSAU may employ a licensed teacher to fill a teacher vacancy of at least 10 days but less than six months if~~
29 ~~the teacher is licensed in the same license area. Unless the teacher requests to be employed as a substitute, the LSAU~~
30 ~~shall pay the teacher at the teacher's eligible rate on the State salary schedule, but the teacher shall not be entitled to~~
31 ~~benefits.~~

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34 *History Note: Authority G.S. 115C-12(8);*

35 *Eff. July 1, 1986;*

36 *Amended Eff. October 1, 1993; October 1, 1990; March 1, 1990; August 1, 1987; 1987;*

37 *Readopted Eff. July 1, 2026.*

1 16 NCAC 06C .0404 is readopted as published in 40:17 NCR 1335–1346 as follows:

2
3 **16 NCAC 06C .0404 LEAVE WITH PAY**

4 ~~The LEA shall not make deductions from public school employees' salaries in the following cases:~~

5 (a) A local school administrative unit ("LSAU") shall provide permanent employees with leave with pay under the
6 circumstances set forth in this Rule.

7 (b) Except where otherwise provided below, the LSAU shall pay any substitute employee hired to fulfill the duties of
8 an employee on leave with pay from the same funding source as the employee taking the leave.

9 (c) The LSAU shall not deduct from a permanent employee's salary if the employee is absent from the employee's
10 regularly scheduled duties for any of the following reasons:

11 (1) The employee is ~~absent~~ on sick leave in accordance with Rule .0402 of this Section.

12 (2) ~~The employee is absent due to community responsibility, as approved by the superintendent. The~~
13 ~~employee's supervisor has granted the employee leave to represent the school or LSAU at a~~
14 ~~community event. Substitutes for these persons may not be paid from state funds. The LSAU shall~~
15 ~~pay any substitute employee hired under these circumstances from local funds.~~

16 (3) The employee is attending meetings or performing duties as a member of the ~~SBE, State Board of~~
17 ~~Education; the State Textbook Commission, Commission; the Board of Governors of the North~~
18 ~~Carolina Governor's Schools, School; a case manager hearing; or a commission or committee~~
19 ~~appointed by the Governor, the State Superintendent, Superintendent of Public Instruction, the SBE~~
20 ~~State Board of Education, or the General Assembly. Substitutes for these persons will be paid from~~
21 ~~state funds.~~

22 (4) The employee is ~~absent due~~ summoned to jury duty, attendance at or is required to attend court
23 court, a deposition, or other legal proceeding in connection with the employee's official ~~duties, or~~
24 ~~attendance at court under~~ duties or in response to a subpoena or court order to testify as a witness to
25 a crime. ~~If the employee is required to attend court as a plaintiff, defendant, or witness in relation to~~
26 ~~a personal matter, whether or not in response to a subpoena or court order, the employee must use~~
27 ~~available leave time. The employee may not receive witness fees in addition to regular salary. The~~
28 ~~employee shall return to the LSAU any fees, other than travel reimbursement or per diem, that the~~
29 ~~employee earns from serving as a witness in connection with the employee's official duties.~~

30 (5) ~~The employee has been assigned by the superintendent~~ The local superintendent assigns the
31 employee to attend an in-service school project conducted by the administrative unit, professional
32 training or participate in another school program outside the employee's regular duties. Substitutes
33 ~~for these persons will be paid from local funds. The LSAU shall pay any substitute employee hired~~
34 ~~under these circumstances from local funds.~~

35 (6) ~~The employee has been~~ The local superintendent or designee has suspended the employee with pay
36 under G.S. ~~415C-325(f1), 115C-325(f1) or 115C-325.5. The LEA LSAU shall pay persons~~
37 ~~employed to replace~~ any substitute employee hired to cover for the suspended employee a salary

1 based on the ~~replacement's certification.~~ substitute's qualifications under Section .0300 of this
2 Subchapter. ~~The LEA shall make payment from the same source of funds as the person suspended~~
3 ~~was paid.~~

- 4 (7) The employee is ~~absent pursuant to 1 NCAC 8C .2900 (military leave).~~ on military leave with pay
5 in accordance with 25 NCAC 1E .0802-.0821.
- 6 (8) The employee is ~~absent due to~~ suffers an injury or disability ~~which~~ that is covered by G.S. 115C-
7 338.
- 8 (9) The employee ~~may be absent for no more than two days in a school year due to~~ requests leave to
9 observe a bona fide religious holidays which are not holiday, provided the employee is permitted
10 no more than two such observance days in one school year. The employee shall use available
11 vacation leave, subject to the requirements of Rule .0409 of this Section, use personal leave, subject
12 to the requirements of G.S. 115C-302.1(d), or make up the time absent from work at a time and
13 under circumstances approved by the employee's supervisor. The employee shall not request such
14 leave time on days that are already scheduled as vacation days or paid holidays in the school
15 calendar. The superintendent must approve these absences in advance and the employee must make
16 up the time missed.
- 17 (10) Upon recommendation of the local superintendent, the local board of education may grant leave
18 with pay for elected officers of professional organizations, provided the organization pays the full
19 salary and all benefit costs for the employee while the employee is on leave. During such leave time,
20 the employee shall earn sick leave, vacation leave, personal leave, and paid holidays.

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23 *History Note:* Authority G.S. 115C-12(8); 115C-300; 115C-302.1; 115C-325; 115C-325.5; 115C-338; 115C-408;
24 N.C. Constitution, Article IX, Sec. 5;
25 Eff. July 1, 1986;
26 Amended Eff. July 1, 2001; March 1, 1990; August 1, 1987. 1987;
27 Readopted Eff. July 1, 2026.

1 16 NCAC 06C .0405 is readopted as published in 40:17 NCR 1335–1346 as follows:

2
3 **16 NCAC 06C .0405 LEAVE WITHOUT PAY**

4 ~~Whenever possible, public school employees shall give advance notice of requests for leaves of absence, subject to~~
5 ~~rules of the LEA. LEAs may determine the beginning or ending date of leaves of absence, except for military leave.~~
6 ~~LEAs may provide educational leave, but they may not use state funds for this purpose. LEAs may~~

7 (a) A local school administrative unit shall allow leaves of absence without pay for permanent employees as follows:
8 under the following circumstances:

9 (1) ~~An~~ The employee is ~~granted a leave of absence without pay under 1 NCAC 8C .2900 (military~~
10 ~~leave).~~ on military leave without pay in accordance with on military leave with pay in accordance
11 with 25 NCAC 1E .0802–.0821.

12 (2) ~~An employee is granted a leave of absence without pay up to one calendar year for the birth or~~
13 ~~adoption of a child. This period may, with the approval of the local board, be extended for the~~
14 ~~remainder of the school year when the leave would otherwise end in the latter half of the school~~
15 ~~year. The employee gives birth to or adopts a child. The employee may take up to 12 months of~~
16 ~~leave without pay, beginning on the date of the birth or finalization of the adoption. This provision~~
17 ~~is in addition to any paid parental leave to which the employee may be entitled under Rule .0408 of~~
18 ~~this Section.~~

19 (3) ~~An employee may be granted a leave of absence without pay for periods as granted in the discretion~~
20 ~~of the superintendent and in accordance with rules adopted by the LEA. Other such circumstances~~
21 ~~deemed appropriate by the local superintendent or designee in accordance with policies adopted by~~
22 ~~the local board of education.~~

23 (b) The employee shall provide advanced notice to the LSAU of the employee's request for a leave of absence, in
24 accordance with policies adopted by the local board of education.

25 (c) The LSAU shall determine the start and end dates for a leave of absence, except for military leave without pay.

26 (d) The LSAU may provide a leave of absence to allow the employee to pursue an educational degree or other
27 credential but shall not use state funds to pay any substitute employee hired to fulfill the duties of the absent employee.

28
29 *History Note: Authority G.S. 115C-12(8); 115C-336.1; 115C-408; N.C. Constitution, Article IX, Sec. 5; 126-8.6;*
30 *Eff. July 1, 1986;*
31 *Amended Eff. March 1, 1990; 1990;*
32 *Readopted Eff. July 1, 2026.*

1 16 NCAC 06C .0406 is readopted with changes as published in 40:17 NCR 1335–1346 as follows:

2
3 **16 NCAC 06C .0406 ~~MILITARY DUTY WITHOUT LOSS OF PAY LEAVE~~**

4 ~~Public school employees including charter school employees on leaves of absence for State or federal military duty~~
5 ~~under honorable service status, for required training, or for special emergency management service shall be paid the~~
6 ~~difference in military base pay and State salary, including non performance based bonuses, when the military pay is~~
7 ~~less than the State salary. Differential pay for military duty after July 1, 2002 shall be paid from the same source of~~
8 ~~funds as the public school salary.~~

9 (a) As used in this Rule, the following definitions shall apply:

- 10 (1) "Active duty" is defined in 10 U.S.C. 101(d)(1).
11 (2) "Armed forces" is defined in 10 U.S.C. 101(a)(4).
12 (3) "Extended active duty" is defined in 26 U.S.C. 32(c)(4).
13 (4) "Military orders" is defined in 50 U.S.C. 3955(i)(1).
14 (5) "Military service" is defined in 50 U.S.C. 3911(2).
15 (6) "Reserve component" is defined in 38 U.S.C. 101(27).

16 (b) This Rule shall govern the use of military leave by employees of all public school units ("PSUs") pursuant to G.S.
17 115C-302.1(g1), G.S. 127A-116, and the Uniformed Services Employment and Reemployment Rights Act of 1994,
18 103 P.L. 353. Each PSU shall ensure that an employee does not suffer loss of regular pay or benefits because of
19 training or duty in service of the Armed Forces of the United States or the State of North Carolina, or for special
20 emergency services. The governing body of a PSU may adopt additional policies to govern the use of military leave,
21 provided they are consistent with this Rule. To the extent any provisions of this Rule conflict with federal law, the
22 federal law shall control. The provisions of Subchapter II of Chapter 43 of Title 38 of the United States Code are
23 incorporated by reference throughout this Rule, including subsequent amendments and editions thereof. A copy of
24 these statutes is available at no cost from [https://www.govinfo.gov/content/pkg/USCODE-2011-](https://www.govinfo.gov/content/pkg/USCODE-2011-title38/pdf/USCODE-2011-title38-partIII-chap43.pdf)
25 [title38/pdf/USCODE-2011-title38-partIII-chap43.pdf](https://www.govinfo.gov/content/pkg/USCODE-2011-title38/pdf/USCODE-2011-title38-partIII-chap43.pdf).

26 (c) Paid Short-Term Military Leave

- 27 (1) A PSU shall grant paid short-term military leave to employees who are members of any of the
28 following military services:
29 (A) The reserve components of the United States Armed Forces.
30 (B) The Civil Air Patrol, when participating in missions or training exercises that are
31 authorized by the Governor, the Secretary of the Department of Public Safety, or the United
32 States Air Force. Such employees are not entitled to leave for regularly scheduled unit
33 training assemblies.
34 (C) The North Carolina State Defense Militia, when called to service by the Governor for
35 infrequent special activities in the interest of the State (usually not exceeding one day) or
36 for missions related to disaster recovery, search and rescue, or similar efforts. Such

1 employees are not entitled to leave for regularly scheduled unit training assemblies or when
2 volunteering in support of activities sponsored by civic or social organizations.

3 (2) A qualified employee is entitled to up to 15 days of paid short-term military leave each fiscal year.

4 (3) Any portion of the vacation leave or 15 days of paid short-term military leave to which an employee
5 may be entitled may be used in lieu of or in conjunction with unpaid military leave for attendance
6 at any of the following:

7 (A) A military service academy.

8 (B) Active duty training with a reserve component.

9 (4) In addition to the 15 days provided by Subparagraph (c)(2), an employee who is a member of the
10 National Guard is entitled to leave for activities in service of the State when so authorized by the
11 Governor or the Governor's designee.

12 (5) An employee is not entitled to short-term military leave for any of the following:

13 (A) Duties imposed to the employee as a result of disciplinary action under the Uniform Code
14 of Military Justice.

15 (B) Inactive duty training (drills) undertaken for the convenience of the employee, such as
16 equivalent training, split-unit assemblies, or make-up drills.

17 (C) Unscheduled or incidental activities related to membership in the reserves, such as
18 volunteer work at military facilities.

19 (d) An employee shall provide the PSU with advanced notice to the employer of the need for military leave and shall
20 apply for reinstatement of employment for any leave absence exceeding 30 consecutive calendar days.

21 (e) Unpaid Military Leave for Extended Active Duty

22 (1) A PSU shall grant unpaid military leave for extended active duty to [employees] an employee who
23 [enter] enters active duty in service of the United States Armed Forces for a period exceeding 30
24 consecutive calendar days. The employer shall notify the employee of all rights and benefits
25 concerning military leave at the time of the employee's hire or enlistment in the Armed Forces,
26 whichever is later.

27 (2) An employee may use available paid short-term military leave at the beginning of a period of
28 extended active duty.

29 (3) In addition to time spent on active duty, an employee may use unpaid military leave for any of the
30 following reasons:

31 (A) A personal adjustment period while awaiting entry into active duty, not to exceed 30 days.

32 (B) Any period during which the employee is awaiting reinstatement in the employee's
33 previous position following military service.

34 (C) Involuntary extended military service.

35 (D) Extensions of enlistment due to hospitalization as a result of military service.

36 (4) During a time of military leave for extended active duty, an employee shall continue to earn years
37 of service as calculated for salary increases. The employee shall retain all accumulated sick leave

1 during the absence. The employee may choose to retain all accumulated vacation leave during the
2 absence or obtain a payout at the time the leave begins, subject to the limitations of 16 NCAC 06C
3 .0409(d).

4 (5) An employee seeking to return to work with the PSU after extended active duty shall apply for
5 reinstatement within 14 days following active duty service of 30 to 180 days or within 90 days
6 following active duty service of more than 180 days, provided the employer gave prior notice to the
7 employee of the employee's right to re-employment under this Rule and 38 U.S.C. 4316. If the
8 employer failed to give prior notice, the employee may apply within 90 days of receipt of notice.
9 Upon such application, the PSU shall reinstate the employee to a position of equivalent status,
10 seniority, and pay to the position vacated at the time the employee took leave. If the employee is
11 disabled due to military service to the extent that the employee cannot perform the duties of the
12 original position, the PSU shall assign the employee to a position with appropriate accommodations.

13 (f) If the employee has exhausted paid short-term military leave and all other available paid leave, and the employee's
14 military service pay is less that what the employee would earn with the PSU during the equivalent time period, the
15 employee shall be eligible for differential pay. The employee shall provide the PSU with a military pay voucher or
16 other documentation to prove the pay differential.

17 (A) A PSU shall pay any pay differential for employees in State-funded positions using State funds.

18 (B) A PSU shall pay any differential for employees in federally-funded positions using federal funds.

19 (C) A local board of education shall pay any pay differential for employees in locally funded positions
20 using local funds

21 (D) A charter school shall pay any pay differential for its employees.

22 (E) A local board of education shall include any local supplement as part of the pay differential.

23 (g) An employee shall provide the PSU, upon request, with a copy of the military orders or other documentation of
24 the required military duty or service.

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27 *History Note: Authority G.S. 115C-302.1(g1); 127A-116; 38 U.S.C. 4316;*

28 *Eff. December 1, 2004. 2004;*

29 *Readopted Eff. July 1, 2026.*

1 16 NCAC 06C .0409 is adopted with changes as published in 40:17 NCR 1335–1346 as follows:

2
3 **16 NCAC 06C .0409 VACATION LEAVE**

4 (a) In ~~addition,~~ addition to the relevant provisions of Articles 18, 19, 20, 21, and 23 of Chapter 115C of the General
5 Statutes, this Rule shall govern the use of vacation leave by employees of a local board of education ("local board").
6 The local board may adopt additional policies to govern the use of vacation leave, provided they are consistent with
7 this Rule. Except where otherwise indicated below, "employee" shall include the following:

- 8 (1) Superintendents, as provided by G.S. 115C-272.
- 9 (2) Principals and Supervisors, as provided by G.S. 115C-285.
- 10 (3) Teachers and other instructional personnel, as provided by G.S. 115C-302.1.
- 11 (4) Other public school employees, as provided by G.S. 115C-316.

12 (b) Eligibility for Vacation Leave

- 13 (1) A permanent full-time employee who works or is on paid leave (including State holidays and days
14 for which the employee is receiving workers compensation) for at least one half of the workdays in
15 a calendar month shall earn vacation leave based on the employee's length of total state service, as
16 defined in 25 NCAC 01D .0112. The employee shall accrue vacation leave at the same rate as State
17 employees, as set forth in 25 NCAC 01E .0203, subject to the limitations in Subparagraph (b)(3).
- 18 (2) A permanent part-time employee who works or is on paid leave (including State holidays and days
19 for which the employee is receiving workers compensation) for at least one half of the workdays in
20 a calendar month shall earn vacation leave on a pro rata basis relative to the amount of leave earned
21 by a permanent full-time employee in the same position classification. A person employed in two
22 or more positions may not earn more leave than that earned by a permanent full-time employee.
- 23 (3) The local school administrative unit ("LSAU") shall establish the required daily and weekly work
24 hours for each permanent employee. If a permanent full-time employee works fewer than 40 hours
25 per week, the employee shall earn a percentage of the relevant vacation leave accrual rate that is
26 equivalent to the weekly work hours for the employee as a percentage of a standard 40-hour work
27 week. For example, if the employee works 35 hours per week, or 87.5 percent of a 40-hour work
28 week, then the employee would earn leave at 87.5 percent of the monthly and annual accrual rates
29 listed in Paragraph (a).
- 30 (4) An employee who is not eligible to earn vacation leave may not use previously accumulated vacation
31 leave.
- 32 (5) A school bus driver who works fewer than 20 hours per week and is not otherwise entitled to earn
33 vacation leave under this Rule shall earn one vacation day (equal in hours to the number of hours in
34 the driver's regular workday) per year if the driver:
 - 35 (A) Is employed to drive a regular daily route (i.e., is not a substitute driver); and
 - 36 (B) Was employed as a regular driver during the entire previous school year.

37 A driver who is dismissed by the local board or resigns before taking the vacation leave day provided

1 by this Subparagraph shall not receive compensation for that day.

2 (c) Use of Vacation Leave

3 (1) For teachers and instructional personnel who work 10 months per year, the employee must use the
4 first 10 days of accrued available vacation leave each year on days designated by the local board as
5 vacation days in accordance with G.S. 115C- 302.1(c),

6 (2) A classroom teacher, school media coordinator, or teacher assistant shall not use vacation leave on
7 days in which students are scheduled to be in attendance if the employee would require a substitute,
8 unless the employee:

9 (A) Does not earn personal leave under G.S. 115C-302.1(d);

10 (B) Is using the vacation leave to care for a newborn child or a child placed with the employee
11 for adoption or foster care under G.S. 115C-302.1(j); or

12 (C) Is using the vacation leave for catastrophic illness under 16 NCAC 06C .0402(i).

13 (3) An employee who earned vacation leave during the school year, as defined in 16 NCAC 06C
14 .0401(11)(b), shall continue to earn vacation leave during the summer break if the employee works
15 at least 20 hours per week for the same local school administrative unit. If the employee works less
16 than full-time, the employee shall earn leave on a pro rata basis consistent with Subparagraph (a)(2).

17 (4) An employee who is not eligible to earn vacation leave may not use previously accumulated vacation
18 leave.

19 (d) An LSAU may advance vacation leave to an employee based on the amount of leave the employee is anticipated
20 to earn in the remainder of the current fiscal year, provided that the LSAU shall assume financial responsibility for
21 any advanced leave not earned at the time the employee separates from employment or at the end of the fiscal year,
22 whichever is earlier.

23 (e) Except as provided by Paragraph (f), when an employee separates from employment with an LSAU, the LSAU
24 shall pay the employee a lump sum for accumulated vacation leave. The payout shall be calculated using the daily rate
25 of pay based on the employee's salary at the time of separation and shall not exceed the equivalent pay of 30 days. In
26 the case of a deceased employee, the LSAU shall pay the lump sum to the administrator or executor of the deceased
27 employee's estate upon receipt of a valid probate claim.

28 (f) Transfer of Vacation Leave

29 (1) An employee may transfer accumulated vacation leave from one LSAU to another LSAU upon
30 transfer of employment, provided that any variance in the number of working hours per day that is
31 considered "full-time" between the new position and the previous position shall not result in an
32 increase or decrease in the total number of vacation leave days available as a result of the transfer.
33 To calculate the equitable value of the transferred leave:

34 (A) The sending LSAU shall divide the total number of hours of accumulated vacation leave
35 by the number of working hours per day that is considered "full-time" for the departing
36 employee's previous position. This generates a total number of vacation leave days
37 available for transfer to the receiving LSAU.

1 (B) The receiving LSAU shall then multiply the number of transferred vacation leave days by
2 the number of working hours per day that is considered "full-time" for the incoming
3 employee's new position. This generates the total number of vacation leave hours available
4 for use by the employee in the new position.

5 (2) An employee may transfer accumulated vacation leave to a State agency or any of the entities listed
6 in 25 NCAC 01E .0309 upon transfer of employment to such agency or entity, if the agency or entity
7 is willing to accept the leave. If the agency or entity is unwilling to accept the leave, the LSAU shall
8 pay the employee for the accumulated leave, up to a maximum of 30 days.

9 (3) A person employed by such agency or entity may transfer accumulated vacation leave to an LSAU
10 upon transfer of employment to such LSAU if such LSAU is willing to accept the leave and,
11 consistent with Subparagraph (e)(1), any variance in the number of working hours per day that is
12 considered "full-time" between the new position with the LSAU and the previous position with the
13 agency or entity shall not result in an increase or decrease in the total number of leave days available
14 as a result of the transfer.

15 (4) If, within 31 days of separation from employment with an LSAU, an employee obtains employment
16 with another LSAU or a State agency or entity willing to accept transferred vacation leave, the
17 original LSAU shall transfer any accumulated vacation leave to the new employer in lieu of paying
18 the employee for the leave.

19 (5) An employee may only transfer accumulated vacation leave from one leave-earning position to
20 another leave-earning position, even if the new position is within the same LSAU.

21 (g) This Rule shall also govern any bonus vacation leave awarded to an employee pursuant to S.L. 2002-126, Section
22 28.3A (as amended by S.L. 2002-159, Section 82); S.L. 2003-284, Section 30.12B; or S.L. 2005-276, Section 29.14A,
23 except that the employee shall maintain the leave from year-to-year until it is used or paid out upon separation from
24 employment. Each LSAU shall track bonus vacation leave separately from otherwise earned vacation leave and shall
25 not include it in the 30 days calculated under Paragraph (e).

26 (h) Each LSAU shall maintain leave records for each of its employees. The LSAU shall inform each employee of the
27 employees leave balances at least once per fiscal year. The LSAU shall retain employee leave records for at least five
28 years from the date of the employee's separation.

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31 *History Note: Authority G.S. 115C-12(8), (9), (16); 115C-272; 115C-285; 115C-302.1; 115C-316; 115C-408;*
32 *S.L. 1997-443, s. 8.6;*
33 *Eff. July 1, 2026.*

1 16 NCAC 06C .0411 is adopted as published in 40:17 NCR 1335–1346 as follows:

2
3 **16 NCAC 06C .0411 SICK LEAVE BANKS**

4 (a) As used in this Rule, the following definitions shall apply:

5 (1) "Donor" means an employee donating sick leave to a sick leave bank.

6 (2) "Eligible recipient" means an employee withdrawing donated sick leave from a sick leave bank who
7 meets the requirements of Paragraph (d) of this Rule.

8 (3) "Participant" means all donors and recipients participating in the sick leave bank.

9 (b) A local board of education ("local board") may establish a voluntary shared sick leave bank ("sick leave bank")
10 for its employees, subject to the requirements of this Rule.

11 (c) Donors

12 (1) A full-time or part-time permanent employee may donate sick leave to the sick leave bank.

13 (2) A donor shall not, by donating sick leave, reduce their balance of accumulated sick leave time to
14 less than half the amount of leave time that employee would otherwise earn in a school year.

15 (3) A donor shall not receive any form of compensation for donated sick leave.

16 (4) The minimum donation of sick leave shall be one half-day.

17 (d) Eligible Recipients

18 (1) Eligibility to withdraw sick leave from the sick leave bank shall be limited to full-time and part-
19 time permanent employees who:

20 (A) Have a serious medical condition that that renders the employee unable to perform the
21 employee's professional duties for a prolonged period, or has an immediate family member
22 with such a condition who requires the employee's continuous supervision and care; and

23 (B) Have exhausted all other available paid leave except personal leave available under G.S.
24 115C-302.1(d) and extended sick leave available under 16 NCAC 06C .0402(1).

25 (2) An employee cannot withdraw sick leave from the sick leave bank for work time for which the
26 employee is receiving disability benefits or workers' compensation benefits.

27 (3) To withdraw sick leave, an eligible recipient must provide the local school administrative unit
28 ("LSAU") with:

29 (A) Medical documentation of the serious medical condition, signed by the employee or family
30 member's treating physician; and

31 (B) An authorization for the treating physician or medical provider to release to the LSAU
32 medical information related to the serious medical condition. The release shall be signed
33 by the employee or immediate family member, or by that person's legal guardian or health
34 care power of attorney.

35 (4) The local superintendent or designee shall approve or deny each request to withdraw sick leave from
36 the sick leave bank. The local superintendent or designee shall determine how many days of sick

1 leave the recipient may withdraw, provided that the employee may withdraw sick leave for the same
2 condition for more than twelve months from the initial date that the employee used donated leave.

3 (6) Donated sick leave shall be credited toward the recipient's sick leave balance but shall not count as
4 creditable service toward retirement.

5 (e) The LSAU shall notify participants of any effect of participation in the sick leave bank on retirement.

6 (f) The local board shall adopt a policy to govern the sick leave bank and shall direct the LSAU to adopt rules and
7 regulations to implement that policy. In addition to the requirements above, these policies, rules, and regulations may
8 address the following:

9 (1) Requirements of minimum service to the LSAU and accumulation of a minimum balance of sick
10 leave before an employee may participate in the sick leave bank.

11 (2) A waiting period before an employee is eligible to withdraw sick leave.

12 (3) Enrollment periods for current employees and new hires.

13 (4) Time limits for rejoining the sick leave bank after leaving the bank.

14 (5) Limitations on the number of days that can be withdrawn from the sick leave bank by any recipient.

15 (6) A uniform number of days to be contributed to the bank by donors.

16 (g) The LSAU shall report the following information the State Board of Education ("SBE") by July 1st of each year:

17 (A) The number of participants in the sick leave bank, itemized by position classification.

18 (B) The number of sick days withdrawn from the sick leave bank.

19 (C) The total cost of the withdrawn sick leave.

20 (D) Any other data requested by the SBE to ensure compliance with this Rule and other state and federal
21 financial rules.

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24 History Note: Authority G.S. 115C-12(8); 115C-336(b);

25 Eff. July 1, 2026.

1 16 NCAC 06D .0106 is readopted with changes as published in 40:15 NCR 1232–1235 as follows:

2
3 **16 NCAC 06D .0106** **LIMITED ENGLISH PROFICIENCY ENGLISH LEARNER PROGRAMS**

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

5 (1) “Annual testing program” is defined in 16 NCAC 06D .0307(c).

6 (2) “Caregiver” means a parent, custodian, legal guardian, or other person having formal or informal
7 responsibility for the care and education of an English learner. “Caregiver” does not include
8 employees of the public school system acting in their professional capacities.

9 (3) “English language proficiency assessment” means the diagnostic test approved by the State Board
10 of Education and administered to an English learner to evaluate the English learner’s achievement
11 and progress in English language development. The approved test is the WIDA ACCESS.

12 (4) “English language proficiency alternative assessment” means the diagnostic test approved by the
13 State Board of Education and administered to an English learner who has been identified as a child
14 with a disability, as defined in G.S. 115C-106.3(1), and has a significant cognitive disability to
15 evaluate the English learner’s achievement and progress in English language development. The
16 approved test is the WIDA Alternate ACCESS.

17 (5) “English language proficiency screener” means the diagnostic test approved by the State Board of
18 Education and administered to a student to determine if the student is an English learner. The
19 approved tests are the WIDA Screener and WIDA Screener for Kindergarten.

20 (6) “English language proficiency alternative screener” means the diagnostic test approved by the State
21 Board of Education and administered to a student who has been identified as a child with a disability,
22 as defined in G.S. 115C-106.3(1), and has a significant cognitive disability to determine if the
23 student is an English learner. The approved test is the WIDA Alternate Screener.

24 (7) “English learner” is defined in 20 U.S.C. 7801(20).

25 (8) “English learner plan” means a comprehensive document, unique to each English learner, that
26 outlines how the public school unit will support the English learner’s English language development
27 and access to grade-level academic content. The plan shall include key information such as the
28 English learner’s identification, English proficiency level, language development goals,
29 instructional services, testing accommodations, and parent or caregiver notifications.

30 (9) “Home language survey” means one or more questions posed to a student and the student’s
31 caregiver(s) upon the student’s initial enrollment in a public school unit (“PSU”) to determine the
32 language or languages spoken in the home.

33 (10) “Language instruction educational program” or “LIEP” is defined in 20 U.S.C. 7011(7).

34 (a) ~~Each superintendent or his delegate shall:~~

35 (1) ~~identify resources available to serve limited English proficient students;~~

36 (2) ~~coordinate programs and services to these students and their parents in the local school~~
37 ~~administrative unit;~~

1 ~~(3) — report to the SBE information concerning the identification, placement, and educational progress of~~
2 ~~these students; and~~

3 ~~(4) — report funding needs for the provision of services to these students to the SBE.~~

4 ~~(b) LEAs shall report~~

5 ~~annually to the SBE information including but not limited to the number of students whose primary home language~~
6 ~~is other than English, the number of limited English proficient students identified and receiving services, the nature~~
7 ~~of the services, the number of limited English proficient students receiving special education services and services for~~
8 ~~the academically gifted, and data required to be reported to the U.S. Department of Education.~~

9 ~~(c) A home language survey shall be administered to every student at the time of enrollment and maintained in the~~
10 ~~student's permanent record. LEAs shall then identify and assess every limited English proficient student who needs~~
11 ~~assistance in order to have access to the unit's instructional programs. Each LEA which identifies limited English~~
12 ~~proficient students who need assistance shall adopt an effective method of determining the students' current level of~~
13 ~~English proficiency in order to determine what types of assistance are needed. The method used may be a combination~~
14 ~~of the following, unless some other method can be effectively substituted:~~

15 ~~(1) — teacher observations;~~

16 ~~(2) — teacher interview;~~

17 ~~(3) — achievement tests;~~

18 ~~(4) — review of student records;~~

19 ~~(5) — parent information;~~

20 ~~(6) — proficiency tests;~~

21 ~~(7) — English as a second language teacher referral;~~

22 ~~(8) — student course grades;~~

23 ~~(9) — teacher referral or recommendation;~~

24 ~~(10) — criterion referenced tests;~~

25 ~~(11) — grade retention or deficiency report;~~

26 ~~(12) — informal assessment or screening;~~

27 ~~(13) — portfolio based assessment; and~~

28 ~~(14) — alternative assessments such as cloze and dictation.~~

29 (b) Upon a student's initial enrollment in a North Carolina public school unit ("PSU"), the PSU shall administer a
30 home language survey and maintain the results of that survey in the student's educational record. If a student has been
31 previously enrolled in another North Carolina PSU, the enrolling PSU shall use the results of the previous survey. The
32 home language survey shall collect at least the following information:

33 (1) The student's name.

34 (2) The student's date of birth.

35 (3) The student's current grade.

36 (4) The name of the student's parent(s) or caregiver(s).

37 (5) The telephone number of the parent(s) or caregiver(s).

1 (6) The primary language used in the student’s home, regardless of the language spoken by the student.

2 (7) The language the student speaks most often.

3 (8) The first language the student learned to speak.

4 (9) If the student has attended any other primary or secondary school in the United States:

5 (A) The state, territory, or federal district in which the student attended school;

6 (B) The name of the PSU the student attended, if the student attended another PSU in North
7 Carolina; and

8 (C) The years that the student attended each school.

9 (c) The PSU shall take the following steps within 30 days of a student’s enrollment:

10 (1) The PSU shall investigate the English language skills of the student if the home language survey
11 indicates that:

12 (A) The student’s first language is other than English;

13 (B) The student’s primary language is other than English; or

14 (C) The student most often speaks a language other than English.

15 (2) Based on this investigation, the PSU shall determine whether the student’s English language skills
16 will impair the student’s ability to access academic content.

17 (3) The PSU shall administer one of the following English language proficiency screeners:

18 (A) The WIDA Screener for Kindergarten, if the student is in the first semester of Kindergarten.

19 (B) The WIDA Screener, if the student is in the second semester of Kindergarten or in Grade
20 1 through Grade 12;

21 (C) The WIDA Alternate Screener, if the student is identified as a child with a disability.

22 (4) The PSU shall designate a student as an English learner if the student scores the following on the
23 applicable English language proficiency screener:

24 (A) Below a 4.5 overall (listening, speaking, reading, and writing) composite score on the
25 WIDA Screener;

26 (B) Below a 4.5 oral language (listening and speaking) composite score on the WIDA Screener
27 for Kindergarten; or

28 (C) Below a 3.0 on the WIDA Alternate Screener.

29 (5) Once a student is identified as an English learner, the PSU shall enroll the student in a language
30 instructional educational program that will best enable the student to:

31 (A) Increase English language proficiency; and

32 (B) Access academic content and curriculum.

33 (d) ~~LEAs shall adopt a program or programs for limited English proficient students who need assistance which have~~
34 ~~a reasonable chance of allowing students to progress in school. The program may be one of the following unless some~~
35 ~~other method or process can be effectively substituted:~~

36 (1) ~~English as a second language (ESL);~~

37 (2) ~~bilingual education;~~

1 ~~(3) — programs which provide neither instruction in the native language nor direct instruction in ESL but~~
2 ~~which adapt instruction to meet the needs of these students.~~

3 ~~Program entry criteria shall be developed which take into account the student's educational background, English~~
4 ~~language proficiency, native language proficiency, and content area knowledge. LEAs shall conduct a program~~
5 ~~evaluation annually.~~

6 (d) Each English learner shall participate in the annual testing program using one of the following methods of
7 test administration:

8 (1) The standard test administration provided to non-English learners.

9 (2) The standard test administration with accommodations identified in the English learner plan, if the
10 English learner scored below Level 5.0 Bridging on the reading domain of the WIDA Screener or
11 WIDA Access.

12 English learners who are in their first year of enrollment in a United States public or nonpublic school and enrolled in
13 a course with an End-of-Course test in reading, mathematics, or science shall take the End-of-Course test, but the test
14 scores shall not be included in the student's final grade for the course.

15 (e) The PSU shall administer one of the following English language proficiency assessments to each identified English
16 learner during the annual testing program:

17 (1) The WIDA ACCESS, if the English learner is in Kindergarten or in Grade 1 through Grade 12;

18 (2) The WIDA Alternate ACCESS, if the English learner is identified as a child with a disability, as
19 defined in G.S. 115C-106.3(1), and has a significant cognitive disability.

20 ~~(e) LEAs shall adopt appropriate evaluative standards for measuring the progress of limited English proficient~~
21 ~~students in school. In order to determine when students no longer need assistance, the LEA shall determine the content~~
22 ~~knowledge and language skills necessary for successful functioning in the regular classroom. Then, multiple~~
23 ~~instruments as well as teacher judgment may be used to evaluate English listening and speaking skills, English literacy~~
24 ~~skills, and content area knowledge. The students shall not be maintained in alternative language programs longer than~~
25 ~~necessary based on program exit criteria but shall be monitored after exiting such programs for a minimum of six~~
26 ~~months and additional academic and English language support shall be provided if the students begin to have~~
27 ~~difficulty.~~

28 (f) The PSU shall deem a student to no longer be an English learner and exit the student from the language instructional
29 educational program if the [student scores the following on the applicable English language proficiency assessment:]
30 student:

31 (1) [An] Achieves an overall composite score of 4.5 or above on the WIDA ACCESS; [or]

32 (2) [A] Achieves a Level 2 or higher on the WIDA Alternate [ACCESS.] ACCESS; or

33 (3) Achieves an overall composite score of 4.2, 4.3, or 4.4 on the WIDA ACCESS; achieves a score of
34 less than 4.0 on no more than one individual domain of the WIDA ACCESS; and demonstrates other
35 evidence of English proficiency using the Multiple Measure Tool developed by the Department of
36 Public Instruction.

1 If the PSU has evidence that a student who was previously identified as an English learner has English language skills
2 that may impair the student's continued ability to access academic content, the PSU may re-administer the applicable
3 English language proficiency to re-assess the student's eligibility for English learner services and accommodations.

4 ~~(f) LEAs shall monitor the progress of limited English proficient students in English proficiency and in the BEP.~~
5 ~~When a limited English proficient student is not making progress in school, the LEA shall conduct an evaluation of~~
6 ~~the student's program and make modification as needed.~~

7 ~~(g) Limited English proficient students shall participate in the statewide testing programs in accordance with 16~~
8 ~~NCAC 6D .0301.~~

9 ~~(h) LEAs shall promote the involvement of parents of students of limited English proficiency in the educational~~
10 ~~program of their children. LEAs shall notify national origin minority group parents of school activities which are~~
11 ~~called to the attention of other parents and these notices shall be provided in the home language if feasible.~~

12 ~~(i) (g) LEAs shall ensure that limited English proficient students are not assigned to or excluded~~ The PSU shall not
13 exclude English learners ~~from special education programs because of their~~ due to limited English language
14 proficiency. ~~Evaluation;~~ The PSU shall conduct evaluation, placement, and notification to parents of students with
15 special needs ~~shall be conducted~~ in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1401
16 et seq. and its implementing regulations at 34 C.F.R. Part 300.

17 ~~(j) (h) LEAs shall ensure that limited English proficient students are not categorically excluded~~ The PSU shall not
18 exclude English learners from programs for the academically gifted and other specialized programs or support services
19 ~~such as guidance and counseling~~ due to limited English proficiency.

20 ~~(k) (i) LEAs shall ensure that limited English proficient students are educated~~ The PSU shall educate English learners
21 ~~in the least segregative manner based on the educational needs of the student and these students shall be included~~
22 segregated manner consistent with each student's English learner plan and include these students in all aspects of the
23 regular school program in which they can perform satisfactorily. for which they are otherwise eligible and qualified.

24 ~~(l) The Department shall monitor the progress of LEAs in providing programs to all limited English proficient students~~
25 ~~using the same procedures and standards as provided in Title I - Helping Disadvantaged Children Meet High~~
26 ~~Standards, 20 U.S.C. '6301 et seq.~~

27 ~~(m) The Department shall make available a list to all LEAs of teachers licensed in English as a Second Language~~
28 ~~(ESL). ESL training and add-on ESL licensure for teachers currently licensed in areas other than ESL is an appropriate~~
29 ~~strategy to obtain qualified staff.~~

30 ~~(n) Each LEA may consider joint agreements with other LEAs to provide programs to limited English proficient~~
31 ~~students.~~

32 ~~(o) Each LEA may coordinate services with those available at local community colleges in order to maximize efficient~~
33 ~~delivery of services to limited English proficient students and their parents.~~

34 ~~(p) The Department shall administer the Teacher Education Program Approval process so as to ensure that all~~
35 ~~participants have an opportunity to gain an understanding of and develop strategies for addressing the educational~~
36 ~~needs of limited English proficient students. The Department shall work with IHEs to expand English as a Second~~
37 ~~Language teacher training programs.~~

- 1 (j) The PSU shall report the following information to the SBE no later than November 1st of each year:
2 (1) The number of English learners identified and receiving services from the PSU.
3 (2) The number of English learners receiving special education services in accordance with Chapter
4 115C, Article 9 of the General Statutes.
5 (3) The number of English learners receiving services for academically or intellectually gifted students
6 in accordance with Chapter 115C, Article 9B of the General Statutes.
7 (4) Any other information required by the United States Department of Education.

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*History Note: Authority G.S. ~~115C-12(9)e.~~; N.C. Constitution, Article IX, Sec. 5; ~~115C-12(9); 115C-12(48);~~
~~115C-83.7; 115C-83.15; 115C-83.16; 115C-218.85; S.L. 2007-323, Section 7.9; 20 U.S.C. 6311;~~
~~20 U.S.C. 6811-7014; 20 U.S.C. 1703; 34 C.F.R. 200.6;~~
~~Eff. June 1, 1996. 1996;~~
Readoption Eff. July 1, 2026.*

1 16 NCAC 06E .0201 is amended as published in 40:15 NCR 1236–1244 as follow:
2

3 **SECTION .0200 - INTERSCHOLASTIC ATHLETICS**
4

5 **16 NCAC 06E .0201 DEFINITIONS**

6 As used in this Section, the following definitions apply:

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

8 ~~(2)~~ (2) "Administrative rule" is defined in G.S. 115C-407.55(5).

9 ~~(2)~~ (3) "Aggrieved party" means a student, coach, participating school, PSU, or other party that is directly
10 and adversely affected by a final decision of a rule administrator, ~~including a determination of~~
11 ~~ineligibility under Rule .0207 of this Section, a penalty imposed under Rule .0209 of this Section,~~
12 ~~or a finding of undue influence or a recruiting violation under Rule .0210 of this Section.~~
13 administrator enforcing a student participation rule, penalty rule, or gameplay rule. If a student is
14 affected, the student's parent or legal guardian may appeal the final decision pursuant to Rule .0215
15 of this Section.

16 ~~(3)~~ (4) "Bona fide purpose" means a purpose not primarily related to participation in interscholastic
17 athletics.

18 ~~(4)~~ (5) "Final decision" means a written decision of a rule administrator regarding the application or
19 enforcement of rules under this Section to a set of facts or circumstances. A ruling by a referee or
20 official enforcing gameplay rules during an athletic competition, as recorded by the referee or
21 official in the game record maintained by the rule administrator, that results in the ejection or
22 suspension of a player or coach shall be deemed a final decision upon exhaustion of any available
23 mechanisms for review under the rule administrator's internal policies and procedures.

24 (6) "Gameplay rule" is defined in G.S. 115C-407.55(6).

25 ~~(5)~~ (7) "Immediate family member" means a spouse, parent, legal guardian or custodian, grandparent, child,
26 grandchild, brother, sister, half-sibling, or step-sibling. The term applies to any such relationship
27 whether by blood, adoption, or marriage.

28 ~~(6)~~ (8) "Initial entry" means:

29 (a) a student's first day of attendance at a participating school in which the student is enrolled
30 as recorded by that school; or

31 (b) the first day on which a student practices or otherwise participates as a member of an
32 interscholastic athletics team at a participating school.

33 ~~(7)~~ (9) "Interscholastic athletics" or "interscholastic athletic activity" means any extracurricular athletic
34 activity that:

35 (a) involves students in any Grades 6 through 12;

36 (b) is sponsored by an individual school, PSU, or administering organization; and

37 (c) includes students from more than one school or PSU.

1 ~~(8)~~ (10) "Local superintendent" means the superintendent of a local school administrative unit, as provided
2 in Chapter 115C, Article 18 of the General Statutes, or the staff member with the highest decision-
3 making authority for a PSU, if there is no superintendent.

4 ~~(9)~~ (11) "NFHS" means the National Federation of State High School Associations.

5 ~~(10)~~ (12)"Parent" is defined in G.S. 115C-407.50(6).

6 ~~(11)~~ (13)"Participating school" means a middle school, junior high school, or high school that elects to
7 participate in interscholastic athletic activities.

8 (14) "Penalty rule" is defined in G.S. 115C-407.55(3). Penalty rules are set forth in Rule .0209 of this
9 Section.

10 ~~(12)~~ (15)"Principal" means a school administrator employed as the principal of a school, as provided in
11 Chapter 115C, Article 19 of the General Statutes, or the staff member with the highest decision-
12 making authority at a school, if there is no principal.

13 ~~(13)~~ (16)"Rule administrator" means any of the following:

14 (a) An administering organization, when administering and enforcing the rules provided by
15 this Section at the high school level.

16 (b) A local superintendent or his or her authorized designee, when administering and enforcing
17 the rules provided by this Section at the middle and junior high school level.

18 (c) The Superintendent of Public Instruction, if necessary pursuant to 16 NCAC 06E .0204(e).

19 (17) "Student health and safety rule" is defined in G.S. 115C-407.55(2). Student health and safety rules
20 are set forth in Rule .0205 of this Section.

21 (18) "Student participation rule" is defined in G.S. 115C-407.55(1). Student participation rules are set
22 forth in Rule .0207 of this Section.

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24 *History Note: Authority G.S. 115C-12(12);115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;*
25 *115C-407.65; 116-235(b);*

26 *Eff. July 1, 1986;*

27 *Exp. Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.*

28 *Temporary Adoption Eff. July 1, 2024;*

29 *Temporary Adoption Eff. January 2, 2025;*

30 *Eff. July 1, ~~2025~~ 2025;*

31 *Amended Eff. July 1, 2026.*

1 16 NCAC 06E .0204 is amended as published in 40:15 NCR 1236–1244 as follow:

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3 **16 NCAC 06E .0204 ADMINISTRATION OF INTERSCHOLASTIC ATHLETICS**

4 (a) The governing body of a PSU may allow high schools under its jurisdiction to belong to an administering
5 organization designated by the Superintendent of Public Instruction.

6 (b) An administering organization that has entered ~~into~~ a memorandum of understanding with the Superintendent for
7 the purpose of administering interscholastic athletics under this Section shall apply and enforce all ~~of~~ the requirements
8 of this Section. An administering organization shall provide training and resources to ensure that all students, parents,
9 and PSU personnel involved in the administration of interscholastic athletics understand and comply with the
10 provisions of this Section.

11 (c) If the Superintendent enters a memorandum of understanding with one or more administering organizations
12 consistent with G.S. 115C-407.61, the State Board of Education shall delegate to the administering organization(s) its
13 authority over participating schools that are members of the administering organization to:

- 14 (1) Apply and enforce student participation rules, as established in Rule .0207 of this Section.
- 15 (2) Waive any student participation rule as applied to a specific student, in accordance with 16 NCAC
16 06E .0207(k).
- 17 (3) Apply and enforce student health and safety ~~requirements, rules,~~ as established in Rule .0205 of this
18 Section.
- 19 (4) Adopt, apply, and enforce penalty rules, ~~as defined in G.S. 115C-407.55(3), that establish a system~~
20 ~~of demerits that includes reprimands, probations, suspensions, forfeitures of contests, forfeitures of~~
21 ~~titles, and disqualifications,~~ consistent with Rule .0209 of this Section.
- 22 (5) Adopt, apply, and enforce administrative ~~rules, as defined in G.S. 115C-407.55(5),~~ rules.
- 23 (6) Adopt, apply, and enforce gameplay ~~rules, as defined in G.S. 115C-407.55(6),~~ rules.
- 24 (7) Collect from all its members a uniform membership fee of either:
 - 25 (A) one thousand dollars (\$1,000) for each participating school, or
 - 26 (B) one dollar (\$1.00) for each student enrolled in a participating school.

27 (d) An administering organization shall:

- 28 (1) Enter into a memorandum of understanding, consistent with the requirements of G.S. 115C-
29 407.55(8) and 115C-407.61, with the Superintendent no later than March 15 prior to the start of the
30 school year in which it is to begin administering interscholastic athletics and no later than March 15
31 before the expiration of an existing memorandum of understanding;
- 32 (2) Submit an audit report signed by an independent certified public accountant or accounting firm,
33 which is in good standing with the North Carolina State Board of Certified Public Accountant
34 Examiners and performs no other tasks or functions for the administering organization besides the
35 annual audit, to the State Board of Education no later than March 15 each year;
- 36 (3) Broadcast the meetings of its membership and board of directors in a manner that is announced on
37 its website and which may be viewed electronically by any member of the public;

1 (4) Provide to the State Board of Education within 30 days any requested organizational records, such
2 as financial information, annual audit reports, and any matters related to or impacting participating
3 schools;

4 (5) Enter into written agreements with PSUs that allow their eligible schools to participate in
5 interscholastic athletics, which agreements shall include an explanation of the fees to be charged,
6 the obligations of the PSU and participating schools, penalties for the violation of this Section that
7 may be imposed, and an explanation of the process to file an appeal pursuant to Rule .0215 of this
8 Section; and

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

10 (e) In the event that the Superintendent is unable to enter a memorandum of understanding with one or more
11 administering organizations in accordance with this Rule, the SBE shall delegate all authority and responsibility
12 provided to an administering organization by this Section to the Superintendent.

13 (f) A PSU, participating school, PSU employee, or student seeking to report allegations of intimidation or harassment
14 by an administering organization shall file a report with the Superintendent. The report shall be in writing and include
15 a detailed description of the factual basis for the allegations.

16 (g) The Superintendent shall be responsible for general oversight of interscholastic athletic activities at participating
17 middle and junior high schools. The local superintendent or his or her authorized designees shall apply and enforce
18 the requirements of this Section for participating middle and junior high schools under the jurisdiction of a PSU. The
19 local superintendent or his or her authorized designee may also waive any student participation rule as applied to a
20 specific student enrolled at a middle or junior high school under the jurisdiction of the PSU, in accordance with Rule
21 .0207 of this Section.

22 (h) Any person or PSU seeking to inquire about or report a violation of any rule enforced by a rule administrator shall
23 direct the initial inquiry or report to the appropriate relevant rule administrator in accordance with the policies and
24 procedures adopted by the rule administrator.

25 ~~(i) For any question or dispute involving the enforcement of any interscholastic athletics rule provided by this Section,~~
26 ~~other than a ruling by a referee or official enforcing gameplay rules during an athletic competition, If a rule~~
27 ~~administrator determines that a student, PSU, or other party has violated any of the rules in this Section or any policies~~
28 ~~or procedures promulgated by the rule administrator under the authority delegated by this Rule, the relevant rule~~
29 administrator shall render a final decision within 10 business days. The rule administrator's final decision shall contain:

30 (1) Findings of fact.

31 (2) Conclusions of law, including a citation to and copy of any rules related to the decision.

32 (3) A description of any penalties imposed.

33 (4) Instructions on how the aggrieved party may file a notice of appeal with the Superintendent and a
34 notice that the appeal must be filed within five days after receipt of the final decision.

35 This Paragraph shall not apply to a ruling by a referee or official enforcing gameplay rules during an athletic
36 competition.

1 (j) An aggrieved party seeking to appeal a final decision with the Superintendent shall do so in accordance with Rule
2 .0215 of this Section.

3 (k) Nothing in this Section shall be construed as restricting the independent authority of a PSU to further limit or
4 regulate student participation in interscholastic athletics or other extracurricular activities in accordance with local
5 policies adopted by the governing body of the PSU. Limitations or regulations imposed under local policies shall not
6 be subject to appeal under Rule .0215 of this Section.

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8 *History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50, 115C-407.55; 115C-407.60;*
9 *115C-407.65; 116-235(b);*

10 *Emergency Adoption Eff. August 20, 2019;*

11 *Eff. March 1, 2021;*

12 *Temporary Amendment Eff. July 1, 2022;*

13 *Amended Eff. July 1, 2023;*

14 *Temporary Amendment Eff. July 1, 2024;*

15 *Amended Eff. July 1, 2026; July 1, 2025.*

1 16 NCAC 06E .0205 is amended as published in 40:15 NCR 1236–1244 as follow:

2
3 **16 NCAC 06E .0205 STUDENT HEALTH AND SAFETY**

4 (a) For purposes of this Rule, a concussion is defined as a traumatic brain injury caused by a direct or indirect impact
5 to the head that results in disruption of normal brain function, which may or may not result in loss of consciousness.

6 (b) An administering organization shall, on an annual basis, provide a concussion and head injury information sheet
7 to all coaches, school nurses, athletic directors, first responders (as defined in Rule .0206 of this Section), volunteers,
8 and students who participate in interscholastic athletic activities, and the parents or legal guardians of those students.

9 The information shall include:

- 10 (1) The definitions and symptoms of concussions and head injuries;
11 (2) A description of the physiology and the potential short-term and long-term effects of concussions
12 and other head injuries;
13 (3) The medical return-to-play protocol for post-concussion participation in interscholastic athletic
14 activities; and
15 (4) Any other information deemed necessary by the PSU.

16 (c) School employees, first responders, volunteers, and students shall sign the information sheet and return it to the
17 coach before participating in interscholastic athletic activities, including tryouts, practices, or competition. Parents
18 shall sign the information sheet and return it to the coach before a child may participate in any such interscholastic
19 athletic activities. The signed sheets shall be maintained in accordance with 16 NCAC 06E .0207(b).

20 (d) If a coach, athletic director, school nurse, athletic trainer, or first responder (as defined in Rule .0206 of this
21 Section) determines that a student participating in an interscholastic athletic activity is exhibiting signs or symptoms
22 consistent with concussion, the student shall be removed from the activity at the time and shall not be allowed to return
23 to play or practice that day. A student removed from play for exhibiting signs or symptoms consistent with concussion
24 shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance
25 for such participation from one of the following:

- 26 (1) A physician licensed under Chapter 90, Article 1 of the General Statutes with training in concussion
27 management;
28 (2) A neuropsychologist licensed under Chapter 90, Article 18A of the General Statutes with training
29 in concussion management and working in consultation with a physician licensed under Chapter 90,
30 Article 34 of the General Statutes;
31 (3) An athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;
32 (4) A physician assistant, consistent with the limitations of G.S. 90-18.1; ~~or~~
33 (5) A nurse practitioner, consistent with the limitations of G.S. ~~90-18.2~~ 90-18.2; or
34 (6) A physical therapist, licensed under Chapter 90, Article 18E of the General Statutes.

35 (e) Each participating school shall develop a venue-specific emergency action plan to deal with serious injuries and
36 acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan must be:

- 37 (1) In writing;

- 1 (2) Reviewed by an athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;
- 2 (3) Approved by the principal of the school;
- 3 (4) Distributed to all appropriate personnel;
- 4 (5) Posted conspicuously for community and parental awareness at all athletic-sponsored venues; and
- 5 (6) Reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school
- 6 nurses, athletic directors, and volunteers for interscholastic athletic activities.

7 (f) Each participating school's emergency management plan shall include:

- 8 (1) A delineation of roles;
- 9 (2) Methods of communication;
- 10 (3) Available emergency equipment; and
- 11 (4) Access to and plan for emergency transport.

12 (g) Each school shall maintain complete and accurate records of its compliance with the requirements of this Rule.

13

14 *History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.57;*
15 *115C-407.58; 115C-407.60;*
16 *Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);*
17 *Emergency Rule Eff. August 20, 2019;*
18 *Emergency Rule Exp. Eff. August 20, 2020;*
19 *Temporary Adoption Eff. July 1, 2024;*
20 *Eff. July 1, ~~2025~~ 2025;*
21 *Amended Eff. July 1, 2026.*

1 16 NCAC 06E .0207 is amended with changes as published in 40:15 NCR 1236–1244 as follow:

2
3 **16 NCAC 06E .0207 STUDENT PARTICIPATION RULES**

4 (a) A student shall not participate in interscholastic athletics on behalf of a North Carolina public school unless the
5 student has satisfied the eligibility requirements set forth in this Rule. PSUs are authorized to determine whether and
6 to what extent students under their jurisdiction may participate in interscholastic athletics, not inconsistent with the
7 requirements of this Rule.

8 (b) Each PSU shall require the principal of a participating school to sign and date a list of eligible students for each
9 sport. The PSU shall maintain a copy of the most current list in the principal's office and the office of the local
10 superintendent.

11 (c) Residency Requirements

12 (1) For purposes of this Rule, a student's primary residence shall be determined as follows:

13 (A) If both of the student's parents live together, the residence of both parents.

14 (B) If the student's parents are separated or divorced, the residence of the parent to whom a
15 court of competent jurisdiction has awarded primary custody of the student. If no custody
16 order has been entered, the student and the student's parents shall designate one parent's
17 residence as the primary residence and communicate that designation to the participating
18 school prior to participation in interscholastic athletic activities. The designated primary
19 residence shall be one that would otherwise render the student eligible to attend that school
20 in accordance with state law and the policies of the governing body of the PSU.

21 (C) If the student has only one living parent, the residence of that parent.

22 (D) If a student lives with an individual to whom a court of competent jurisdiction has awarded
23 legal guardianship of the student, the residence of that individual.

24 (E) If a student has been emancipated in accordance with Chapter 7B, Article 35 of the General
25 Statutes, the student's residence at the time of emancipation.

26 (F) If a student is a foreign national participating in a foreign exchange program authorized by
27 federal and state law, the residence to which the student is assigned by the program or host
28 PSU.

29 (2) A student shall not participate in interscholastic athletics following a change in primary residence
30 unless the change was made for a bona fide purpose and with the intent that it be permanent. The
31 relevant administering organization shall resolve, by a preponderance of the evidence, any disputes
32 regarding a high school student's primary residence or whether a change in a student's primary
33 residence was for a bona fide purpose.

34 (3) Notwithstanding Subparagraph (2) of this Paragraph and absent a transfer between participating
35 schools as provided in Paragraph (e) of this Rule, a student shall be eligible to participate in
36 interscholastic athletics on behalf of a participating school in which the student is enrolled if the

1 student has attended any school within the jurisdiction of the same PSU as the participating school
2 for the two preceding semesters.

3 (d) Enrollment Requirements

- 4 (1) A student enrolled in a school supervised by a local board of education shall only participate in
5 interscholastic athletics on behalf of the school to which the student is assigned under G.S. 115C-
6 366.
- 7 (2) A student enrolled in a charter school, regional school, or school operated by the University of North
8 Carolina shall meet all the enrollment criteria for that school and attend that school. A student who
9 attends a school described in this Subparagraph shall not participate in interscholastic athletics on
10 behalf of that school unless the student's primary residence is within either:
- 11 (A) the county in which the school is located, or
12 (B) twenty-five miles of the school as determined by the relevant rule administrator.
- 13 (3) A local board of education may by policy allow a person who is enrolled in Grade 6 through 12 in
14 a home school, as defined in G.S. 115C-563(a), and whose primary residence is within the board's
15 jurisdiction to participate in interscholastic athletics on behalf of a participating school under the
16 board's jurisdiction, provided that the board either agrees to cover any such person whom it allows
17 to participate under its catastrophic athletic accident insurance policy or verifies that the person is
18 independently covered by catastrophic accident insurance.

19 (e) Transfer Requirements

- 20 (1) After a student's initial entry into Grade 9, and absent a change in residence for a bona fide purpose
21 as provided in Paragraph (c) of this Rule:
- 22 (A) A student who transfers from one participating school to another participating school
23 within the same PSU shall not participate in interscholastic athletics for 365 calendar days
24 following the student's enrollment in the new school, unless the governing body of the PSU
25 has adopted a policy allowing immediate eligibility for students who are assigned by the
26 PSU to a different school within the same PSU.
- 27 (B) A student who transfers from a participating school in one PSU to a participating school in
28 a different PSU shall not participate in interscholastic athletics for 365 calendar days
29 following the student's enrollment in the new school, unless the governing bodies of both
30 PSUs agree that the transfer was for a bona fide purpose.
- 31 (C) If the governing bodies of the PSU disagree that a transfer by a high school student was for
32 a bona fide purpose, the relevant administering organization shall resolve the dispute by a
33 preponderance of the evidence. If the administering organization finds that the transfer was
34 for a bona fide purpose, it may waive the 365-day period of ineligibility in accordance with
35 Paragraph (k) of this Rule and shall notify both PSUs of its decision in writing.
- 36 (2) After a student's initial entry into Grade 9, if a student transfers to a new school within 365 calendar
37 days after that school hires a coach for an interscholastic athletics team who was previously

1 employed as a coach for an equivalent sport by the school from which the student is transferring,
2 the student shall be ineligible to participate in interscholastic athletics for that sport for 365 calendar
3 days following the student's enrollment in the new school. An administering organization may waive
4 this restriction for a high school student if it determines by a preponderance of the evidence that the
5 student's transfer was for a bona fide purpose.

6 (3) A student who receives priority enrollment as the child of a full-time employee of a charter school
7 pursuant to G.S. 115C-218.45(f)(3) shall not be eligible to participate in interscholastic athletics for
8 that charter school if the Department of Public Instruction determines that the parent's employment
9 was a fraudulent basis for the student's priority enrollment. A student determined to be ineligible
10 under this Subparagraph shall be ineligible to participate in interscholastic athletics for 365 calendar
11 days following discovery of the violation.

12 (4) For purposes of this Paragraph, if a student transfers from a public school to a nonpublic school,
13 including a home school as defined in G.S. 115C-563(a), and within 365 calendar days transfers to
14 a different public school, the transfer from the nonpublic school shall be treated as a transfer from a
15 public school.

16 (5) A student who transfers to the North Carolina School of Science and Mathematics is exempt from
17 the requirements of this Paragraph upon initial entry into that school.

18 (6) No student shall participate in more than one season of interscholastic athletics per year in the same
19 sport, regardless of the school on behalf of which the student participated.

20 (f) Scholastic Requirements

21 (1) To be eligible to participate in interscholastic athletics, a student must be in good academic standing.
22 For purposes of this Rule, a student shall be deemed to be in good academic standing under the
23 following circumstances:

24 (A) The student attended at least 85 percent of the total number of instructional days in the PSU
25 during the previous ~~semester;~~ semester, excluding absences qualifying as excused under
26 [the local policies of the PSU]; [16 NCAC 06E .0102;]

27 (B) The student passed at least 70 percent of the courses taken in the preceding semester; and

28 (C) The student is making sufficient progress toward meeting the academic and curricular
29 requirements of the PSU and the State Board of Education to be promoted to the next grade
30 level or to graduate within the next calendar year.

31 (2) For the purpose of determining good academic standing during the fall semester, a student may
32 count any course that the student passed in a summer school session toward the total number of
33 courses passed in the preceding spring semester. The summer school course shall not affect the total
34 number of courses attempted in the preceding spring semester.

35 (3) A student who is promoted from Grade 5 to Grade 6 shall be deemed to have satisfied the
36 requirements set forth in this Paragraph to participate in the first semester of Grade 6.

1 (4) A student who is promoted from Grade 8 to Grade 9 shall be deemed to have satisfied the
2 requirements set forth in this Paragraph to participate in the first semester of Grade 9.

3 (g) Age Requirements

4 (1) Each PSU shall determine the age of a student participating in interscholastic athletics based on a
5 preponderance of the evidence known to the PSU.

6 (2) A student who is ineligible to participate at one grade level due to age shall be eligible to participate
7 at the next higher grade level only, provided that a student:

8 (A) Shall be eligible to participate at the middle school level for no more than six consecutive
9 semesters, beginning with the student's initial entry into Grade 6.

10 (B) Shall be eligible to participate at the high school level for no more than eight consecutive
11 semesters, beginning with the student's initial entry into Grade 9.

12 (C) Shall not participate on a middle school team if the student becomes 15 years of age before
13 August 31 of that school year.

14 (D) Shall not participate on a junior high school team if the student becomes 16 years of age
15 on or before August 31 of that school year.

16 (E) Shall not participate on a high school team if the student becomes 19 years of age on or
17 before August 31 of that school year.

18 (3) A student in Grade 6 shall not participate in tackle football.

19 (h) Biological Requirements. All students participating in interscholastic athletics shall comply with the biological
20 participation requirements as provided in G.S. 115C-407.59.

21 (i) Medical Requirements. To be eligible to participate in interscholastic athletics, a student shall receive a medical
22 examination every 395 days by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions
23 of Chapter 90 of the General Statutes.

24 (j) A student shall not participate in interscholastic athletics after pleading guilty or "no contest" to, or being convicted
25 of, a felony under the laws of North Carolina, the United States, or any other state. Prior to deeming the student
26 ineligible, the relevant rule administrator shall obtain a certified copy of a criminal record reflecting the plea or
27 conviction and verify that the student is the same individual identified in the criminal record. If the student enters a
28 deferred prosecution agreement, conditional discharge agreement, or similar diversionary program, the student shall
29 remain ineligible during the probationary period imposed by the agreement.

30 (k) A rule administrator shall, in an individual student's case, waive any eligibility requirement contained in this Rule
31 if it finds by a preponderance of the evidence that enforcing the requirement:

32 (1) fails to promote academic progress, health, safety, and fair play;

33 (2) works an undue hardship on a student who has lost eligibility due to circumstances that made
34 participation impossible, such as prolonged illness or injury; or

35 (3) prevents the reasonable accommodation of a student's disability, as required by the Americans with
36 Disabilities Act, 42 U.S.C. 12101 et seq.

37

1 *History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;*
2 *115C-407.65; 116-235(b);*
3 *Temporary Adoption Eff. July 1, 2024;*
4 *Eff. July 1, ~~2025~~ 2025;*
5 *Amended Eff. July 1, 2026.*

1 16 NCAC 06E .0209 is amended as published in 40:15 NCR 1236–1244 as follow:
2

3 **16 NCAC 06E .0209 PENALTY RULES**

4 (a) A rule administrator shall impose at least the following penalties on a student, coach, or school official in Grades
5 6 through 12 who is ejected from an interscholastic athletic contest:

6 (1) for the first offense, the person shall be reprimanded and suspended from participating in the next
7 game in that sport;

8 (2) for a second offense, the person shall be placed on probation and suspended from participating in
9 the next two ~~game~~ games in that sport;

10 (3) for a third offense, the person shall be suspended from participation in interscholastic athletics for
11 one calendar year;

12 (4) a coach who is suspended shall not coach any team for any grade level during the period of
13 suspension.

14 (b) Penalties shall be cumulative from sport to sport and from sport season to sport season. If no member of the
15 participating school's coaching staff is present to assume the duties of a head coach who has been ejected from an
16 interscholastic athletic contest, the contest shall be terminated by forfeit.

17 (c) The PSU that has jurisdiction over a participating school may impose penalties in addition to those imposed by
18 an administering organization.

19

20 *History Note:* Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;
21 115C-407.65; 116-235(b);

22 *Temporary Adoption Eff. July 1, 2024;*

23 *Eff. July 1, ~~2025~~ 2025;*

24 *Amended Eff. July 1, 2026.*

1 16 NCAC 06E .0211 is amended as published in 40:15 NCR 1236–1244 as follow:

2
3 **16 NCAC 06E .0211 NAME, IMAGE, AND LIKENESS**

4 (a) As used in this Section:

5 (1) "Compensation" means anything of value to the student or an immediate family member of the
6 student, including cash, in-kind gifts, discounts, and other tangible benefits.

7 (2) "Name, image, or likeness" or "NIL" means the use of a student's name, image, or likeness for
8 commercial purposes and in exchange for compensation to the student or an immediate family
9 member of the student.

10 (3) "NIL agreement" ~~means any~~ means:

11 (A) A formal agreement or contract to use a student's name, image, or likeness for commercial
12 purposes and in exchange for compensation to the student or an immediate family member
13 of the ~~student.~~ student; or

14 (B) An agency contract, as defined in G.S. 78C-86(1).

15 (4) "School administrators" includes the principal and athletic director of the student's school, the local
16 superintendent, the chairperson of the PSU governing body, and the head coach of any sport in
17 which the student participates during the terms of an NIL agreement.

18 (b) A student participating in interscholastic athletics may enter an NIL agreement subject to the following
19 restrictions:

20 (1) The NIL agreement shall not condition the receipt, type, or extent of any compensation on the extent
21 or quality of the student's athletic performance.

22 (2) If the student is under 18 years of age, the student's parent or legal guardian shall be a party to the
23 NIL agreement.

24 (3) The NIL agreement shall hold the following parties harmless from any liability related to, or arising
25 from the NIL agreement:

26 (A) The governing body of the PSU in which the student is enrolled, as well as its officers and
27 employees.

28 (B) Any administering organization with which the PSU is affiliated, as well as its officers and
29 employees.

30 (C) The State Board of Education and the Department of Public Instruction, as well as their
31 officers and employees.

32 (4) The NIL agreement shall otherwise comply with state and federal law.

33 (c) The student shall disclose the NIL agreement to school administrators in accordance with the following
34 procedures:

35 (1) No later than 10 business days prior to the execution of a proposed NIL agreement or an amendment
36 to an existing NIL agreement, the student shall provide a complete and unredacted copy of the
37 proposed NIL agreement or amendment to school administrators.

1 (2) No later than five business days after the execution or amendment of the NIL agreement, the student
2 shall provide a complete and unredacted copy of the executed NIL agreement or amendment to
3 school administrators.

4 (d) No later than 10 business days prior to a student's entry into an NIL agreement, the student shall complete the NIL
5 education course offered by the NFHS. If the student is under 18 years of age, the student's parent or legal guardian
6 shall also complete the course. Those persons required to complete the course shall provide school administrators with
7 a certificate of completion from the NFHS.

8 (e) A student participating in interscholastic athletics may enter into an NIL agreement to use the student's name,
9 image, or likeness in any of the following ways:

- 10 (1) Public appearances or commercials.
- 11 (2) Autograph signings.
- 12 (3) Athletic camps and clinics.
- 13 (4) Sale of non-fungible tokens ("NFTs").
- 14 (5) Product or service endorsements.
- 15 (6) Promotional activities, including in-person events and social media advertisements.
- 16 (7) Any other commercial activities that are intended to promote a product or service offered by,
17 increase the profits of, or otherwise generate financial benefits for a party to the NIL agreement
18 from the use of the student's name, image, or likeness.

19 (f) No student engaged in an NIL agreement-related activity shall do any of the following:

- 20 (1) Make any reference to a school, PSU, conference, or administering organization.
- 21 (2) Receive compensation for the use of intellectual property of any school, PSU, conference,
22 administering organization, or the NFHS. Intellectual property includes the name, uniform, mascot,
23 mark, or logo of the entity that owns the intellectual property.
- 24 (3) Appear in the uniform of the student's school or the school's sports team, or otherwise display the
25 intellectual property of any school, PSU, conference, administering organization, or the NFHS.

26 (g) No student shall endorse or promote the goods or services of any third-party entity with which the student has
27 entered an NIL agreement during interscholastic athletic competition or other school-based activities or events. This
28 restriction applies to the wearing of apparel displaying the mark, logo, brand, or other identifying insignia of the third-
29 party entity, unless it is part of the standard uniform for the school or sport.

30 (h) No student participating in interscholastic athletics shall enter into an NIL agreement or otherwise use the student's
31 name, image, or likeness to promote any of the following:

- 32 (1) An adult establishment, as defined in G.S. 14-202.10(2), or adult entertainment services.
- 33 (2) Alcohol or alcoholic products.
- 34 (3) Tobacco, vaping or other electronic smoking devices, or other nicotine products.
- 35 (4) Cannabis or cannabis products.
- 36 (5) Controlled substances, as defined in G.S. 90-87(5).
- 37 (6) Opioids or prescription pharmaceuticals.

- 1 (7) Weapons, firearms, or ammunition.
- 2 (8) Casinos or gambling, including sports betting.
- 3 (9) Activities that would disrupt the operations of a school or PSU.

4 (i) The athletic director of a participating school shall submit a current copy of any executed or amended NIL
5 agreement involving a student at the school to any administering organizations of which the student's school is a
6 member within 30 days of the disclosure of the executed or amended NIL agreement by the student. The administering
7 organization shall maintain accurate records of all NIL agreements received and provide a summary report of all NIL
8 agreements to the State Board of Education no later than June 30 of each year.

9 (j) No athletic director, coach, other employee of a PSU, member of a PSU governing body, representative of an
10 athletic booster club, or representative of an NIL collective shall ~~use~~ engage in any of the following activities:

- 11 (1) Use the promise of an NIL agreement to recruit a student to attend a specific participating school or
12 participate in a specific sport. ~~No athletic director, coach, other employee of a PSU, representative~~
13 ~~of an athletic booster club, or representative of an NIL collective shall act~~ sport;
- 14 (2) Act as a student's agent or marketing ~~representative or otherwise~~ representative; or
- 15 (3) Otherwise facilitate an NIL agreement between a student and a third party.

16 If the relevant administering organization finds a violation of this Paragraph by a preponderance of the evidence, the
17 administering organization shall impose penalties consistent with its regulations and with Rule .0209 of this Section.

18 A "representative" of an athletic booster club or NIL collective shall include an officer or any person authorized to
19 conduct business on behalf of the organization.

20 (k) This Rule shall apply to any NIL agreement that a student or the student's parent or legal guardian execute during
21 the time the student is enrolled in a PSU, even if the benefits of said agreement do not accrue to the student or an
22 immediate family member of the student until after the student has graduated.

23
24 *History Note:* Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;
25 115C-407.65; 116-235(b);
26 Eff. July 1, ~~2025~~, 2025;
27 Amended Eff. July 1, 2026.

1 16 NCAC 06E .0215 is amended as published in 40:15 NCR 1236–1244 as follow:
2

3 **16 NCAC 06E .0215 APPEALS**

4 (a) The Superintendent of Public Instruction shall appoint an independent interscholastic athletics appeals board
5 ("appeals board") to hear and act upon appeals from the final decision of a rule administrator ~~regarding student~~
6 ~~eligibility to participate in interscholastic athletics; violations of limitations on recruiting or undue influence; penalties~~
7 ~~or fees imposed on students, coaches, or participating schools; or other enforcement of rules provided by this Section.~~
8 enforcing a student participation rule, penalty rule, or gameplay rule.

9 (b) An aggrieved party may file an appeal with the Superintendent within five days after receipt of the final decision
10 by completing an appeal form provided by the Superintendent. The aggrieved party shall submit the following
11 information required by the form:

- 12 (1) The name of the aggrieved party's participating school and PSU.
- 13 (2) The name, address, and phone number of the aggrieved party. If the aggrieved party is a school or
14 PSU, the aggrieved party shall also provide the name, address, phone number, and title of an
15 employee who will serve as the official representative of the school or PSU during the appeal.
- 16 (3) The names, email addresses, and phone numbers of the principal and local superintendent.
- 17 (4) The names of any students affected by the final decision and the sports in which the student
18 participates.
- 19 (5) A description of the facts underlying the final decision.
- 20 (6) A description of the final decision, the date it was issued, and the name, email, and phone number
21 of the rule administrator or staff member thereof who issued the final decision.
- 22 (7) An argument explaining why the aggrieved party believes the rule administrator's final decision was
23 erroneous for one or both of the reasons provided in Paragraph (g) of this Rule.
- 24 (8) If applicable, the date of any imminent interscholastic athletic activity that the final decision may
25 affect.
- 26 (9) Any relevant documents or other evidence that the aggrieved party deems relevant to the appeal and
27 that the aggrieved party provided to the rule administrator for consideration prior to the final
28 decision.

29 (c) The Superintendent shall appoint panels of no fewer than three members of the appeals board to hear and decide
30 individual appeals on behalf of the appeals board. The panel may conduct a live hearing in person or via
31 teleconference. Any hearing so conducted shall be recorded.

32 (d) The rule administrator may file a response to the aggrieved party's submissions within five days. The panel may
33 shorten the time for filing the rule administrator's response if the decision affects a student's or coach's eligibility to
34 participate in an intervening interscholastic athletic activity.

35 (e) All parties shall simultaneously provide copies of all records submitted as part of the appeal to the other parties
36 involved. If the aggrieved party is a student, parent, or coach, the parties shall also provide copies of the documents
37 and forms to the local superintendent and principal with jurisdiction over the aggrieved party.

- 1 (f) No later than 30 days after the Superintendent's receipt of the appeal, the panel shall issue its judgment.
- 2 (g) The panel shall affirm the rule administrator's final decision unless a majority of the panel determines that the
3 final decision either:
- 4 (1) ~~erroneously~~ Erroneously applies SBE rules or other applicable laws; or
- 5 (2) ~~is~~ Is not supported by the evidence, based on the following standards of review:
- 6 (A) For a ruling by a referee or official enforcing gameplay rules during an athletic competition,
7 the panel shall affirm the referee or official's ruling and uphold the resulting penalty unless
8 the aggrieved party presents clear and convincing evidence to contradict the ruling.
- 9 (B) For a final decision of a rule administrator regarding the application of any other SBE rule,
10 the panel shall affirm the final decision unless the aggrieved party demonstrates that the
11 final decision was not supported by substantial evidence, as defined in G.S. 150B-2(8c).
- 12 (h) The panel may also remand the final decision to the rule administrator for reconsideration in light of new
13 information or evidence that was not provided to the rule administrator prior to its final decision, if there is an
14 intervening change in any relevant law, or if the panel determines that additional information is necessary to inform
15 its judgment. The panel shall not consider information or evidence presented that was not presented to the rule
16 administrator in the first instance.
- 17 (i) The Superintendent, or the Superintendent's authorized designee, may stay a determination of ineligibility or a
18 penalty imposed by the rule administrator pending the judgment of the appeals board.
- 19 (j) The panel's judgment shall be deemed a final agency decision and not subject to further appeal to the
20 Superintendent or State Board of Education.

21

22 *History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;*
23 *115C-407.65; 116-235(b);*
24 *Temporary Adoption Eff. July 1, 2024;*
25 *Eff. July 1, ~~2025~~ 2025;*
26 *Amended Eff. July 1, 2026.*

1 16 NCAC 06E .0301 is readopted as published in 40:15 NCR 1244–1249 as follows:

2
3 **SECTION .0300 – DRIVER TRAINING EDUCATION**

4
5 **16 NCAC 06E .0301 DRIVER TRAINING DEFINITIONS**

6 ~~(a) In discharging their duty to provide a course of training and instruction in the operation of motor vehicles as set~~
7 ~~forth in G.S. 115C 216, local boards of education shall provide a program which meets the following standards and~~
8 ~~requirements:~~

9 ~~(1) — Principals shall enroll students who meet the criteria established by G.S. 20 88.1(a)(i), (iii) and (iv);~~

10 ~~(2) — The program will be free of charge to eligible students;~~

11 ~~(3) — Enrollees must obtain either a temporary learner's permit or a restricted instruction permit before~~
12 ~~they begin behind the wheel instruction.~~

13 ~~(4) — Classroom instruction will consist of at least 30 clock hours of instruction. Beginning in school~~
14 ~~year 1992-93, students may take and pass a proficiency examination developed or designated by the~~
15 ~~Department of Public Instruction to waive the classroom instruction. Each student must complete a~~
16 ~~minimum of 6 hours of behind the wheel instruction.~~

17 ~~(5) — The program will be reasonably available on a year-round basis to all eligible persons.~~

18 ~~(6) — The local board of education will determine class-size restrictions, but may not allow instruction in~~
19 ~~the car to less than two nor more than four students.~~

20 ~~(7) — The local board of education will determine the amount of instruction per day for classroom or in-~~
21 ~~car instruction or a combination of both.~~

22 ~~(8) — The local board of education will issue a certificate to students who satisfactorily complete the~~
23 ~~prescribed course.~~

24 ~~(9) — Driver education instructors must possess a valid North Carolina driver's license and must have a~~
25 ~~driving record acceptable to the local board of education. In addition, instructors hired for driver~~
26 ~~education shall either:~~

27 ~~(A) — hold a driver education certificate issued by the SBE; or~~

28 ~~(B) — have non-certified status according to minimum standards established by Rule .0302 of this~~
29 ~~Section.~~

30 ~~(10) — The program shall not be provided during the regular instructional day.~~

31 ~~(b) Two or more local boards of education may jointly operate a program under a written agreement meeting the~~
32 ~~requirements of G.S. 160A-460 et seq. The agreement shall provide for one local board of education to assume~~
33 ~~administrative responsibility for the program.~~

34 ~~(c) For purposes of G.S. 20-11, G.S. 20-13.2(c1), and G.S. 115C-12(28), the following definitions shall apply:~~

35 ~~(1) — "High school diploma or its equivalent" means and includes the General Equivalency Diploma~~
36 ~~(G.E.D.) and the adult high school diploma.~~

1 ~~(2) —“Making progress toward obtaining a high school diploma” means that the student must pass at least~~
2 ~~seventy percent (70%) of the maximum of possible courses each semester and meet promotion~~
3 ~~standards established by the LEA.~~

4 ~~(3) —“Substantial hardship” means a demonstrable burden on the student or the student's family as~~
5 ~~evidenced by circumstances such as the following:~~

6 ~~(A) —The parent is unable to drive due to sickness or other impairment and the student is the~~
7 ~~only person of driving age in the household.~~

8 ~~(B) —The student requires transportation to and from a job that is necessary to the welfare of the~~
9 ~~student's family and the student is unable to obtain transportation by any means other than~~
10 ~~driving.~~

11 ~~(C) —The student has been unable to attend school due to documented medical reasons, but the~~
12 ~~student is demonstrating the ability to maintain progress toward obtaining a high school~~
13 ~~diploma.~~

14 ~~(4) —A “student who cannot make progress toward obtaining a high school diploma or its equivalent”~~
15 ~~shall mean a student who has been identified by the principal or principal's designee, together with~~
16 ~~the IEP committee or the school's student assistance team, as not having the capacity to meet the~~
17 ~~requirements for a high school diploma or its equivalent due to a disability.~~

18 ~~(5) —“Exemplary behavior” shall mean that a student whose operator's permit or license has been revoked~~
19 ~~pursuant to G.S. 20-13.2(c1) and who has returned to school has, since returning to school:~~

20 ~~(A) —had no additional incidents of misconduct for which expulsion, suspension, or assignment~~
21 ~~to an alternative educational setting is required; and~~

22 ~~(B) —had no violations of local school board policies such as attendance, dress codes, or other~~
23 ~~behaviors that may result in disciplinary action against the student.~~

24 ~~(6) —“Successful completion of a treatment counseling program” shall mean completion of a minimum~~
25 ~~of 12 hours of drug or alcohol treatment, counseling, a mental health treatment program, or other~~
26 ~~intervention program required by the LEA.~~

27 ~~(d) Each LEA shall determine the process by which decisions concerning the issuance of a driving eligibility~~
28 ~~certificate shall be appealed.~~

29 ~~(e) The principal of a high school or the principal's designee shall notify the Division of Motor Vehicles whenever a~~
30 ~~student is no longer making progress toward obtaining a high school diploma or its equivalent or when the student has~~
31 ~~dropped out of school.~~

32 ~~(f) Each charter school, non public school, and community college shall designate an official who shall notify the~~
33 ~~Division of Motor Vehicles whenever a student is no longer making progress toward obtaining a high school diploma.~~

34 As used in this Section, the following definitions shall apply:

35 (1) "Continuing education unit" or "CEU" is defined in 16 NCAC 06C .0301(6).

36 (2) "Driver education" means instruction provided to students enrolled in North Carolina public schools
37 on the safe and competent operation of a motor vehicle, as defined in G.S. 20-286(10), including

1 both classroom and behind-the-wheel instruction. "Driver training" has the same meaning as "driver
2 education" when used elsewhere in the General Statutes or session laws applicable to the driver
3 education program.

4 (3) "Driver education instructor" or "instructor" means an individual qualified and employed under Rule
5 .0302 of this Section to serve as an instructor in a driver education program.

6 (4) "Driver education program" means the standardized program of driver education administered by
7 the Superintendent of Public Instruction in accordance with G.S. 115C-215.

8 (5) "Learner's Permit" is defined in G.S. 20-7(l)

9 (6) "Restricted Instruction Permit" is defined in G.S. 20-7(m)(2).

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12 *History Note: Authority G.S. 20-88.1; 115C-12(28); 115C-215; 115C-216;*
13 *Filed as a Temporary Adoption Eff. August 12, 1991 for a period of 180 days to expire on February*
14 *7, 1992;*
15 ~~*Authority G.S. 20-88.1; 115C-12(28); 115C-216;*~~
16 *ARRC Objection Lodged August 22, 1991;*
17 *Eff. March 1, 1992;*
18 *Temporary Amendment Eff. August 15, 1998;*
19 *Temporary Amendment Eff. March 15, 2000;*
20 *Amended Eff. July 1, 2000;*
21 *Temporary Amendment Eff. March 15, 2000 expired on December 10, 2000;*
22 *Amended Eff. July 18, ~~2002~~ 2002;*
23 *Readopted Eff. July 1, 2026.*

1 and Driver Education, a qualified instructor shall apply to the State Board of Education in accordance with 16 NCAC
2 06C .0334.

3 (c) Each driver education instructor shall complete continuing education as described below.

4 (1) An instructor who holds a teacher license in Safety and Driver Education shall follow the
5 requirements of 16 NCAC 06C .0360.

6 (2) An instructor who does not hold a teacher license in Safety and Driver Education shall complete at
7 least eight continuing education requirements (CEUs) once every five years, consisting of the
8 following:

9 (A) Four CEUs focused safety and driver education; and

10 (B) Four CEUs focused on pedagogy and classroom instruction.

11 The five-year renewal cycle shall begin on the date the instructor completed the driver instructor
12 course required by ~~Subparagraph (a)(6).~~ Subparagraph (a)(6) of this Rule. For instructors who
13 completed the course on or before July 1, 2026, the renewal cycle shall begin on that date.

14 (3) An instructor who holds a commercial driver training instructor license issued by the North Carolina
15 Division of Motor Vehicles shall be deemed to have satisfied the continuing education requirement
16 as long as that instructor license remains active.

17 (d) Each public school unit shall ensure that driver education instructors in its employment meets the qualifications
18 and continuing education requirements in this Rule. Each public school unit shall report to DPI the status of each of
19 its driver education instructors no later than July 1 of each year. A public school unit shall notify DPI within 30 days
20 if it learns that a driver education instructor in its employment has lost the privilege to drive in North Carolina or any
21 other state.

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24 *History Note:* Authority G.S. 20-88.1; 115C-215; 115C-216;

25 *Filed as a Temporary Adoption Eff. August 12, 1991 For a Period of 180 Days to Expire on*
26 *February 7, 1992;*

27 ~~Authority G.S. 20-88.1; [115C-215]; 115C-216;~~

28 *Eff. March 1, 1992- 1992;*

29 *Readopted Eff. July 1, 2026.*

1 16 NCAC 06E .0303 is readopted with changes as published in 40:15 NCR 1244–1249 as follows:

2
3 **16 NCAC 06E .0303 DRIVER EDUCATION CONTRACTS**

4 (a) ~~Local boards~~ A local board of education may ~~enter into contracts~~ contract with a public or private ~~entities or~~
5 ~~individuals~~ person or entity ("contractor") to ~~provide~~ administer a program of driver education ~~for students~~. at high
6 schools under the local board's jurisdiction, provided the contractor complies with the requirements of this Section
7 and Chapter 115C, Article 14 of the General Statutes.

8 (b) ~~Contracts shall be awarded~~ The local board shall award contracts on a competitive basis through requests for
9 ~~proposals to contract.~~ proposals. ~~Local boards of education~~ The local board shall establish the process for soliciting
10 proposals, the number of proposals required, and the time and place for receiving and opening proposals. In addition,
11 ~~local boards of education~~ the local board shall determine whether bid bonds or performance bonds shall be required.
12 Decisions to award contracts shall be based on quality, safety, costs and such other reasonable factors as ~~local boards~~
13 ~~of education~~ the local board may establish.

14 (c) A contract may not be awarded to an entity not licensed by the **North Carolina** Division of Motor Vehicles as a
15 commercial driving school pursuant to G.S. 20-322. A contract may be awarded to ~~an individual~~ a person not licensed
16 as a commercial driving school ~~by the Division of Motor Vehicles~~ if he or she ~~is certified by the SBE in driver~~
17 ~~education or hold non-certified instructor status.~~ qualifies as a driver education instructor under Rule .0302 of this
18 Section.

19 (d) All contracts shall ~~specifically require the contractor to adhere to the requirements of these Rules, 16 NCAC 6E~~
20 ~~.0301–.0303.~~ In addition, all contracts shall prescribe: include at least the following provisions:

- 21 (1) ~~the~~ The term of the contract, which ~~may~~ shall not exceed one ~~year;~~ year.
- 22 (2) ~~the~~ The procedure for renewal of the ~~term of the~~ contract, if any, except that a contract may not be
23 renewed for more than two successive one-year ~~terms;~~ terms.
- 24 (3) ~~the~~ The grounds for termination of the contract, including automatic termination in the event of
25 revocation of the license required by G.S. ~~20-325;~~ 20-325.
- 26 (4) ~~whether~~ Whether school facilities or vehicles are to be ~~leased or~~ used by the ~~contractor and, if so,~~
27 ~~the terms and conditions of the lease;~~ contractor. The local board shall not charge the contractor any
28 fee for the use of school facilities or vehicles except for damages arising from the negligent, reckless,
29 or intentional acts of the contractor.
- 30 (5) ~~whether the contractor will provide transportation home for students;~~
- 31 (6) (5) ~~the~~ The types of vehicles and equipment to be provided by the contractor, if ~~any;~~ and any. Any
32 vehicle or equipment purchased using State funds shall remain the property of the local board, and
33 the local board may not, by the terms of the contract, transfer ownership to the contractor.
- 34 (6) An agreement by the contractor to comply with the requirements of this Section and Chapter 115C,
35 Article 14 of the General Statutes.
- 36 (7) ~~such other~~ Other such terms and conditions, including the purchase of insurance by the contractor,
37 as the local board of education may determine to be reasonable and appropriate.

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History Note: Authority G.S. 20-88.1; 115C-215; 115C-216;
Filed as a Temporary Adoption Eff. August 12, 1991 For a Period of 180 Days to Expire on
February 7, 1992;
Authority G.S. 20-88.1; [115C-215;] 115C-216;
Eff. March 1, 1992- 1992;
Readopted Eff. July 1, 2026.

1 16 NCAC 06E .0304 is adopted with changes as published in 40:15 NCR 1244–1249 as follows:

2
3 **16 NCAC 06E .0304 DRIVER EDUCATION PROGRAM**

4 (a) Each local board of education shall offer a driver education course in high schools under its jurisdiction using the
5 standardized curriculum developed by the Department of Public Instruction pursuant to G.S. 115C-215. The driver
6 education course shall not qualify for course credit under Subchapter 06D, Section, .0500 of this Chapter.

7 (b) Each driver education course shall include:

- 8 (1) At least 30 clock hours of classroom instruction; and
9 (2) At least 6 hours of behind-the-wheel instruction under the supervision of a ~~certified~~ driver education
10 instructor.

11 The local school administrative unit shall determine the number of hours of instruction per day, which may include a
12 combination of classroom instruction and behind-the-wheel instruction.

13 (c) No more than 50 students may be assigned to a class for classroom instruction. No fewer than two and no more
14 than three students may be in a vehicle during behind-the-wheel instruction. ~~The~~ To the extent necessary to ensure
15 equal access to the driver education program, the LSAU may offer shall provide reasonable accommodations to a
16 student with a disability consistent with the Americans with Disabilities Act, the Individuals with Disabilities in
17 Education Act, ~~or~~ and Section 504 of the Rehabilitation Act of 1973.

18 (d) The LSAU shall offer the driver education course throughout the calendar year as reasonable based on available
19 personnel and resources.

20 (e) Prior to beginning behind-the-wheel driving instruction, a student shall obtain a Learner's Permit or a Restricted
21 Instruction Permit issued by the Division of Motor Vehicles ("DMV").

22 (f) The principal of each high school shall approve each student at that school who meets the requirements in G.S.
23 115C-215(a) for enrollment in the driver education course.

24 (g) The LSAU shall issue a certificate to each student who completes either classroom instruction or behind-the-wheel
25 phases of the driver education course.

26 (h) The LSAU shall submit the following reports to the Department of Public Instruction:

- 27 (1) Quarterly Reports – due July 15th, October 15th, January 15th, and April 15th of each fiscal year:
28 (A) Total number of students enrolled in the classroom and driving phases of the driver
29 education program at each school within the LSAU, including the total number in each
30 grade level from Grade 8 through Grade 12.
31 (B) Total number of students enrolled in the driver education program who are identified as a
32 child with a disability, as defined in G.S. 115C-106.3(1).
33 (C) Total number of students who have dropped out of the driver education program.
34 (D) Total number of students receiving special accommodations or resources from the LSAU
35 to complete the driver education program.
36 (2) Annual Reports – due July 15th of each fiscal year:

1 (A) Whether the driver education program is directly managed by the PSU or managed by a
2 contractor pursuant to Rule 06E .0303 of this Section and, if the program is managed by a
3 contractor, the name of the contractor.

4 (B) A list of driver education instructors employed by the LSAU. The list shall identify any
5 instructors who hold a teacher license in Safety and Driver Education or a commercial
6 driver training instructor license issued by the DMV. The list shall specify the next deadline
7 for each instructor to complete the continuing education units required by 16 NCAC 06E
8 .0302(c).

9 (C) The amount of any fee collected by the LSAU to manage the driver education program.

10 (i) Two or more local boards of education may jointly operate a driver education course under a written agreement
11 meeting the requirements of G.S. 160A-460 et seq. The agreement shall provide for one local board of education to
12 assume administrative responsibility for the course.

13 (j) If the Department of Public Instruction determines that the LSAU is out of compliance with any provision of this
14 Section, DPI may withhold additional State funding allocated to the LSAU for its driver education program until such
15 time as DPI determines that the LSAU is back in compliance.

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18 *History Note: Authority G.S. 20-88.1; 115C-215; 115C-216;*

19 *Eff. July 1, 2026.*

1 16 NCAC 06E .0305 is adopted with changes as published in 40:15 NCR 1244–1249 as follows:

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3 **16 NCAC 06E .0305 DRIVING ELIGIBILITY CERTIFICATES**

4 (a) For purposes of this Rule:

5 (1) "School administrator" means one of the following officials within the public school unit ("PSU")
6 in which a student is enrolled:

7 (A) For a local school administrative unit ("LSAU"), the principal of the student's school or the
8 principal's designee, provided the designee is an employee of the LSAU authorized to
9 access the student's educational record.

10 (B) For a charter school, the designee of the board of directors, provided the designee is an
11 employee of the charter school authorized to access the student's educational record.

12 (2) "Senior PSU official" means one of the following officials within the ~~public school unit~~ ("PSU")
13 PSU in which a student is enrolled:

14 (A) For a local school administrative unit, the local superintendent or designee, provided the
15 designee is senior in authority to the principal.

16 (B) For a charter school, the board of directors or designee, provided the designee is senior in
17 authority to the school administrator.

18 (3) "Student" means a person under 18 years of age who is seeking a limited learner's permit or
19 provisional driver's license under G.S. 20-11.

20 (b) The school administrator shall provide a driving eligibility certificate to a student if:

21 (1) The student is eligible for the certificate under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1);
22 or

23 (2) The student is eligible for the certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).

24 (c) The PSU shall provide students with the right to appeal the denial of a driving eligibility certificate by the school
25 administrator to a senior PSU official. The senior PSU official shall issue the driving eligibility certificate if the official
26 determines that the school administrator's decision is not supported by the factual record or is inconsistent with the
27 requirements of Paragraph (b).

28 (d) The school administrator shall notify the North Carolina Division of Motor Vehicles whenever a student no longer
29 meets the requirements for a driving eligibility certificate and the student has exhausted all rights to appeal within the
30 LSAU.

31 (e) For purposes of this Rule and of G.S. 20-11 and 20-13.2:

32 (1) The equivalency of a high school diploma shall include either of the following:

33 (A) A credential issued by the General Educational Development Testing Service (i.e., a
34 "G.E.D.").

35 (B) An Adult High School Diploma issued by the North Carolina State Board of Community
36 Colleges.

- 1 (2) A student shall be deemed to be making progress toward obtaining a high school diploma if the
2 student passes at least 70 percent of the maximum possible courses in each semester and is meeting
3 the promotion standards established by the ~~public school unit.~~ PSU.
- 4 (3) A student shall be deemed unable to make progress toward obtaining a high school diploma or its
5 equivalent under G.S. 201-11(n)(1)c. if the student has been identified as a child with a disability in
6 accordance with Chapter 115C, Article 9 of the General Statutes and the student's IEP team has
7 determined that, due to the disability, the student cannot satisfy the state graduation requirements
8 under Subchapter 06D , Section .0500 of this Chapter or the requirements for the equivalency of a
9 high school diploma.
- 10 (4) "Substantial hardship" means a demonstrable burden on the student or the student's family, including
11 any of the following circumstances:
- 12 (A) The student's parent is unable to drive due to documented illness or other mental or physical
13 impairment, and the student is the only other person of driving age in the household.
- 14 (B) The student requires transportation to and from a job that is necessary for the welfare of
15 the student's family, and the student is unable to obtain transportation by any other means.
- 16 (C) The student has been unable to attend school for documented medical reasons, but the
17 student has demonstrated the ability to make progress toward a high school diploma or its
18 equivalent.
- 19 (5) "Exemplary student behavior" means that, since returning to school or an alternative educational
20 setting, the student has not:
- 21 (A) Committed additional acts of misconduct for expulsion, suspension, or assignment to an
22 alternative educational setting is required; or
- 23 (B) Violated policies of the governing body of the ~~public school unit~~ PSU that may result in
24 disciplinary action against the student.
- 25 (6) A student shall be deemed to have successfully completed a drug or alcohol treatment counseling
26 program if the student has completed at least 12 hours of either:
- 27 (A) Alcohol or drug treatment or counseling;
- 28 (B) A mental health treatment program; or
- 29 (C) Any other or other intervention deemed appropriate by the ~~public school unit.~~ PSU.

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31 *History Note:* Authority G.S. 20-11; 20-13.2; 115C-12(28);
32 *Eff. July 1, 2026.*