

Burgos, Alexander N

Subject: FW: [External] Re: February Rules Review Commission Meeting

From: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Sent: Monday, February 24, 2025 10:55 AM
To: Collins, Ryan <Ryan.Collins@dpi.nc.gov>
Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: RE: [External] Re: February Rules Review Commission Meeting

Hi Ryan, your final rules are posted on our website. See you Thursday!

Alexander Burgos
Paralegal
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1940
Alexander.burgos@oah.nc.gov

From: Ryan Collins <Ryan.Collins@dpi.nc.gov>
Sent: Monday, February 24, 2025 10:32 AM
To: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Cc: Ascher, Seth M <seth.ascher@oah.nc.gov>
Subject: [External] Re: February Rules Review Commission Meeting

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hi Alex,

Thank you for sharing.

I noticed the final revised rules were missing from Item IV.3 (State Board of Education). I just wanted to make sure the Commissioners had that for review.

Ryan

From: RRC.InterestedPersons <rrc.interestedpersons-bounces@ml.nc.gov> on behalf of Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Sent: Monday, February 24, 2025 10:26 AM
To: RRC.InterestedPersons_ml.nc.gov <RRC.InterestedPersons@ml.nc.gov>; rulers_ml.nc.gov <rulers@ml.nc.gov>
Subject: [RRC.InterestedPersons] February Rules Review Commission Meeting

Good morning,

The next scheduled meeting of the Rules Review Commission will be Thursday, February 27, 2025, at 10:00 a.m.

The meeting will be conducted in person at 1711 New Hope Church Rd., Raleigh, NC 27609 with an option to join via Cisco WebEx.

The Webex link to connect to and participate in the meeting is the Webinar topic:

<https://ncgov.webex.com/ncgov/j.php?MTID=m9626d925bacfc8ffc6bfaf68393a5d6b> - You will then be prompted to enter your name and email address to join the meeting.

This link will not go live until Thursday, February 27th at 9:45 a.m.

- Members of the public may also join the meeting by calling **1-415-655-0003**; Access code **2420 623 3254**; Password **1234**.
- If you do not wish to be heard on any matter before the Commission at this meeting but want to listen in on the meeting, the Webex link also provides audio.
- The documents being reviewed by the Commission are now available electronically from the agenda:

<https://www.oah.nc.gov/news/events/rrc-meeting-agenda-february-2025>

Please contact the Rules Division staff if you have specific questions or concerns.

Thank you,
Alex

Alexander Burgos
Paralegal
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1940
Alexander.burgos@oah.nc.gov

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

Visit us on the web at <https://dpi.nc.gov> . All e-mail correspondence to and from this address is subject to the North Carolina Public Records Law, which may result in monitoring and disclosure to third parties, including law enforcement.

Burgos, Alexander N

Subject: FW: [External] Re: SBE RFC for February 2025
Attachments: 16 NCAC 06C .0601 (Definitions).docx; 16 NCAC 06C .0602 (Standards of Professional Conduct).docx; 16 NCAC 06C .0603 (Investigation of Alleged Misconduct by a Licensed Professional Educator or License Applicant).docx; 16 NCAC 06C .0604 (Denying or Sanctioning a License).docx; 16 NCAC 06C .0605 (Disciplinary Sanctions).docx; 16 NCAC 06C .0606 (Voluntary Surrender of a License).docx; 16 NCAC 06E .0201 (Definitions).docx; 16 NCAC 06E .0205 (Student Health and Safety).docx; 16 NCAC 06E .0215 (Appeals).docx; RFC SBE February 2025 (Agency Responses).docx

From: Ryan Collins <Ryan.Collins@dpi.nc.gov>
Sent: Thursday, February 13, 2025 10:19 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Ziko, Thomas <Thomas.Ziko@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Re: SBE RFC for February 2025

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Seth,

I have attached a copy of the RFC with agency responses and updated copies of rules where applicable. Let me know if you have additional questions. Thank you!

Ryan

Ryan M. Collins, J.D., M.Ed.

Assistant General Counsel

North Carolina State Board of Education

ryan.collins@dpi.nc.gov

984.236.2255 (o)



NORTH CAROLINA
State Board of Education
Department of Public Instruction

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;, and”
 - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:
<https://www.oah.nc.gov/rule-format-examples>

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0601, .0602, .0603, .0605, .0606

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

Multiple rules have left the register publication information blank. Please correct and resend, as these are necessary for our administrative systems.

I apologize; it appears those edits did not save to the final version that I submitted. I have corrected it in the rules listed above.

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

Seth Ascher
Commission Counsel
Date submitted to agency: February 11, 2025

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0602

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

On line 11, you have deleted SBE, but use SBE for State Board of Education elsewhere in the rule. Is this intentional?

Note that this is handled differently in different rules (i.e. .0604, 0607), which brought it to my attention.

That was an effort to reduce redundancy in light of a new SBE rule that took effect on January 1, 2025. 16 NCAC 06A .0201 provides that "As used in this Chapter, the following definitions apply unless otherwise specified: (1) "Board," "SBE," or "NCSBE" means the State Board of Education." However, if you would prefer to retain those parentheticals for clarity, we can add them back in.

As for .0604 and .0607, retaining the parentheticals in those locations was oversight on my part. I've removed them for consistency with the others, but again can add them back in if you think it's necessary.

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

Seth Ascher
Commission Counsel
Date submitted to agency: February 11, 2025

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0603

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

On lines 7 and 11 you deleted ("Superintendent") and ("SBE") respectively, but use both short forms elsewhere in the rule. Is this intentional?

Note that this is handled differently in different rules (i.e. .0604, .0607), which brought it to my attention.

See my previous explanation.

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

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0605

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

On lines 5 and 22 you deleted (“SBE”) and (“DPI”) respectively, but use both short forms elsewhere in the rule. Is this intentional?

Note that this is handled differently in different rules (i.e. .0604, .0607), which brought it to my attention.

See my previous explanation.

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

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0606

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

On line 13 you deleted ("DPI"), but use it elsewhere in the rule. Is this intentional?

Note that this is handled differently in different rules (i.e. .0604, .0607), which brought it to my attention.

See my previous explanation.

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

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0201

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

On lines 17 through 20, will a ruling during an athletic competition become a written decision? If not, the way this is written is potentially confusing.

I've rewritten that sentence to hopefully provide some clarity.

A ruling by a referee or official enforcing gameplay rules during an athletic competition, as recorded by the referee or official in the game record maintained by the rule administrator, that results in the ejection or suspension of a player or coach shall be deemed a final decision upon exhaustion of any available mechanisms for review under the rule administrator's internal policies and procedures.

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

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0205

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

On line 7, I believe you left off a word, "participate in".

Fixed it.

On line 20, "signs or symptoms consistent with concussion" is vague as written. I can think of two solutions to this, either define the specific signs or symptoms, or identify who is making the determination. I think the second is probably more consistent with what you mean, so consider something like "If a school employee determines that a student participating in"

I have rewritten the sentence as follows to make it consistent with Paragraph the remainder of the rule, since these individuals are required to be trained on concussion and head injury response protocol. I also added a parenthetical in Paragraph (b) clarifying that "first responder" means first responder as described in 06E .0206.

(d) If an coach, athletic director, school nurse, athletic trainer, or first responder determines that a student participating in an interscholastic athletic activity ~~exhibits~~ is exhibiting signs or symptoms consistent with concussion, the student shall be removed from the activity at the time and shall not be allowed to return to play or practice that day.

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

Seth Ascher
Commission Counsel
Date submitted to agency: February 11, 2025

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0206

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

On line 16, you deleted (NFHS), but use it elsewhere in the rule. Is this intentional?

Note that this is handled differently in different rules (i.e. .0604, .0607), which brought it to my attention.

See my previous explanation. NFHS is also defined in 16 NCAC 06E .0201(9).

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

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0215

DEADLINE FOR RECEIPT: February 21, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

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

In item (c), lines 29-31, who decides on panels and assigns appeals to them? The rule needs to indicate if the superintendent, the appeals board, or someone else determines if panels will handle the appeal.

I have re-written the rule to clarify that the Superintendent appoints the panel and assigns appeals.

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

In item (j), on p. 2 line 20, is there a statutory basis for making these decisions unappealable? Most administrative decisions can at least be the basis for a contested case under G.S. 150B-23. Do you instead mean something like "The panel's judgment shall constitute a final decision and is not subject to further review by the State Board of Education."

It was intended to say that it's not subject to further appeal within the agency. I've rewritten that sentence to provide clarity.

(+) (j) The panel's judgment shall be ~~conclusive~~ deemed a final agency decision and not subject to further ~~appeal~~ appeal to the Superintendent or State Board of Education.

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

Seth Ascher
Commission Counsel
Date submitted to agency: February 11, 2025

16 NCAC 06C .0601 is readopted with changes as published in 38:07 NCR 388–399 as follows:

**SECTION .0600 – ~~CODE OF PROFESSIONAL PRACTICE AND CONDUCT FOR NORTH CAROLINA~~
EDUCATORS STANDARDS OF PROFESSIONAL CONDUCT AND EDUCATOR DISCIPLINE**

16 NCAC 06C .0601 PURPOSE AND APPLICABILITY DEFINITIONS

~~The purpose of these Rules is to establish and uphold uniform standards of professional conduct for licensed professional educators throughout the State. These Rules shall be binding on every person licensed by the SBE, hereinafter referred to as "educator" or "professional educator," and the possible consequences of any willful breach shall include license suspension or revocation. The prohibition of certain conduct in these Rules shall not be interpreted as approval of conduct not specifically cited.~~

As used in this Section, the following definitions apply:

(1) "Child" means a person under the age of 16.

(2) "Convicted" or "conviction" means any of the following

(A) A plea of guilty.

(B) A plea of no contest, nolo contendere, or the equivalent.

(C) A verdict or finding of guilty by a jury, judge, magistrate, or other duly constituted adjudicatory body, tribunal, or official, either civilian or military.

(3) "License" means a professional educator license issued by the Department of Public Instruction ["DPI"] in accordance with this Subchapter and Chapter 115C, Article 17E of the General Statutes.

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

(5) "Respondent" means a person who currently holds a license or who has applied for a license.

(6) "Student" means a person enrolled in pre-kindergarten, kindergarten, or in Grade 1 through Grade 12 in any public school unit, or who has been enrolled in a public school unit within [6] [six] months of an alleged violation of these Standards.

History Note: Authority G.S. 115C-12(9); 115C-270.1; 115C-270.5; 115C-307;

Eff. April 1, 1998;

Temporary Amendment Eff. April 5, 2024. 2024:

Readoption Eff. July 1, 2025.

16 NCAC 06C .0602 is readopted with changes as published in 38:07 NCR 388–399 as follows:

16 NCAC 06C .0602 STANDARDS OF PROFESSIONAL CONDUCT

~~(a) The standards listed in this Section shall be generally accepted for the education profession and shall be the basis for State Board review of performance of professional educators. These standards shall establish mandatory prohibitions and requirements for educators. Violation of these standards shall subject an educator to investigation and disciplinary action by the SBE or LEA.~~

This Rule establishes uniform Standards of Professional Conduct (“Standards”) for professional educators in North Carolina, which apply to all persons who hold a professional educator license issued pursuant to this Subchapter and Chapter 115C, Article 17E of the General Statutes. These Standards shall be the basis for reviewing the performance or professional educators by the State Board of Education (“SBE”). Education. Violation of these Standards shall be grounds for disciplinary sanctions against a professional educator’s license as provided in this Section.

~~(b) Professional educators shall adhere to the standards of professional conduct contained in this Rule. Any intentional act or omission that violates these standards is prohibited.~~

(1) ~~Generally recognized professional standards.~~ Recognized Professional Standards. The educator shall adhere to and practice the professional standards of all federal, state, and local governing ~~bodies.~~ bodies with public education oversight.

~~(2) — Personal conduct. The educator shall serve as a positive role model for students, parents, and the community. Because the educator is entrusted with the care and education of small children and adolescents, the educator shall demonstrate a high standard of personal character and conduct.~~

~~(2) —~~ Conduct with Students. The educator shall treat all students with respect and maintain appropriate professional boundaries with all students, regardless of whether that student is directly under the care or supervision of the educator. Specifically, the educator shall not engage in any of the following conduct toward or in the presence of a student:

(A) Use of profane, vulgar, or demeaning language.

(B) Intentional or reckless exposure of students to profane, vulgar, or sexually explicit material except as part of age-appropriate classroom instruction or other pedagogical practice.

(C) Solicitation, encouragement, or consummation of a romantic, physical, or sexual relationship with a student in any form, whether written, verbal, or physical. As used in this context, “solicitation” or “encouragement” shall include engaging in a pattern of flirtatious behavior; efforts to gain access to, or time alone with, a student with no clear educational or school-related objective; provision of individualized or specialized treatment, including tangible or monetary gifts, to a student that does not comply with generally recognized professional standards for educators; or any other behavior that could be perceived by a rational observer as excessively personal or intimate in the context of the educator-student relationship.

(D) Solicitation, encouragement, or consummation of sexual contact with a student.

- 1 (E) Sexual harassment, as defined in 34 C.F.R. 106.30(a).
- 2 (F) Child abuse, as defined in G.S. 14-318.2 or G.S. 14-318.4.
- 3 (3) Alcohol and Controlled Substances. The educator shall not be under the influence of, possess, use,
4 or consume an alcoholic beverage or a controlled substance, as defined in G.S. 90-95, on school
5 premises, at a school-sponsored activity, or when otherwise discharging the educator's professional
6 duties, unless the educator has a prescription from a licensed medical professional authorizing such
7 use. The educator shall not furnish alcoholic beverages or controlled substances to a student, except
8 for the administration of medication prescribed by a licensed medical professional in accordance
9 with the educator's professional duties.
- 10 (3) (4) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or
11 misrepresentation in the performance of the educator's professional duties, including the following:
- 12 (A) ~~statement~~ statements or representations of professional qualifications;
- 13 (B) application or recommendation for professional employment, promotion, or licensure;
- 14 (C) ~~application or recommendation~~ applications or recommendations for college or university
15 admission, scholarship, grant, academic award, or similar benefit;
- 16 (D) ~~representation~~ statements or representations of completion of college or staff development
17 credit;
- 18 (E) evaluation or grading of students or school personnel;
- 19 (F) submission of financial or program compliance reports submitted to state, federal, or other
20 governmental agencies;
- 21 (G) submission of information in the course of an official inquiry by the ~~employing LEA or the~~
22 ~~SBE related to facts of unprofessional misconduct, provided, however, SBE or the~~
23 ~~educator's employing PSU into allegations of professional misconduct, provided~~ that an
24 educator shall be given adequate notice of the allegations and may be represented by legal
25 counsel; and
- 26 (H) submission of information in the course of an investigation into school related criminal
27 activity by a law enforcement agency, child protective services, or any other agency with
28 the right authority to investigate, regarding school related criminal activity; provided,
29 ~~however, investigate, provided~~ that an educator ~~shall be entitled to decline to give evidence~~
30 may decline to provide information to law enforcement if such evidence ~~may tend to~~ could
31 incriminate the educator ~~as that term is defined by the Fifth Amendment to the U.S.~~
32 ~~Constitution.~~ in violation of the educator's rights under the United States Constitution or
33 North Carolina Constitution.
- 34 (5) Compliance with Criminal Laws. The educator shall not violate the criminal laws of this State, the
35 United States, or any other state or territory under the jurisdiction of the United States.
- 36 (4) (6) Proper remunerative conduct. Remunerative Conduct. The educator shall not solicit current students
37 or parents of students to purchase equipment, supplies, or services from the educator in a private

remunerative capacity. An educator shall not tutor for remuneration students currently assigned to the educator's classes, unless approved by the local superintendent. An educator shall not accept any compensation, benefit, or thing of value other than the educator's regular compensation for the performance of any service that the educator is required to render in the course and scope of the educator's employment. This Rule shall not restrict performance of any overtime or supplemental services at the request of the ~~LEA; PSU,~~ nor shall it ~~apply to or~~ restrict the acceptance of gifts ~~or tokens of minimal value offered and accepted openly~~ from students, parents, or other persons in recognition or appreciation of ~~service;~~ the educator's professional service, provided the gift is given and received freely, openly, and without expectation of favor or advantage to the donor in return.

~~(5) — Conduct with students. The educator shall treat all students with respect. The educator shall not commit any abusive act or sexual exploitation with, to, or in the presence of a student, whether or not that student is or has been under the care or supervision of that educator, as defined below:~~

~~(A) — any use of language that is considered profane, vulgar, or demeaning;~~

~~(B) — any sexual act;~~

~~(C) — any solicitation of a sexual act, whether written, verbal, or physical;~~

~~(D) — any act of child abuse, as defined by law;~~

~~(E) — any act of sexual harassment, as defined by law; and~~

~~(F) — any intentional solicitation, encouragement, or consummation of a romantic or physical relationship with a student, or any sexual contact with a student. The term "romantic relationship" shall include dating any student.~~

~~(6) (7) Confidential information. Information.~~ The educator shall keep ~~in confidence~~ confidential all personally identifiable information regarding students or their family members that the educator has ~~been~~ obtained in the course of professional service, unless disclosure is required or permitted by law ~~or professional standards,~~ or is necessary for the personal safety of the student or others.

~~(7) (8) Rights of others. Others.~~ The educator shall not willfully or maliciously violate the constitutional or civil rights of a student, ~~parent/legal parent or legal~~ guardian, or colleague.

~~(8) (9) Required reports. Reports.~~ The educator shall make all reports required by ~~G.S. 115C; Chapter 115C~~ of the General Statutes.

~~(9) — Alcohol or controlled substance abuse. The educator shall not:~~

~~(A) — be under the influence of, possess, use, or consume on school premises or at a school-sponsored activity a controlled substance as defined by G.S. 90-95, the Controlled Substances Act, without a prescription authorizing such use;~~

~~(B) — be under the influence of, possess, use, or consume an alcoholic beverage or a controlled substance on school premises or at a school-sponsored activity involving students; or~~

~~(C) — furnish alcohol or a controlled substance to any student except as indicated in the professional duties of administering legally prescribed medications.~~

(10) ~~Compliance with criminal laws. The educator shall not commit any act referred to in G.S. 115C-332 and any felony under the laws of the United States or of any state.~~

(11) ~~(10) Public funds and property. Funds and Property.~~ The educator shall not misuse public funds or ~~property, funds of a school related organization, or colleague's funds.~~ property or any funds belonging to an organization affiliated with the school or PSU. The educator shall account for funds collected from students, colleagues, ~~or parents/legal guardians.~~ parents, or legal guardians of students. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.

(12) ~~(11) Scope of professional practice. Professional Practice.~~ The educator shall not perform any ~~act as an employee in a position~~ professional duty or function for which licensure is required by ~~the rules of the SBE or by G.S. 115C or the North Carolina General Statutes~~ this Chapter or by Chapter 115C of the General Statutes during any period in which the educator's license ~~has been~~ is suspended or revoked.

(8) ~~(12) Conduct related to ethical violations. Abuse of Authority.~~ The educator shall not directly or indirectly use or threaten to use any official authority or influence in any manner that ~~tends to discourage, restrain, interfere with, coerce, or discriminate~~ discourages, restrains, coerces, interferes with, or discriminates against any subordinate or any licensee who in good faith ~~reports, discloses, divulges, reports~~ or otherwise brings to the attention of ~~an LEA, a PSU,~~ the SBE, or any other public agency authorized to take remedial action, any facts or information relative to the actual or suspected violation of any law or rule regulating the duties of persons serving in the public school system, including ~~but not limited to these Rules.~~ those established by this Section.

History Note: Authority G.S. ~~115C-295.3; 115C-12(9); 115C-270.5; 115C-307;~~
Eff. May 1, 1998;
Temporary Amendment Eff. June 6, 2024;
Readoption Eff. July 1, 2025.

1 16 NCAC 06C .0604 is adopted with changes as published in 38:07 NCR 391 as follows:

2
3 **16 NCAC 06C .0604 DENYING A LICENSE OR SANCTIONING A LICENSEE**

4 (a) The State Board of Education ("~~SBE~~") may, following an investigation in accordance with Rule .0603 of this
5 Section, impose disciplinary sanctions on a person who holds a license issued by the Department of Public Instruction
6 or deny an application for any such license if the SBE finds, by a preponderance of the evidence, that the respondent
7 has done any of the following:

- 8 (1) Engaged in fraud, material misrepresentation, or concealment in an application for the license.
- 9 (2) Become ineligible for the license due to changes or corrections in the license documentation.
- 10 (3) Been convicted of a crime in any state, federal, or territorial court of the United States, including
11 military tribunals.
- 12 (4) Been dismissed by a local board of education, pursuant to G.S. 115C-325(e)(1) or 115C-325.4, or
13 by the governing body of any other PSU.
- 14 (5) Resigned from employment with a PSU without thirty calendar days' notice, except with the prior
15 consent of the local superintendent.
- 16 (6) Had a professional educator license or other occupational license revoked or suspended in North
17 Carolina or another state due to a finding of misconduct by the relevant occupational licensing board
18 or agency.
- 19 (7) Failed to report suspected child abuse in accordance with G.S. 115C-400 or other suspicion of
20 professional misconduct by a licensed employee in accordance with Rule .0608 of this Section.
- 21 (8) Violated the Testing Code of Ethics, codified at 16 NCAC 06D .0311.
- 22 (9) Engaged in any other illegal, unethical, or lascivious conduct, or otherwise violated the Standards
23 of Professional Conduct as described in Rule .0602 of this Section.

24 (b) When deciding whether to impose disciplinary sanctions or deny an application for a license, the SBE shall
25 consider the following factors:

- 26 (1) The existence of a reasonable and adverse relationship between the underlying misconduct and the
27 ability of the respondent to perform the respondent's professional duties as an educator.
- 28 (2) The severity of the misconduct.
- 29 (3) The impact of the misconduct on students, other educators, and the school community.
- 30 (4) The respondent's degree of culpability in the misconduct.
- 31 (5) The degree of remorse exhibited by the respondent for the misconduct.
- 32 (6) Any evidence of reformed behavior on the part of the respondent.
- 33 (7) Subsequent incidents of misconduct by the respondent or the probability of future misconduct.

34 (c) If the SBE determines that sanctions against a current licensee are warranted, it shall impose sanctions in
35 accordance with Rule .0605 of this Section.

1 *History Note:* *Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12; 115C-270.5; 115C-270.30; 115C-270.35;*
2 *150B-22; 150B-23;*
3 *Temporary Adoption Eff. April 5, 2024;*
4 *Eff. July 1, 2025.*

1 16 NCAC 06C .0605 is adopted with changes as published in 38:07 NCR 391–392 as follows:

2
3 **16 NCAC 06C .0605 DISCIPLINARY SANCTIONS**

4 (a) Upon finding of a basis for imposing disciplinary sanctions against a respondent under Rule .0604 following an
5 investigation under Rule .0603 of this Section, the State Board of Education (~~"SBE"~~) may impose any of the following
6 sanctions:

- 7 (1) Written Warning;
8 (2) Written Reprimand;
9 (3) Suspension for a Defined Term; or
10 (4) Revocation.

11 (b) In addition to one of the sanctions listed in Paragraph (a), the SBE may impose additional conditions upon a
12 respondent—including requirements that the respondent complete additional continuing education credits beyond
13 those required by G.S. 115C-270.30, community service hours, or other activities—if the purpose of the condition is
14 remedial, relevant to the misconduct giving rise to the sanction, and designed to reduce the possibility of recidivism.

15 (c) Notwithstanding Rule .0603 of this Section or Paragraph (a) of this Rule, the SBE shall summarily suspend the
16 license of a respondent if the SBE finds that the public health, safety, or welfare requires emergency action and
17 incorporates those findings in the order prepared in accordance with Rule .0603 of this Section. A finding that a
18 respondent has been charged in the General Court of Justice with any crime, the conviction for which would result in
19 automatic revocation of the respondent's license under G.S. 115C-270.35(b), shall be considered prima facie evidence
20 in satisfaction of this Paragraph. Following the summary suspension, the SBE shall promptly commence a disciplinary
21 investigation and proceedings in accordance with Rules .0603 and .0604 of this Section.

22 (d) The Department of Public Instruction (~~"DPI"~~) shall, upon expiration of the 60-day time limitation described in
23 ~~Rule .0603(e) of this Section, 16 NCAC 06C .0603(e),~~ publish the sanction and a brief description of the basis for the
24 sanction on its website and report it to the National Association of State Directors of Teacher Education and
25 Certification, except that this requirement shall not apply to a Written Warning. DPI shall not disclose any information
26 related to the sanction that is considered confidential under Chapter 115C, Article 21A of the General Statutes or is
27 otherwise protected from disclosure under State or federal law.

28
29 *History Note:* Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-3; 150B-22; 150B-23;
30 Temporary Adoption Eff. April 5, 2024;
31 Eff. July 1, 2025.
32
33

Burgos, Alexander N

Subject: FW: [External] Re: SBE RFC for February 2025

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, February 13, 2025 12:59 PM
To: Collins, Ryan <Ryan.Collins@dpi.nc.gov>; Ziko, Thomas <Thomas.Ziko@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] Re: SBE RFC for February 2025

Not a problem, I figured it was for your internal use, but wanted to make sure we had the correct version.

I anticipate recommending approval of the final revised version of these rules at February's meeting.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: Ryan Collins <Ryan.Collins@dpi.nc.gov>
Sent: Thursday, February 13, 2025 12:50 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Ziko, Thomas <Thomas.Ziko@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] Re: SBE RFC for February 2025

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Seth,

My apologies, that was for the SBE's benefit so that they could easily see the changes from publication (can't use yellow for obvious reasons!). I neglected to take it out before submitting it.

Here is the corrected version.

Ryan

1 16 NCAC 06E .0215 is adopted with changes as published in 39:07 NCR 403 as follows:

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

11 (1) The name of the aggrieved party's participating school and PSU.

12 (2) The name, address, and phone number of the aggrieved party. If the aggrieved party is a school or
13 PSU, the aggrieved party shall also provide the name, address, phone number, and title of an
14 employee who will serve as the official representative of the school or PSU during the appeal.

15 (3) The names, email addresses, and phone numbers of the principal and local superintendent.

16 (3) The names of any students affected by the final decision and the sports in which the student
17 participates.

18 (4) A description of the facts underlying the final decision.

19 (5) A description of the final decision, the date it was issued, and the name, email, and phone number
20 of the rule administrator or staff member thereof who issued the final decision.

21 (6) An argument explaining why the aggrieved party believes the rule administrator's final decision was
22 ~~not based on substantial evidence or was affected by an error of law.~~ was erroneous for one or both
23 of the reasons provided in Paragraph (g).

24 (7) If applicable, the date of any imminent interscholastic athletic activity that the final decision may
25 affect.

26 (8) 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) ~~Panels~~ The Superintendent shall appoint panels of no fewer than three members of the appeals board ~~may~~ to hear
30 and decide ~~matters~~ individual appeals on behalf of the appeals board. The panel may conduct a live hearing in person
31 or via 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 final
3 decision ~~is not supported by substantial evidence, as defined in G.S. 150B-2(8c), or is affected by an error of law.~~
4 either:

5 (1) Erroneously applies SBE rules or other applicable laws; or

6 (2) Is not supported by the evidence, based on the following standards of review:

7 (A) For a ruling by a referee or official enforcing gameplay rules during an athletic competition,
8 the panel shall affirm the referee or official's ruling and uphold the resulting penalty unless
9 the aggrieved party presents clear and convincing evidence to contradict the ruling.

10 (B) For a final decision of a rule administrator regarding the application of any other SBE rule,
11 the panel shall affirm the final decision unless the aggrieved party demonstrates that the
12 final decision was not supported by substantial evidence, as defined in G.S. 150B-2(8c).

13 (h) The panel may also remand the final decision to the rule administrator for reconsideration in light of new
14 information or evidence that was not provided to the rule administrator prior to its final decision, if there is an
15 intervening change in any relevant law, or if the panel determines that additional information is necessary to inform
16 its judgment. The panel shall not consider information or evidence presented that was not presented to the rule
17 administrator in the first instance.

18 ~~(h)~~ (i) The Superintendent, or the Superintendent's authorized designee, may stay a determination of ineligibility or a
19 penalty imposed by the rule administrator pending the judgment of the appeals board.

20 ~~(i)~~ (j) The panel's judgment shall be ~~conclusive~~ deemed a final agency decision and not subject to further ~~appeal.~~
21 appeal to the Superintendent or State Board of Education.

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

1 16 NCAC 06G .603 is adopted with changes as published in 38:07 NCR 390–391 as follows:

2
3 **16 NCAC 06C .0603 INVESTIGATION OF ALLEGED MISCONDUCT BY A LICENSED**
4 **PROFESSIONAL EDUCATOR OR LICENSE APPLICANT**

5 (a) Upon receipt of allegations and substantiating information regarding a respondent that would provide cause for
6 imposing disciplinary sanctions on a licensee or denying an application for a license under Rule .0604 of this Section,
7 the Superintendent of Public Instruction ("~~Superintendent~~") shall investigate the allegations to determine if such action
8 is warranted. The Superintendent shall investigate allegations or information from any source in a position to provide
9 such information, including a PSU, State agency, court or other tribunal, or other credible person or institution. The
10 Superintendent shall also consider information disclosed by a license applicant in the application.

11 (b) The Superintendent is authorized to utilize the power conferred upon the State Board of Education ("~~SBE~~") under
12 G.S. 115C-270.35(e), including the power to subpoena documents, secure witness testimony, or hire investigators, for
13 the purpose of conducting investigations under this Rule.

14 (c) If the Superintendent finds cause to impose disciplinary sanctions on a licensee or deny a license application for
15 any of the reasons described in Rule .0604 of this Section, the Superintendent shall prepare a proposed order containing
16 findings of fact, conclusions of law, and the proposed sanction(s) or denial.

17 (d) The Superintendent shall provide the respondent with a copy of the proposed order and notify the respondent that
18 the proposed sanctions or denial described in the order shall become final unless the respondent commences an
19 administrative proceeding under Chapter 150B, Article 3 of the General Statutes within 60 days of the notice. The
20 Superintendent shall send the notice via electronic mail and certified mail to the latest addresses provided to the SBE,
21 and the 60-day time limitation shall commence on the date of electronic delivery or placement of the notice in an
22 official depository of the United States Postal Service, whichever is earlier, in accordance with G.S. 150B-23(f).

23 (e) If the respondent commences administrative proceedings, the SBE shall stay the proposed order until receipt of a
24 final decision or order under G.S. 150B-34. If the respondent does not commence proceedings within the 60-day time
25 limitation, the proposed order shall become final, and the Superintendent shall take all necessary actions to enforce
26 the order.

27
28 *History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;*
29 *Temporary Adoption Eff. April 5, 2024;*
30 *Eff. July 1, 2025.*

1 16 NCAC 06G. 0606 is adopted with changes as published in 38:07 NCR 392 as follows:

2
3 **16 NCAC 06C .0606 VOLUNTARY SURRENDER OF A LICENSE**

4 (a) An individual licensed under Chapter 115C, Article 17E of the General Statutes may notify the State Board of
5 Education in writing of the individual's intention to voluntarily surrender the individual's license to the SBE.

6 (b) The SBE may accept the voluntary surrender of a license in lieu of pursuing revocation of the license if, following
7 an investigation in accordance with Rule .0603 of this Section, the SBE determines that the surrender of the license
8 will not compromise public safety. The Superintendent of Public Instruction shall prepare a proposed order containing
9 findings of fact and conclusions of law demonstrating that circumstances exist that would justify pursuing revocation
10 of the respondent's license. The Superintendent shall provide the respondent with a copy of the proposed order and
11 notify the respondent that the respondent's license will be revoked within 10 days of the notice. The Superintendent
12 shall send the notice via electronic mail and certified mail to the latest addresses provided to the SBE.

13 (c) The Department of Public Instruction ("~~DPI~~") shall, upon expiration of the 10-day time limitation described in
14 Paragraph (b), publish the revocation and a brief description of the basis for the revocation on its website and report
15 it to the National Association of State Directors of Teacher Education and Certification. DPI shall not disclose any
16 information related to the revocation that is considered confidential under Chapter 115C, Article 21A of the General
17 Statutes or is otherwise protected from disclosure under State or federal law.

18
19
20 *History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;*
21 *Temporary Adoption Eff. April 5, 2024;*
22 *Eff. July 1, 2025.*

16 NCAC 06E .0201 is adopted with changes as published in 39:07 NCR 393–394 as follows:

SECTION .0200 - ~~SCHOOL ATHLETICS AND SPORTS MEDICINE~~ INTERSCHOLASTIC ATHLETICS

16 NCAC 06E .0201 DEFINITIONS

As used in this Section, the following definitions apply:

- (1) "Administering organization" is defined in G.S. 115C-407.50(1).
- (2) "Aggrieved party" means a student, coach, participating school, PSU, or other party that is directly and adversely affected by a final decision of a rule ~~administrator~~ administrator, including a determination of ineligibility under Rule .0207 of this Section, a penalty imposed under Rule .0209 of this Section, or a finding of undue influence or a recruiting violation under Rule .0210 of this Section. If a student is affected, the student's parent or legal guardian ~~shall be allowed to~~ may appeal the final decision pursuant to Rule .0215 of this Section.
- (3) "Bona fide purpose" means a purpose not primarily related to participation in interscholastic athletics.
- (4) "Final decision" means a written decision of a rule administrator regarding the application or enforcement of rules under this Section to a set of facts or circumstances. A ruling by a referee or official enforcing gameplay rules during an athletic competition, as recorded by the referee or official in the game record maintained by the rule administrator, that results in the ejection or suspension of a player or coach shall be deemed a final decision upon exhaustion of any available mechanisms for review under the rule administrator's internal policies and procedures.
- (5) "Immediate family member" means a spouse, parent, legal guardian or custodian, grandparent, child, grandchild, brother, sister, half-sibling, or step-sibling. The term applies to any such relationship whether by blood, adoption, or marriage.
- ~~(5)~~(6) "Initial entry" means:
 - (A) a student's first day of attendance at a participating school in which the student is enrolled as recorded by that school; or
 - (B) the first day on which a student practices or otherwise participates as a member of an interscholastic athletics team at a participating school.
- ~~(6)~~(7) "Interscholastic athletics" or "interscholastic athletic activity" means any extracurricular athletic activity that:
 - (A) involves students in any Grades 6 through 12;
 - (B) is sponsored by an individual school, PSU, or administering organization; and
 - (C) includes students from more than one school or PSU.
- ~~(7)~~(8) "Local superintendent" means the superintendent of a local school administrative unit, as provided in Chapter 115C, Article 18 of the General Statutes, or the staff member with the highest decision-making authority for a PSU, if there is no superintendent.

1 ~~(8)(9)~~ "NFHS" means the National Federation of State High School Associations.

2 ~~(9)(10)~~ "Parent" is defined in G.S. 115C-407.50(6).

3 ~~(10)(11)~~ "Participating school" means a middle school, junior high school, or high school that elects to
4 participate in interscholastic athletic activities.

5 ~~(11)(12)~~ "Principal" means a school administrator employed as the principal of a school, as provided in
6 Chapter 115C, Article 19 of the General Statutes, or the staff member with the highest decision-
7 making authority at a school, if there is no principal.

8 ~~(12)(13)~~ "Rule administrator" means any of the following:

9 (A) An administering organization, when administering and enforcing the rules provided by
10 this Section at the high school level.

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

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

14
15 *History Note:* Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;
16 115C-407.65; 116-235(b);
17 Eff. July 1, 1986;
18 Exp. Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.
19 Temporary Adoption Eff. July 1, 2024;
20 Eff. July 1, 2025.

1 16 NCAC 06E .0205 is adopted with changes as published in 39:07 NCR 397–398 as follows:

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~~, responders (as defined in 16 NCAC 06E .0206),
8 volunteers, and students who participate in interscholastic athletic activities, and the parents or legal guardians of those
9 students. 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 ~~.0207(b) of this Section.~~ 16 NCAC 06E
20 .0207(b).

21 (d) If an coach, athletic director, school nurse, athletic trainer, or first responder (as defined in 16 NCAC 06E .0206)
22 determines that a student participating in an interscholastic athletic activity ~~exhibits~~ is exhibiting signs or symptoms
23 consistent with concussion, the student shall be removed from the activity at the time and shall not be allowed to return
24 to play or practice that day. A student removed from play for exhibiting signs or symptoms consistent with concussion
25 shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance
26 for such participation from one of the following:

27 (1) A physician licensed under Chapter 90, Article 1 of the General Statutes with training in concussion
28 management;

29 (2) A neuropsychologist licensed under Chapter 90, Article 18A of the General Statutes with training
30 in concussion management and working in consultation with a physician licensed under Chapter 90,
31 Article 34 of the General Statutes;

32 (3) An athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;

33 (4) A physician assistant, consistent with the limitations of G.S. 90-18.1; or

34 (5) A nurse practitioner, consistent with the limitations of G.S. 90-18.2.

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;

- (2) Reviewed by an athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;
 - (3) Approved by the principal of the school;
 - (4) Distributed to all appropriate personnel;
 - (5) Posted conspicuously for community and parental awareness at all athletic-sponsored venues; and
 - (6) Reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities.
- (f) Each participating school's emergency management plan shall include:
- (1) A delineation of roles;
 - (2) Methods of communication;
 - (3) Available emergency equipment; and
 - (4) Access to and plan for emergency transport.
- (g) Each school shall maintain complete and accurate records of its compliance with the requirements of this Rule.
- History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.57; 115C-407.58; 115C-407.60;*
- Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);*
- Emergency Rule Eff. August 20, 2019;*
- Emergency Rule Exp. Eff. August 20, 2020;*
- Temporary Adoption Eff. July 1, 2024;*
- Eff. July 1, 2025.*

1 16 NCAC 06E .0215 is adopted with changes as published in 39:07 NCR 403 as follows:

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

11 (1) The name of the aggrieved party's participating school and PSU.

12 (2) The name, address, and phone number of the aggrieved party. If the aggrieved party is a school or
13 PSU, the aggrieved party shall also provide the name, address, phone number, and title of an
14 employee who will serve as the official representative of the school or PSU during the appeal.

15 (3) The names, email addresses, and phone numbers of the principal and local superintendent.

16 (3) The names of any students affected by the final decision and the sports in which the student
17 participates.

18 (4) A description of the facts underlying the final decision.

19 (5) A description of the final decision, the date it was issued, and the name, email, and phone number
20 of the rule administrator or staff member thereof who issued the final decision.

21 (6) An argument explaining why the aggrieved party believes the rule administrator's final decision was
22 ~~not based on substantial evidence or was affected by an error of law.~~ was erroneous for one or both
23 of the reasons provided in Paragraph (g).

24 (7) If applicable, the date of any imminent interscholastic athletic activity that the final decision may
25 affect.

26 (8) 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) ~~Panels~~ The Superintendent shall appoint panels of no fewer than three members of the appeals board ~~may~~ to hear
30 and decide ~~matters~~ individual appeals on behalf of the appeals board. The panel may conduct a live hearing in person
31 or via 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.

(f) No later than 30 days after the Superintendent's receipt of the appeal, the panel shall issue its judgment.

(g) The panel shall affirm the rule administrator's final decision unless a majority of the panel determines that the final decision is not supported by substantial evidence, as defined in G.S. 150B-2(8c), or is affected by an error of law, either:

(1) Erroneously applies SBE rules or other applicable laws; or

(2) Is not supported by the evidence, based on the following standards of review:

(A) For a ruling by a referee or official enforcing gameplay rules during an athletic competition, the panel shall affirm the referee or official's ruling and uphold the resulting penalty unless the aggrieved party presents clear and convincing evidence to contradict the ruling.

(B) For a final decision of a rule administrator regarding the application of any other SBE rule, the panel shall affirm the final decision unless the aggrieved party demonstrates that the final decision was not supported by substantial evidence, as defined in G.S. 150B-2(8c).

(h) The panel may also remand the final decision to the rule administrator for reconsideration in light of new information or evidence that was not provided to the rule administrator prior to its final decision, if there is an intervening change in any relevant law, or if the panel determines that additional information is necessary to inform its judgment. The panel shall not consider information or evidence presented that was not presented to the rule administrator in the first instance.

~~(h)~~ (i) The Superintendent, or the Superintendent's authorized designee, may stay a determination of ineligibility or a penalty imposed by the rule administrator pending the judgment of the appeals board.

~~(i)~~ (j) The panel's judgment shall be ~~conclusive~~ deemed a final agency decision and not subject to further ~~appeal~~ appeal to the Superintendent or State Board of Education.

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

Burgos, Alexander N

From: Ascher, Seth M
Sent: Tuesday, February 11, 2025 5:28 PM
To: Collins, Ryan; Ziko, Thomas
Cc: Burgos, Alexander N
Subject: SBE RFC for February 2025
Attachments: RFC SBE February 2025.docx

Follow Up Flag: Follow up
Flag Status: Flagged

Good afternoon,

I'm the attorney who reviewed the Rules submitted by the State Board of Education for the February 2025 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, February 27, 2025, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an evite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, let me know prior to the meeting, and we will get evites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit your responses, the revised Rules, and forms to me via email, no later than 5 p.m. on February 21, 2025.

Please let me know if you have any questions or concerns.

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.