

Burgos, Alexander N

Subject: FW: [External] Re: RFC for Education June 2026

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Wednesday, June 17, 2026 2:01 PM

To: Collins, Ryan <Ryan.Collins@dpi.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Tomberlin, Thomas <thomas.tomberlin@dpi.nc.gov>

Subject: Re: [External] Re: RFC for Education June 2026

Thanks Ryan,

This has addressed my concerns and I will go forward with getting them updated with the unchanged rules. I anticipate recommending approval of the final revised version of the rules.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] Re: RFC for Education June 2026
Attachments: 16 NCAC 06C .0401 (Definitions).docx; 16 NCAC 06C .0402 (Sick Leave).docx; 16 NCAC 06C .0403 (Substitute Employees).docx; 16 NCAC 06C .0409 (Vacation Leave).docx; 16 NCAC 06C .0411 (Sick Leave Banks).docx; Education RFC June 26 (Agency responses).docx

From: Ryan Collins <Ryan.Collins@dpi.nc.gov>
Sent: Tuesday, June 16, 2026 4:01 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Tomberlin, Thomas <thomas.tomberlin@dpi.nc.gov>
Subject: Re: [External] Re: RFC for Education June 2026

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,

Thank you for that clarification.

I'm attaching the agency response to your RFC along with the revised rules.

Best,

Ryan

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

Deputy General Counsel

Office of General Counsel

ryan.collins@dpi.nc.gov

984.236.2255 (o)



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 .0401

DEADLINE FOR RECEIPT: June 18, 2026

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 p. 2, line 26, (13) in this rule is an "item" not a subparagraph. Per our the administrative style guide, use item instead of subparagraph when there is only one top level paragraph (i.e., no a, b, c, etc.).

Done.

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 .0402

DEADLINE FOR RECEIPT: June 18, 2026

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 p. 4, line 20, I think you are missing a word between even and the. Consider “even if the” or “even when the”.

I have changed it to “even if the”

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 006C .0403

DEADLINE FOR RECEIPT: June 18, 2026

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 4, as written I am not sure who is deeming the number of necessary substitutes. If the LSAU is determining, consider "it deems" or "it determines". Otherwise, specify who is deciding.

I have reworded to clarify that this determination falls to the local superintendent or designee.

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 .0409

DEADLINE FOR RECEIPT: June 18, 2026

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 4, you are missing a word. "In addition to the relevant"

I have fixed this.

On line 33, this rule says a driver only earns a single vacation day. I think you may mean "one vacation day per month".

It's actually one vacation day per year. These bus drivers don't work enough to even be considered part-time employees so they would not otherwise accrue paid annual leave on a monthly basis, but State Board policy has long allowed one vacation day for these part time drives. I've clarified this in the rule.

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: June 11, 2026

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0411

DEADLINE FOR RECEIPT: June 18, 2026

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 p. 2, lines 17 through 20, these should be numbered 1 through 4 instead of letters.

Done.

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

1 16 NCAC 06C .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.

21
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.

11
12
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.*
19

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 .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 with changes 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)~~ (1) The number of participants in the sick leave bank, itemized by position classification.

18 ~~(B)~~ (2) The number of sick days withdrawn from the sick leave bank.

19 ~~(C)~~ (3) The total cost of the withdrawn sick leave.

20 ~~(D)~~ (4) Any other data requested by the SBE to ensure compliance with this Rule and other state and federal
21 financial rules.

22
23
24 *History Note: Authority G.S. 115C-12(8); 115C-336(b);*
25 *Eff. July 1, 2026.*

Burgos, Alexander N

From: Ascher, Seth M
Sent: Monday, June 15, 2026 3:59 PM
To: Collins, Ryan; Alford, Brad
Cc: Burgos, Alexander N
Subject: Re: [External] Re: RFC for Education June 2026

Ryan,

I did review the entire set you submitted for the RRC meeting in June, and only included rules I had questions or feedback on in the RFC. So at this point, I anticipate recommending approval of the remaining rules as originally filed and will keep you posted if something changes.

Seth Ascher

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

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From: Ryan Collins <Ryan.Collins@dpi.nc.gov>
Sent: Monday, June 15, 2026 3:57 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Alford, Brad <Brad.Alford@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Re: RFC for Education June 2026

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Hi Seth,

We are still reviewing the RFC, but I noticed this document appears to only address one set of rules that we have on the June RRC agenda (16 NCAC 06C .0401 et seq, addressing public school employee benefits). We have several other sets of rules on the agenda addressing English learner programs, driver education, and athletics.

While I would love to assume this means you had no requested changes whatsoever on any of those, I prefer to err on the side of caution. Could you confirm whether you have reviewed those rules as well and whether you have any requested changes?

Ryan

Ryan M. Collins, J.D., M.Ed.
Deputy General Counsel
Office of General Counsel
ryan.collins@dpi.nc.gov
984.236.2255 (o)



NORTH CAROLINA
State Board of Educati
Department of Public I

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Thursday, June 11, 2026 2:47 PM
To: Ryan Collins <Ryan.Collins@dpi.nc.gov>; Brad Alford <Brad.Alford@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: RFC for Education June 2026

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Good afternoon,

I'm the attorney who reviewed the Rules submitted by the State Board of Education for the June 2026 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, June 25, 2026, 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 my initial 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 June 18, 2026.

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

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

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