

Burgos, Alexander N

Subject: FW: [External] Re: SBE RFC July 2026

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Tuesday, July 7, 2026 12:35 PM
To: Collins, Ryan <Ryan.Collins@dpi.nc.gov>; McBride, Ashley <Ashley.McBride@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: [External] Re: SBE RFC July 2026

Great, thanks!

I anticipate recommending approval of the final revised rules at the upcoming meeting. I'll let you know if anything comes up between now and the RRC meeting.

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: SBE RFC July 2026
Attachments: State Board of Education RFC July 2026 (Agency Response).docx; 16 NCAC 06E .0102 (Attendance Requirements).docx

From: Ryan Collins <Ryan.Collins@dpi.nc.gov>
Sent: Tuesday, July 7, 2026 8:47 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; McBride, Ashley <Ashley.McBride@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: [External] Re: SBE RFC July 2026

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Good Morning Seth,

I've accepted the requested changes. Please see the attached RFC with agency responses and an updated version of Rule 06E .0102.

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)



NORTH CAROLINA
State Board of Education
Department of Public Instruction

16 NCAC 06E .0102 is readopted with changes as published in 40:19 NCR 1553–1557 as follows:

16 NCAC 06E .0102 ATTENDANCE ~~EXCUSED~~ REQUIREMENTS

(a) To be considered in attendance on any given instructional day:

(1) The student shall be physically present either:

(A) In the school under the supervision of school personnel for at least one-half of the instructional day; or

(B) In a place other than the school with the approval of the appropriate school official to attend a school-sponsored activity, such as a field trip, athletic contest, student convention, musical festival, or similar activity;

(2) If the student is enrolled in a remote academy, the student shall log into the assigned learning management system at least once per day consistent with the remote academy plan approved by the State Board of Education in accordance with G.S. 115C-234.15 or the Charter Schools Review Board in accordance with G.S. 115C-218.123; or

(3) If the student is participating in remote instruction other than **through** a remote academy, the student shall complete the student's assignments for each remote instruction day, either online or offline, consistent with the remote instruction plan approved by the State Board of Education in accordance with G.S. 115C-84.3

(b) A student shall not be recorded as in attendance until the student has, following enrollment, attended at least one-half of an instructional day in accordance with Paragraph (a). If the student is enrolled in a remote academy, the student shall log into the assigned learning management system and be virtually present and responsive on the first instructional day. A student shall not participate in remote instruction other than through enrollment in a remote academy until the student has been in physical attendance for at least one instructional day.

~~(a)~~ (c) LEAs A public school unit ("PSU") shall excuse the temporary absence of a student ~~upon a showing of satisfactory evidence of one of the following bases: if the~~ **[appropriate school official] principal, local superintendent, or designee of the principal or local superintendent** determines by a preponderance of the evidence that the absence was for one of the following lawful reasons:

(1) ~~Illness or injury~~ The student or, if the student is a custodial parent, a child in the student's care, has a physical or mental illness or injury that prevents the student from being ~~physically~~ able to attend school.

(2) The student is isolating in accordance with directives from the local health ~~officer or~~ department, the ~~State Board of Health orders the isolation of the student.~~ North Carolina Department of Health and Human Services, or the Centers for Disease Control and Prevention.

(3) The student ~~is absent due to~~ has suffered the death of ~~a member of the immediate family.~~ an immediate family member. For purposes of this Rule, "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.

- 1 (4) The student or, if the student is a custodial parent, a child in the student's care, has a medical or
2 dental appointment.
- 3 (5) The student is a party to or is under subpoena as a witness in the proceedings of a court or
4 administrative tribunal. For purposes of this Rule, an administrative tribunal shall include the
5 governing body of the PSU.
- 6 (6) The student is absent due to a religious observance ~~in accordance with local school board policy,~~
7 required by the faith of the student or the student's parent or legal guardian. A student is entitled to
8 at least two absences for this purpose each school year, but the parent or legal guardian shall provide
9 the PSU with notice of the intended absence at least one instructional day in advance. The PSU shall
10 offer the student the opportunity to make up any tests or other assignments missed due to these
11 absences.
- 12 (7) The student obtains prior approval from the local superintendent or designee to take advantage of a
13 valid educational opportunity; an educational opportunity outside of school, such as travel, service
14 as a legislative page or Governor's page.
- 15 (8) The student cannot safely travel to school due to a natural disaster, provided the area in which the
16 student resides or through which the student must travel has been declared a disaster area by the
17 Federal Emergency Management Agency.
- 18 (9) The student is receiving educational services outside of school under one of the following
19 conditions:
- 20 (A) Medical necessity initiated by a medical report or physician's orders and documented in
21 the student's written homebound instruction plan, Section 504 plan, or Individualized
22 Education Program ("IEP").
- 23 (B) The student's IEP Team has determined that placement of the student outside of school is
24 the least restrictive environment available given the student's needs and has documented
25 that need in the student's IEP or Section 504 plan.
- 26 (10) The student is receiving educational services through the Teacher-in-Treatment Program
27 administered by the North Carolina Department of Health and Human Services.
- 28 (11) The student satisfies the following criteria for military-affiliated absences:
- 29 (A) The student's parent or legal guardian is an active-duty member of the uniformed services,
30 as defined in G.S. 115C-407.5;
- 31 (B) The student's parent or legal guardian has been called to duty for, is on leave from, or has
32 immediately returned from deployment to a combat zone or combat support posting; and
- 33 (C) The student has not been identified by the PSU as being at risk of academic failure due to
34 unexcused absences.
- 35 A student is entitled to at least two absences for this purpose each school year, but the parent or
36 legal guardian shall provide the PSU with notice of the intended absence at least one instructional
37 day in advance.

1 (d) A PSU shall not excuse students for nonattendance due to immediate demands of the farm or the home, unless
2 such demands satisfy one of the lawful reasons for absence listed in Paragraph (c).

3 ~~(b) (c) LEAs may~~ A PSU shall have the authority to excuse the temporary or occasional absences absence of a student
4 for other reasons in accordance with local board policies, policies adopted by the governing body of the PSU, provided
5 that the student has been in attendance for at least one half of the school day. is currently in membership.

6 (f) A student's willful absence from school, with or without the knowledge of the student's parent or legal guardian,
7 or a student's absence from school for any reason other than those permitted by this Rule or Rule .0104 of this Section,
8 shall be deemed unlawful for purposes of the Compulsory Attendance Law.

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11
12 *History Note: Authority G.S. 115C-84.3; 115C-378; 115C-379;*

13 *Eff. July 1, 1986;*

14 *Amended Eff. June 1, ~~1996~~ 1996;*

15 *Readoption Eff. August 1, 2026.*

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 06E .0102

DEADLINE FOR RECEIPT: July 17, 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. 1, line 15, you may be missing a word. Consider “other than through a remote academy”.

Done.

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: July 6, 2026

From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Monday, July 6, 2026 4:32 PM
To: Ryan Collins <Ryan.Collins@dpi.nc.gov>; Ashley McBride <Ashley.McBride@dpi.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: SBE RFC July 2026

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Good afternoon,

I'm the attorney who reviewed the Rules submitted by the State Board of Education for the July 2026 RRC meeting. The RRC will formally review these Rules at its meeting on Thursday, July 30, 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 July 17, 2026. Note that I have reviewed all of the rules and only had one minor question.

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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