



TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

1. Rule-Making Agency: State Board of Education

2. Rule citation & name: 16 NCAC 06C.0372 (Denying a License Application or Suspension or Revocation of a License Issued by the North Carolina Department of Public Instruction); 06C .0373 (Reporting Requirements for Suspected Child Abuse by a Local Education Agency Administrator to the Superintendent of Public Instruction); 06C .0374 (Investigation Requirements to Determine Reasonable Cause to Suspend or Revoke an Educator License); 06C .0375 (Voluntary Surrender of an Educator License); 06C .0376 (Reinstatement or Issuance of a Suspended, Revoked, or Denied License); 06C .0601 (Definitions); 06C .0602 (Standards of Professional Conduct); 06C .0603 (Investigation of Alleged Misconduct); 06C .0604 (Denying or Sanctioning a License); 06C .0605 (Disciplinary Sanctions); 06C .0606 (Voluntary Surrender of a License); 06C .0607 (Reinstatement of or Reconsideration for a License); 06C .0608 (Reporting Requirements for PSU Administrators).

3. Action: Adoption Amendment Repeal

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

5. Provide dates for the following actions as applicable:

- a. Proposed Temporary Rule submitted to OAH: 1/5/24
- b. Proposed Temporary Rule published on the OAH website: 1/12/24
- c. Public Hearing date: 2/23/24
- d. Comment Period: 1/12/24 – 2/23/24
- e. Notice pursuant to G.S. 150B-21.1(a3)(2): 1/12/24
- f. Adoption by agency on: 3/7/24
- g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]:
- h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:

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

- A serious and unforeseen threat to the public health, safety or welfare.
- The effective date of a recent act of the General Assembly or of the U.S. Congress.
Cite: S.L. 2023-128, Section 2.(b)
Effective date: 12/1/23
- A recent change in federal or state budgetary policy.
Effective date of change:
- A recent federal regulation.
Cite:
Effective date:
- A recent court order.
Cite order:
- State Medical Facilities Plan.
- Other:

Explain: S.L. 2023-128, effective December 1, 2023, expands the applicability of the criminal statute related to indecent liberties with a student and increases penalties on school personnel who fail to report certain misconduct by educators. The legislation also gives the State Board of Education (“SBE”) authority to adopt temporary rules to implement the requirements of the legislation, to address disciplinary action against professional educator licenses, and to modify the Standards of Professional Conduct.

The Standards of Professional Conduct for North Carolina Educators, codified 16 NCAC 06C .0601 and 06C .0602, are also among the SBE Rules scheduled for re adoption no later than June 30, 2026, through the periodic review process required by the APA. *See* G.S. 150B-21.3A.

The SBE has used the temporary authority in S.L. 2023-128 to amend 16 NCAC 06C .0601 and 06C .0602 in preparation for re adoption. The SBE has simultaneously adopted new rules, 16 NCAC 06C .0603 – 06C .0608, to govern the process for denying an application for a professional educator license or taking disciplinary action against an existing license. These will replace its existing rules on this topic, currently codified at 16 NCAC 06C .0372 – 06C .0376. The SBE understands that 16 NCAC 06C .0601 and 06C .0602 will need to be readopted through permanent rulemaking procedures and intends to do so concurrently with putting the other rules through permanent rulemaking.

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

S.L. 2023-128 gave the SBE express authority to adopt these temporary rules. Immediate adoption is also necessary to properly implement the provisions of the session law, the relevant provisions of which became effective on December 1, 2023.

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

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

No

9. Rule-making Coordinator: Ryan Collins

Phone: 984-236-2255

E-Mail: ryan.collins@dpi.nc.gov

Agency contact, if any: Denyse Brewington

Phone: 984-236-2259

E-Mail: denyse.brewington@dpi.nc.gov

10. Signature of Agency Head*:



*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Eric C. Davis

Title: Chair, State Board of Education

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

RULES REVIEW COMMISSION USE ONLY

Action taken:

Submitted for RRC Review:

Date returned to agency:

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0602

DEADLINE FOR RECEIPT: March 22, 2024

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 19-20, consider changing “with oversight of public education” to “with public education oversight”. I.e. “bodies [with oversight of public education] with public education oversight.”

On lines 24-25, “demonstrate a high standard of personal character and conduct and shall serve as a positive role model” seems impermissibly vague. Are there further definitions or clarifications somewhere else, or that can be added?

In item 3, lines 26-29, the relationship between the first and second sentence is not clear. Are the items in the list starting on line 30 examples of the kinds of behavior that would violate professional boundaries? A list of specific conduct that can be disciplined? Consider, on line 28, something like “Specifically [The] the educator shall not” or “For example, [The] the educator shall not”.

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: March 14, 2024

1 16 NCAC 06C .0602 is amended under temporary procedures as follows:

2
3 **16 NCAC 06C .0602 STANDARDS OF PROFESSIONAL CONDUCT**
4

5 ~~(a) The standards [Standards of Professional Conduct (“Standards”)] listed in this Section shall be generally accepted~~
6 ~~for the education profession and shall be the basis for State Board review of [reviewing the] performance of~~
7 ~~professional educators. [educators by the State Board of Education (“SBE”).] These standards shall establish~~
8 ~~mandatory prohibitions and requirements for educators. Violation of these standards [Standards] shall subject an~~
9 ~~educator to investigation and disciplinary action by the SBE or LEA. [any public school unit by which the educator is~~
10 ~~employed.]~~

11 ~~(b) Professional educators shall adhere to the standards of professional conduct contained [Standards as set forth] in~~
12 ~~this Rule. Any intentional act or omission that violates these standards [Standards] is prohibited.~~

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

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

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

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

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

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

33 ~~[(B) Intentional solicitation.] (C) Solicitation,~~ encouragement, or consummation of a romantic, physical, or
34 ~~sexual relationship with a [student,] student in any form, whether written, verbal, or physical.~~ As used in this
35 ~~context, “solicitation” or “encouragement” shall include engaging in a pattern of flirtatious behavior; efforts~~
36 ~~to gain access to, or time alone with, a student with no clear educational or school-related objective; provision~~
37 ~~of individualized or specialized treatment, including tangible or monetary gifts, to a student that does not~~

1 comply with generally recognized professional standards for educators; or any other behavior that could be
2 perceived by a rational observer as excessively personal or intimate in the context of the educator-student
3 relationship.

4 ~~[(C)]~~ (D) Solicitation, encouragement, or consummation of sexual contact with a student.

5 ~~[(D)]~~ (E) Sexual harassment, as defined in 34 C.F.R. 106.30(a).

6 ~~[(E)]~~ (F) Child abuse, as defined in G.S. 14-318.2 or G.S. 14-318.4.

7 (4) Alcohol and Controlled Substances. The educator shall not be under the influence of, possess, use, or consume
8 an alcoholic beverage or a controlled substance, as defined in G.S. 90-95, on school premises, at a school-
9 sponsored activity, or when otherwise discharging the educator's professional duties, unless the educator has a
10 prescription from a licensed medical professional authorizing such use. The educator shall not furnish alcoholic
11 beverages or controlled substances to a student, except for the administration of medication prescribed by a
12 ~~licensee~~ licensed medical professional in accordance with the educator's professional duties.

13 ~~(3)~~(5) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation
14 in the performance of the educator's professional duties, including the following:

15 (A) ~~statement~~ statements or representations of professional qualifications;

16 (B) application or recommendation for professional employment, promotion, or licensure;

17 (C) ~~application or recommendation~~ applications or recommendations for college or university admission,
18 scholarship, grant, academic award, or similar benefit;

19 (D) ~~representation~~ statements or representations of completion of college or staff development credit;

20 (E) evaluation or grading of students or school personnel;

21 (F) submission of financial or program compliance reports submitted to state, federal, or other governmental
22 agencies;

23 (G) submission of information in the course of an official inquiry by the ~~employing LEA or the SBE~~ related
24 to facts of unprofessional misconduct, provided, however, SBE or the educator's employing PSU into
25 allegations of professional misconduct, provided that an educator shall be given adequate notice of the
26 allegations and may be represented by legal counsel; and

27 (H) submission of information in the course of an investigation into school related criminal activity by a law
28 enforcement agency, child protective services, or any other agency with the ~~right authority to investigate,~~
29 ~~regarding school related criminal activity; provided, however, investigate, provided that an educator shall be~~
30 ~~entitled to decline to give evidence may~~ refuse decline to provide information to law enforcement if such
31 evidence ~~may tend to~~ could incriminate the educator ~~as that term is defined by the Fifth Amendment to in~~
32 violation of the educator's rights under the U.S. Constitution, United States Constitution or North Carolina
33 Constitution.

34 (6) Compliance with Criminal Laws. The educator shall not violate the criminal laws of this State, the United
35 States, or any other state or territory under the jurisdiction of the United States.

36 ~~(4)~~(7) Proper remunerative conduct. Remunerative Conduct. The educator shall not solicit current students or
37 parents of students to purchase equipment, supplies, or services from the educator in a private remunerative

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

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

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

13 (B) ~~any sexual act;~~

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

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

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

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

20 ~~(6)(8) Confidential information. Information.~~ The educator shall keep ~~in confidence~~ confidential all personally
21 identifiable information regarding students or their family members that the educator ~~has been~~ obtained in the
22 course of professional service, unless disclosure is required or permitted by law ~~or professional standards,~~ or is
23 necessary for the personal safety of the student or others.

24 ~~(7)(9) Rights of [others.] Others.~~ The educator shall not willfully or maliciously violate the constitutional or civil
25 rights of a student, parent/legal parent or legal guardian, or colleague.

26 ~~(8)(10) Required reports. Reports.~~ The educator shall make all reports required by ~~G.S. 115C-Chapter 115C of~~
27 the General Statutes.

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

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

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

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

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

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

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

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

17
18 *History Note:* Authority G.S. ~~115C-295.3; 115C-12(9); 115C-270.5; 115C-307;~~
19 Eff. May 1, 1998.
20 Temporary Amendment Eff. XXX.
21

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0603

DEADLINE FOR RECEIPT: March 22, 2024

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 6, I'm not sure what "substantiating information" means in this context. Particularly, I can't tell if this is meant to be a standard to be met before the superintendent is required to investigate, or if it is just meaning that some support for factual allegations must be provided. Could someone provide an allegation without substantiating information or with insufficient substantiating information, and then a superintendent would not be obligated to investigate? I can't tell how this is meant to work but consider either providing further definition or standard for "substantiating information" or rewriting to remove that concept.

On line 6, replace may with would. I.e. "respondent that ~~may~~ would provide cause."

On line 7, are disciplinary sanctions imposed on a "license" or a "licensee"? This looks like a typo, but it appears in several rules.

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 .0603 is adopted under temporary procedures as follows:

2
3 **16 NCAC 06C .0603 INVESTIGATION OF ALLEGED MISCONDUCT BY A LICENSED**
4 **PROFESSIONAL EDUCATOR OR LICENSE APPLICANT**
5

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

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

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

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

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

28
29 *History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;*
30 *Temporary Adoption Eff. XXX.*
31

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0604

DEADLINE FOR RECEIPT: March 22, 2024

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:

Where does the SBE get authority to delegate the disciplinary authority to a designee? G.S. 115C-270.35(b), (c), and (d) all seem to indicate that the SBE itself has to make disciplinary decisions, although (e) clearly contemplates delegating investigation.

In the title and on lines 6 and 34, are disciplinary sanctions imposed on a "license" or a "licensee"? This looks like a typo, but it appears in several rules.

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: March 14, 2024

1 16 NCAC 06C .0604 is adopted under temporary procedures as follows:

2
3 **16 NCAC 06C .0604 DENYING OR SANCTIONING A LICENSE**
4

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

- 9 (1) Engaged in fraud, material misrepresentation, or concealment in an application for the license.
10 (2) Become ineligible for the license due to changes or corrections in the license documentation.
11 (3) Been convicted of a crime in any state, federal, or territorial court of the United States, including military
12 tribunals.
13 (4) Been dismissed by a local board of education, pursuant to G.S. 115C-325(e)(1) or 115C-325.4, or by the
14 governing body of any other PSU.
15 (5) Resigned from employment with a PSU without thirty calendar days’ notice, except with the prior consent
16 of the superintendent.
17 (6) Had a professional educator license or other occupational license revoked or suspended in North Carolina or
18 another state due to a finding of misconduct by the relevant occupational licensing board or agency.
19 (7) Failed to report suspected child abuse in accordance with G.S. 115C-400 or other suspicion of professional
20 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 of
23 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 or designee
25 shall consider the following factors:

- 26 (1) The existence of a reasonable and adverse relationship between the underlying misconduct and the ability of
27 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 or designee determines that sanctions against a current licensee are warranted, it shall impose sanctions
35 in accordance with Rule .0605 of this Section.
36

- 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. XXX.

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0605

DEADLINE FOR RECEIPT: March 22, 2024

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

Where does the SBE get authority to delegate the disciplinary authority to a designee? G.S. 115C-270.35(b), (c), and (d) all seem to indicate that the SBE itself has to make disciplinary decisions, although (e) clearly contemplates delegating investigation.

On lines 5, are disciplinary sanctions imposed on a “respondent’s license” or a “respondent licensee”? This looks like a typo, but it appears in several rules.

*For the list in 8-11, there should be semicolons after 1 and 2, “**Term Term;** or” at the end of item 3, and a period at the end of item 4.*

*Add commas on lines 20 and 21, “any **erime crime,** the” and “G.S. ~~115C-270.35(b)~~ **115C-270.35(b),**”*

On line 23, what is meant by promptly? Is there a specific timeline that the Board envisions?

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: March 14, 2024

1 16 NCAC 06C .0605 is adopted under temporary procedures as follows:

2
3 **16 NCAC 06C .0605 DISCIPLINARY SANCTIONS**
4

5 (a) Upon finding of a basis for imposing disciplinary sanctions against a respondent’s license under Rule .0604
6 following an investigation under Rule .0603 of this Section, the State Board of Education (~~“SBE”~~ “SBE”), or its
7 authorized designee, may impose any of the following sanctions:

- 8 (1) Written Warning
- 9 (2) Written Reprimand
- 10 (3) Suspension for a Defined Term
- 11 (4) Revocation

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

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

25 (d) The ~~SBE~~ Department of Public Instruction (“DPI”) shall, upon expiration of the 60-day time limitation described
26 in Rule .0603(e) of this Section, publish the sanction and a brief description of the basis for the sanction on ~~the~~
27 ~~Department of Public Instruction (“DPI”)~~ its website and report it to the National Association of State Directors of
28 Teacher Education and Certification, except that this requirement shall not apply to a Written Warning. ~~The SBE DPI~~
29 shall not disclose any information related to the sanction that is considered confidential under Chapter 115C, Article
30 21A of the General Statutes or is otherwise protected from disclosure under State or federal law.

31
32
33 *History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-3; 150B-22; 150B-23;*
34 *Temporary Adoption Eff. [DATE DETERMINED BY G.S. 150B-21.3(a)].*

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0606

DEADLINE FOR RECEIPT: March 22, 2024

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, the comma should be a period: "SBE, SBE."

On line 20 there is a typo. Do you mean "SBE and DPI"

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: March 14, 2024

1 16 NCAC 06C .0606 is adopted under temporary procedures as follows:
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3 **16 NCAC 06C .0606 VOLUNTARY SURRENDER OF A LICENSE**
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5 (a) An individual licensed under Chapter 115C, Article 17E of the General Statutes may notify the State Board of
6 Education (~~“SBE”~~) (“SBE”), or its authorized designee, in writing of the individual’s intention to voluntarily surrender
7 the individual’s license to the SBE.

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

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

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25 *History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;*
26 *Temporary Adoption Eff. [DATE DETERMINED BY G.S. 150B-21.3(a)].*

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0607

DEADLINE FOR RECEIPT: March 22, 2024

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, "~~(b)~~ (c)"

In the third item, starting on line 11, where does the SBE get authority to delegate the disciplinary authority to a designee? G.S. 115C-270.35(b), (c), and (d) all seem to indicate that the SBE itself has to make disciplinary decisions, although (e) clearly contemplates delegating investigation.

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: March 14, 2024

1 16 NCAC 06C .0607 is adopted under temporary procedures as follows:

2

3 **16 NCAC 06C .0607 REINSTATEMENT OF OR RECONSIDERATION FOR A LICENSE**

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5 (a) A respondent whose license has been revoked or whose application for a license has been denied under this Section
6 may seek reinstatement of the revoked license or reconsideration of the license application no sooner than 12 months
7 after the effective date of the revocation or denial.

8 (b) The respondent shall submit a request to the State Board of Education (“SBE”) in writing that includes a statement
9 describing why the circumstances that led to the revocation or denial do not or no longer justify prohibiting the
10 respondent from holding a license.

11 (b) The ~~SBE~~ SBE, or its authorized designee, may deny the request, grant the request, or grant the request on a
12 probationary basis. If the SBE or designee grants the request on a probationary basis, the respondent’s license status
13 shall be subject to review by the SBE or designee one year from the date that the license is granted, and the respondent
14 shall comply with any conditions the SBE or designee may impose.

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17 *History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;*

18 *Temporary Adoption Eff. [DATE DETERMINED BY G.S. 150B-21.3(a)].*

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06C .0608

DEADLINE FOR RECEIPT: March 22, 2024

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 33, are disciplinary sanctions imposed on an "employee's license" or a "licensed employee"? This looks like a typo, but it appears in several rules.

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: March 14, 2024

1 16 NCAC 06C .0608 is adopted under temporary procedures as follows:

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3 **16 NCAC 06C .0608 REPORTING REQUIREMENTS FOR PSU ADMINISTRATORS**

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

6 (1) “Misconduct” means either:

7 (A) Conduct that justifies automatic revocation of a license under G.S. 115C-270.35(b);

8 (B) Conduct that has resulted in a criminal charge or indictment for any of the crimes listed in G.S.
9 115C-270.35(b); or

10 (C) Conduct involving the physical or sexual abuse of a child or a student. “Physical abuse” means the
11 infliction of physical injury other than by accident or in self-defense. “Sexual abuse” means any
12 sexual contact with a child or student, regardless of the presence or absence of consent.

13 (2) “PSU administrator” means a superintendent, associate superintendent, assistant superintendent, personnel
14 administrator, principal, school director, or head of school employed by a PSU.

15 ~~(a) (b)~~ In addition to any duty to report suspected child abuse under ~~G.S. 115C-400, G.S. 115C-400 or other provision~~
16 ~~of law,~~ any PSU administrator who knows, has reason to believe, or has actual notice of a complaint that a professional
17 educator licensed under Chapter 115C, Article 17E of the General Statutes has engaged in ~~conduct that would justify~~
18 ~~the automatic revocation of the license under G.S. 115C-270.35(b), or which involves the physical abuse of a child as~~
19 ~~defined in G.S. 14-318.2 or G.S. 14-318.4, misconduct, as defined in Subparagraph (a)(1), that results in the dismissal,~~
20 ~~disciplinary action against, dismissal, suspension with pay, suspension without pay, or resignation of the educator~~
21 ~~shall report the misconduct in writing to the State Board of Education (“SBE”) within five calendar days of the~~
22 ~~dismissal, determination of disciplinary action, dismissal, suspension, or acceptance of resignation. the educator’s~~
23 ~~resignation by the local superintendent. If an educator resigns within 30 days of a complaint for misconduct or during~~
24 ~~an ongoing investigation of a complaint, the alleged misconduct is presumed to have resulted in the resignation.~~

25 ~~(c) If an employee resigns within 30 days of a complaint for misconduct or during an ongoing investigation of a~~
26 ~~complaint, the misconduct is presumed to have resulted in the resignation.~~

27 ~~(e) Any PSU administrator who knows, has reason to believe, or has actual notice of a complaint that an employee~~
28 ~~licensed under Chapter 115C, Article 17E of the General Statutes has engaged in conduct that would otherwise justify~~
29 ~~disciplinary sanctions against the employee’s license under Rule .0604 of this Subchapter shall report the conduct in~~
30 ~~writing to the SBE within 30 days of dismissal, determination of disciplinary action, or acceptance of resignation.~~

31 ~~(c) If a PSU demotes, dismisses, or accepts the resignation of a professional educator licensed under Chapter 115C,~~
32 ~~Article 17E of the General Statutes as a result of conduct that is not covered by Paragraph (b) of this Rule but that~~
33 ~~may otherwise justify disciplinary sanctions against the employee’s license under Rule .0604 of this Section, a PSU~~
34 ~~administrator for that PSU shall report the conduct in writing to the SBE within 30 calendar days of the demotion,~~
35 ~~dismissal, or resignation of the employee.~~

36 (d) For purposes of this Rule, “PSU administrator” shall include any superintendent, associate superintendent, assistant
37 superintendent, personnel administrator, principal, or head of school employed by a PSU.

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(d) If one PSU administrator submits a single report on behalf of the PSU pursuant to the requirements of this Rule, that report shall satisfy the reporting obligations of all individuals who may have reporting obligations under this Rule or under G.S. 115C-326.20.

History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 115C-326.20; 150B-22; 150B-23;
Temporary Adoption Eff. [DATE DETERMINED BY G.S. 150B-21.3(a)].