



# 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 06E .0201 (Definitions); 06C .0204 (Administration of Interscholastic Athletics); 06E .0205 (Student Health and Safety); 06E .0206 (Athletic Trainers); 06E .0207 (Student Participation Rules); 06E .0208 (Amateur Rules); 06E .0209 (Penalty Rules); 06E .0210 (Limitations on Recruiting and Undue Influence); 06E .0215 (Appeals)

**3. Action:** ☒ Adoption ☒ Amendment ☒ Repeal

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

**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]: 7/1/24
- 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. 2023-133, Parts XVII & XVIII  
Effective date: 9/22/23
- ☐ 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:** On September 22, 2023, the General Assembly enacted S.L. 2023-133, which made significant changes to state laws governing interscholastic athletic activities in public school units. The legislation directed the State Board of Education to adopt new temporary rules to implement the requirements of the legislation in time for the 2024-2025 school year. The SBE has adopted these temporary rules to satisfy this legislative requirement and address such topics as the administration of interscholastic athletics, student health and safety, student participation requirements, amateur rules, penalties, and the appeals process.

In accordance with S.L. 2023-133, Section 19.(a), the SBE submitted a request for consultation to the Joint Legislative Commission on Governmental Operations on January 5, 2024, and received feedback from Senior Majority Counsel Andrew Hatch on February 16, 2024. Much of the feedback from the consultation has been incorporated into the final rules adopted by the SBE.

The rules include amendments to two existing rules and the adoption of seven new rules. I have submitted a request to waive RRC Rule 26 NCAC 02C .0102 for the purpose of reusing two rule numbers for rules that have expired, 16 NCAC 06E .0201 and 06E .0205, though I have not received any information as to the status of that waiver request. I believe the waiver is justified because the new rules are on the same subject matter as the expired rules.

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

Immediate adoption of the rule is required because S.L. 2023-133 mandates that the SBE adopt new temporary rules in time for the 2024-2025 school year. As a practical matter, that means the new rules need to be in place by July 1, 2024, to enable administering organizations and public-school units to prepare for fall sports. In addition, the SBE believes it is necessary to give those affected by the rules (including students) as much advanced awareness of the new rules as possible.

**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 06E .0201

**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 22, consider replacing with "involves students in grades 6 through 12;". As written, it could be read to exclude students in grades 6 and 12.*

*On line 30, you are missing a period: "~~115C-407.50(6)~~ 115C-407.50(6)."*

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

16 NCAC 06E .0201 is adopted under temporary procedures as follows:

## SECTION .0200 – INTERSCHOLASTIC ATHLETICS

### 16 NCAC 06E .0201 DEFINITIONS

As used in this Section, the following definitions apply:

(1) “Administering organization” is defined in G.S. 115C-407.50(1).

(2) “Aggrieved party” means a student, coach, participating school, PSU, or other party that is directly and adversely affected by a final decision of an administering organization that applies or enforces the rules established by this Section, including a determination of ineligibility under Rule ~~.0207~~ .0207, a penalty imposed under Rule ~~.0209~~ .0209, or a finding of undue influence or a recruiting violation under Rule ~~.0210~~ .0210. If a student is affected, the student’s parent shall be allowed to appeal the final decision pursuant to Rule ~~.0210~~ .0215.

(3) “Bona fide purpose” means for a purpose not primarily related to participation in interscholastic athletics.

(4) “High school” means a public school offering education in Grades 9 through 12 or 10 through 12.

~~(5)~~ (5) “Initial entry” means:

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

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

~~(6)~~ (6) “Interscholastic athletics” or “interscholastic athletic activity” means any extracurricular athletic activity that:

(A) involves students in any grade between 6 and 12;

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

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

(7) “Junior high school” means a public school offering education in Grades 7 through 9.

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

(9) “Middle school” means a public school offering education in Grades 6 through 8.

~~(10)~~ (10) “Parent” is defined in G.S. 115C-407.50(6)

~~(11)~~ (11) “Participating school” ~~is defined in G.S. 115C-407.50(7).~~ means a middle school, junior high school, or high school that elects to participate in interscholastic athletic activities.

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

~~(13)~~ (13) “Public school unit” or “PSU” is defined in G.S. 115C-5(7a).

(14) “Student” means a person enrolled in Grade 6 through 12 in any public school.

1

2 *History Note:* *Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;*  
3 *115C-407.65; 116-235(b);*

4 *Temporary Adoption Eff. July 1, 2024.*

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0204

**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 page 3, line 16, item (c)(2): “[~~waive~~] **Waive**”.*

*On page 3, lines 28-30, item (c)(7), it is unclear who decides which membership fee to pay and how. That is, does the superintendent decide which fee the association is allowed to charge? Does the association decide which fee it wants to charge? Or does the school decide which fee it wants to charge?*

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

16 NCAC 06E .0204 is amended under temporary procedures as follows:

**16 NCAC 06E .0204     ADMINISTRATION OF INTERSCHOLASTIC ATHLETICS AND  
ADMINISTERING ORGANIZATIONS FOR HIGH SCHOOL ATHLETICS**

**(a) Definitions:**

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

(2) ~~"Participating school" is defined in G.S. 115C 407.50(7).~~

(3) ~~"Public school unit" (PSU) is defined in G.S. 115C 5(7a).~~

~~(b) PSUs are authorized to determine whether and to what extent students in grades 6-12 may participate in interscholastic athletics, provided students in grade 6 are not eligible to participate in tackle football. This Rule shall not apply to charter school athletic programs in kindergarten through grade 8.~~

~~(c) To participate in public school interscholastic athletics, a student shall meet the following requirements:~~

~~(1) A student who attends a school supervised by a local board of education shall only participate in the school to which the student is assigned under G.S. 115C 366. A student enrolled in a charter, regional, statewide public school, or school operated by the University of North Carolina, shall meet all the enrollment criteria for that school and attend that school. If a student is over the age requirements, for the school the student attends, the student may participate at the school to which the student would be assigned or attend at the next higher grade level.~~

~~(2) A student shall meet the age requirements at each grade level to participate. PSUs shall determine the age of participating students based on a preponderance of the evidence known to them. A student ineligible to participate at one grade level due to age shall be eligible to participate at the next higher grade level only, provided no student shall be eligible to participate at the middle school level for a period lasting longer than six consecutive semesters, beginning with the student's entry into grade 6, and no student shall be eligible to participate at the high school level for more than eight consecutive semesters, beginning with the student's first entry into grade 9 or participation on a high school team, whichever occurs first.~~

~~(A) A student shall not participate on a grade 6, 7, or 8 team if the student becomes 15 years of age on or before August 31 of that school year.~~

~~(B) A student shall not participate on a grade 9 through 12 team if the student becomes 19 years of age on or before August 31 of that school year.~~

~~(d) To be eligible to participate during any semester in grades 6, 7, or 8, the student shall have passed at least one less course than the number of required core courses the prior semester and meet promotion standards established by the PSU, provided a student who is promoted from grade 5 to grade 6 shall be deemed to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 6. To be eligible to compete during any semester in grades 9 through 12, the student shall have passed at least five courses (or the equivalent for non-traditional school schedules) the prior semester and meet promotion standards established by the PSU, provided a student who is~~



~~promoted from grade 8 to grade 9 shall be deemed to have satisfied the requirement set forth in this Paragraph to participate in the first semester of grade 9.~~

~~(e) To be eligible to participate, a student shall receive a medical examination every 395 days by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9.1, G.S. 90-9.2, G.S. 90-9.3, G.S. 90-18.1, and G.S. 90-18.2.~~

~~(f) A student shall not participate in interscholastic athletics after any of the following:~~

~~(1) — graduation, except that the student may continue to participate in playoff and state championship contests in spring sports after graduation;~~

~~(2) — signing a professional athletic contract, except that the student may continue to participate in any sport for which the student has not signed a professional contract;~~

~~(3) — receiving remuneration as a participant in an athletic contest, except that the student may accept a gift, merchandise, trophy, or other thing of value, provided:~~

~~(A) — the value does not exceed two hundred fifty dollars (\$250.00) per student per sports season;~~

~~(B) — the item is totally consumable and nontransferable, or labeled in a permanent manner, for example, monogrammed or engraved items; and~~

~~(C) — the item is approved by the student's principal and superintendent; or~~

~~(4) — participating on an all-star team or in an all-star game that is not sanctioned by the administering organization of which the student's school is a member, provided the student shall be ineligible only for the specific sport involved.~~

~~(g) Each PSU shall require the principal of a school that participates in interscholastic athletics to sign and date a list of eligible students for each sport. The PSU shall maintain copy of the most current list in the principal's office and the office of the superintendent.~~

~~(h) A PSU shall impose at least the following penalties on a student, coach, or school official in grades 6 through 12 who is ejected from an interscholastic athletic contest:~~

~~(1) — for the first offense, the person shall be reprimanded and suspended from participating in for the next game at that level of play (varsity or junior varsity);~~

~~(2) — for a second offense, the person shall be placed on probation and suspended from participating in for the next two games at that level of play (varsity or junior varsity);~~

~~(3) — for a third offense, the person shall be suspended for one calendar year; and~~

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

~~Penalties are cumulative from sport to sport and from sport season to sport season. If no member of the school's coaching staff is present to assume an ejected coach's duties, the contest shall be terminated by a forfeit.~~

~~(i)(a) PSUs—Public school units may allow their schools—high schools under their jurisdiction to belong to an administering organization designated by the State Board of Education, Superintendent of Public Instruction (“Superintendent”).~~

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

~~(k)~~(c) ~~The State Board of Education shall delegate to an administering organization its authority over participating schools to:~~ If the Superintendent enters a memorandum of understanding with one or more administering organizations consistent with G.S. 115C-407.61, the SBE shall delegate to the administering organization(s) its authority over participating high schools to:

(1) ~~waive any student eligibility requirement contained in this Rule, if it finds in a particular case that the requirement fails to promote academic progress, health, safety, and fair play, or it works an undue hardship on a student who has lost eligibility due to circumstances that made participation impossible such as prolonged illness or injury or if a waiver is necessary to reasonably accommodate a student's disability, as required under the Americans with Disabilities Act, U.S.C. § 1201 et seq.;~~

(1) Apply and enforce student participation rules, as established in Rule .0207 of this Section.

(2) waive any student participation rule as applied to a specific student, in accordance with Rule .0207, Paragraph (k) of this Section.

(3) Apply and enforce student health and safety requirements, as established in Rule .0205 of this Section.

~~(2)~~(4) ~~adopt, Adopt, apply, and enforce penalty rules, as defined in G.S. 115C-407.55(3); G.S. 115C-407.55(3), that establish a system of demerits that includes reprimands, probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications;~~ disqualifications, consistent with Rule .0209 of this Section.

~~(3)~~(5) ~~adopt, Adopt, apply, and enforce administrative rules, as defined in G.S. 115C-407.55(5); G.S. 115C-407.55(5).~~

~~(4)~~(6) ~~adopt, Adopt, apply, and enforce gameplay rules, as defined in G.S. 115C-407.55(6); and G.S. 115C-407.55(6).~~

~~(5)~~(7) ~~establish and collect~~ Collect from all its members a uniform membership fee of either:

(A) one thousand dollars (\$1,000) for each participating school, or

(B) one dollar (\$1.00) for each student enrolled in a participating school.

~~(4)~~(d) An administering organization shall:

(1) ~~enter~~ Enter into a memorandum of understanding, consistent with the requirements of G.S. 115C-407.55(8) and 115C-407.61, with the ~~State Board of Education~~ Superintendent no later than March 15 prior to the academic year in which it is to begin administering interscholastic athletics and no later than the March 15 before the expiration of an existing memorandum of understanding;

(2) ~~submit~~ Submit an audit report signed by an independent certified public accountant or accounting firm, which is in good standing with the North Carolina State Board of Certified Public Accountant Examiners

and performs no other tasks or functions for the administering organization besides the annual audit, to the State Board of Education no later than March 15 each year;

(3) ~~broadcast~~ Broadcast the meetings of its membership and board of directors in a manner that is announced on its website and which may be viewed electronically by any member of the public;

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

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

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

(e) Any person or PSU seeking to inquire about or report a violation of any rule administered by an administering organization shall direct the initial inquiry or report to the appropriate administering organization in accordance with the procedures adopted by the administering organization. For any matter involving the enforcement of any interscholastic athletics rule provided by this Section, the administering organization shall render a final decision in writing within ten (10) business days. An aggrieved party seeking to file an appeal of a final decision of an administering organization with the Superintendent shall do so in accordance with Rule .0215 of this Section.

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

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

(h) The Superintendent shall be responsible for general oversight of interscholastic athletic activities at participating middle and junior high schools. Public school units shall apply and enforce the requirements of this Section for participating middle and junior high schools under their jurisdiction. A PSU may also waive any student participation rule as applied to a specific student enrolled at a middle or junior high school under the jurisdiction of the PSU, in accordance with Rule .0207, Paragraph (k) of this Section.

~~(m) The State Board of Education will appoint an appeals board to hear and act upon appeals from final decisions of an administering organization, or from the Department of Public Instruction if necessary pursuant to G.S. 115C-407.60(b), regarding student eligibility, penalties, fees imposed, retaliation, or discrimination. Panels of no fewer than three members of the appeals board may hear and decide matters on behalf of the board. A PSU aggrieved by a final decision of the administering organization may file an appeal with the State Board of Education's Office of General Counsel within five days after receipt of the administering organization's final decision. The final decision shall be mailed to the Superintendent or board of trustees of the PSU.~~

- ~~(1) The administering organization's final decision shall contain:~~
- ~~(A) findings of fact;~~
  - ~~(B) conclusions of law, including citation to any rules related to the decision;~~
  - ~~(C) a description of any penalties; and~~
  - ~~(D) a statement that the PSU may file a notice of appeal within five days of receipt of the administering organization's decision by mailing the notice to the State Board of Education's Office of General Counsel, 301 S. Wilmington Street, Raleigh, N.C. 27601, and emailing a copy of the notice of appeal to Office of General for the State Board of Education.~~
- ~~(2) The PSU's appeal shall:~~
- ~~(A) be in writing;~~
  - ~~(B) include a description of the facts of the dispute;~~
  - ~~(C) include any evidence submitted to the administering organization; and~~
  - ~~(D) present an argument explaining with the PSU believes the administering organization's final decision was not based on substantial evidence as defined in G.S. 150B-2(8c) or is affected by an error of law.~~
- ~~(3) The administering organization may file a response to the PSU's submissions within five days. The panel may shorten the time for filing the administering organization's response if the decision affects a student's or coach's eligibility to participate in an intervening athletic contest.~~
- ~~(4) All documents filed in the appeal shall be simultaneously served on all parties in the manner prescribed in G.S. 1A-1, Rule 5 of the North Carolina Rules of Civil Procedure.~~
- ~~(5) Any hearing shall be recorded.~~
- ~~(6) No later than 30 days after the State Board of Education's receipt of the appeal, a panel of the appeals board shall issue its decision. The panel shall affirm the administering organization's final decision unless a majority of the panel determines that the final decision is not supported by substantial evidence or is affected by an error of law.~~
- ~~(7) The panel's decision shall be final.~~
- ~~(n) The PSU that has jurisdiction over a school may impose penalties in addition to those required by an administering organization.~~

*History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50, 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);*  
*Emergency Adoption Eff. August 20, 2019;*  
*Amended Eff. March 1, 2021;*  
*Temporary Amendment Eff. July 1, 2022;*  
*Amended Eff. July 1, 2023;*  
*Temp. Amend. Eff. July 1, 2024.*

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0205

**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 9, “volunteers, and students who”*

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

16 NCAC 06E .0205 is adopted under temporary procedures as follows:

**16 NCAC 06E .0205      STUDENT HEALTH AND SAFETY REQUIREMENTS FOR  
INTERSCHOLASTIC ATHLETIC COMPETITION**

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

(b) An administering organization shall, on an annual basis, provide a concussion and head injury information sheet to all coaches, school nurses, athletic directors, first responders, volunteers, students who participate in interscholastic athletic activities, and the parents or legal guardians of those students. The information shall include:

(1) The definitions and symptoms of concussions and head injuries;

(2) A description of the physiology and the potential short-term and long-term effects of concussions and other head injuries;

(3) The medical return-to-play protocol for post-concussion participation in interscholastic athletic activities; and

(4) Any other information deemed necessary by the PSU.

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

(d) If a student participating in an interscholastic athletic activity exhibits signs or symptoms consistent with concussion, the student shall be removed from the activity at the time and shall not be allowed to return to play or practice that day. A student removed from play for exhibiting signs or symptoms consistent with concussion shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance for such participation from one of the following:

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

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

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

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

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

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

(1) In writing;

(2) Reviewed by an athletic trainer licensed under Chapter 90, Article 34 of the General Statutes;

1       (3) Approved by the principal of the school;

2       (4) Distributed to all appropriate personnel;

3       (5) Posted conspicuously for community and parental awareness at all athletic-sponsored venues; and

4       (6) Reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses,  
5       athletic directors, and volunteers for interscholastic athletic activities.

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

7       (1) A delineation of roles;

8       (2) Methods of communication;

9       (3) Available emergency equipment; and

10      (4) Access to and plan for emergency transport.

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

12  
13      *History Note:     Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-*  
14                               *407.50; 115C-407.55; 115C-407.57; 115C-407.58; 115C-407.60;*  
15                               *Temporary Rule Eff. July 1, 2024.*

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0207

**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:

*Is item (e)(2), page 2, lines 19-24, meant to be a permanent ineligibility? It has no time period, which most of the others do.*

*On page 3, line 16, you have a typo where "Gr" was left in before deleting "grade".*

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 06E .0207 is adopted under temporary procedures as follows:

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

4 (a) A student ~~in grades 6 through 12~~ shall not participate in interscholastic athletics on behalf of a North Carolina  
5 public school unless the student has satisfied the eligibility requirements set forth in this Rule. PSUs are authorized to  
6 determine whether and to what extent students ~~in grades 6 through 12~~ under their jurisdiction may participate in  
7 interscholastic athletics, not inconsistent with the requirements of this Rule.

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

11 (c) Residency Requirements

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

13 (A) If the student lives with both parents, the residence of both parents.

14 (B) If the student lives with a single parent, the residence of that parent.

15 (C) If the student's parents are separated or divorced, the residence of the parent to whom a court of  
16 competent jurisdiction has awarded primary custody of the student. If no custody order has been  
17 entered, the student's primary residence shall be deemed to be that at which the student is residing  
18 more than half-time at the beginning of the school year.

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

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

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

25 (2) A student shall not participate in interscholastic athletics following a change in primary residence unless ~~it is~~  
26 the change was made for a bona fide purpose, purpose and with the intent that it be permanent. A bona fide  
27 purpose means that the change in primary residence was made with the intent that it be permanent and not  
28 primarily for athletic purposes. An administering organization shall resolve, by a preponderance of the  
29 evidence, any disputes regarding a high school student's primary residence or whether a change in a student's  
30 primary residence was for a bona fide purpose.

31 (d) Enrollment Requirements

32 (1) A student who attends a school supervised by a local board of education shall only participate in  
33 interscholastic athletics on behalf of the school to which the student is assigned under G.S. 115C-366.

34 (2) A student enrolled in a charter school, regional statewide public school, or school operated by the University  
35 of North Carolina shall meet all the enrollment criteria for that school and attend that school. A student who  
36 attends a school described in this Subparagraph shall not participate in interscholastic athletics on behalf of  
37 that school unless the student's primary residence is within either:

- 1 (A) the county in which the school is located, or
- 2 (B) twenty-five (25) miles of the school as determined by an administering organization.
- 3 (3) A local board of education may by policy allow ~~students who are~~ a person who is enrolled in Grade 6 through
- 4 12 in a home school, as defined in G.S. 115C-563(a), and whose primary residence is within the board's
- 5 jurisdiction to participate in interscholastic athletics on behalf of a participating school under the board's
- 6 jurisdiction, provided that the board either agrees to cover any ~~home-school student~~ such person whom it
- 7 allows to participate under its catastrophic athletic accident insurance policy or verifies that the ~~student person~~
- 8 is independently covered by catastrophic accident insurance.

9 (e) Transfer Requirements

- 10 (1) After a student's initial entry into ~~grade~~ Grade 9, and absent a change in residence for a bona fide purpose as
- 11 provided in Paragraph (c) of this Rule:
- 12 (A) a student who transfers from one school to another school within the same PSU shall not participate
- 13 in interscholastic athletics for 365 calendar days following the student's enrollment in the new
- 14 school, unless the governing authority of the PSU has adopted a policy allowing immediate
- 15 eligibility for students who are assigned by the PSU to a different school within the same PSU.
- 16 (B) a student who transfers from a school in one PSU to a school in a different PSU shall not participate
- 17 in interscholastic athletics for 365 calendar days following the student's enrollment in the new
- 18 school, except by mutual agreement of the governing authorities of each PSU.
- 19 (2) ~~If After a student's initial entry into Grade 9, if~~ a student transfers to a new school within 365 calendar days
- 20 after that school hires a coach for an interscholastic athletics team who was previously employed as a coach
- 21 for an equivalent sport by the school from which the student is transferring, the student shall be ineligible to
- 22 participate in interscholastic athletics for that sport. An administering organization may waive this
- 23 requirement ~~upon petition by the student's PSU~~ if it determines by a preponderance of the evidence that the
- 24 student's transfer was ~~for a bona fide purpose.~~ for a bona fide purpose.
- 25 (3) A student who receives priority enrollment as the child of a full-time employee of a charter school pursuant
- 26 to G.S. 115C-218.45(f)(3) shall not be eligible to participate in interscholastic athletics for that charter school
- 27 if the Department of Public Instruction determines that the parent's employment was a fraudulent basis for
- 28 the student's priority enrollment. A student determined to be ineligible under this Subparagraph shall be
- 29 ~~ineligibility~~ ineligible to participate in interscholastic athletics for 365 calendar days following discovery of
- 30 the violation.
- 31 (4) For purposes of this Paragraph, if a student transfers from a public school to a nonpublic school, including a
- 32 home school as defined in G.S. 115C-563(a), and within 365 calendar days transfers to a different public
- 33 school, the transfer from the nonpublic school shall be treated as a transfer from a public school.
- 34 (5) A student who transfers to the North Carolina School of Science and Mathematics is exempt from the
- 35 requirements of this Paragraph upon initial entry into that school.
- 36 (6) No student shall participate in more than one season of interscholastic athletics per year in the same sport,
- 37 regardless of the school on behalf of which the student participated.

1 (f) Scholastic Requirements

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

5 (A) The student ~~has no more than nine unexcused absences in the current school year;~~ attended at least 85  
6 percent of the total number of instructional days in the PSU during the previous semester;

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

8 (C) The student is ~~on track to advance to the next grade level or graduate~~ making sufficient progress toward  
9 meeting the academic and curricular requirements of the PSU and the State Board of Education to be  
10 promoted to the next grade level or to graduate within the next calendar year.

11 (2) For the purpose of determining good academic standing during the fall semester, a student may count courses  
12 that the student passed in a summer school session in which the student was enrolled during the same calendar  
13 year toward the total number of courses passed in the preceding spring semester, provided that summer school  
14 courses shall not affect the total number of courses attempted in the preceding spring semester.

15 ~~(2)~~ (3) A student who is promoted from ~~grade~~ Grade 5 to ~~grade~~ Grade 6 shall be deemed to have satisfied the  
16 requirements set forth in this Paragraph to participate in the first semester of ~~Gr-grade~~ Grade 6.

17 ~~(3)~~ (4) A student who is promoted from ~~grade~~ Grade 8 to ~~grade~~ Grade 9 shall be deemed to have satisfied the  
18 requirements set forth in this Paragraph to participate in the first semester of ~~grade~~ Grade 9.

19 (5) For interscholastic athletic activities occurring between July 1, 2024, and December 31, 2024, any student  
20 who has satisfied the requirements of 16 NCAC 06E .0204(d), as it was written on June 30, 2024, shall be deemed  
21 to have satisfied the requirements of this Paragraph.

22 (g) Age Requirements

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

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

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

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

31 (C) ~~A student shall~~ Shall not participate on a ~~grade 6, 7, or 8~~ middle school team if the student becomes  
32 15 years of age before August 31 of that school year.

33 (D) ~~A student shall~~ Shall not participate on a ~~grade 7, 8, or 9~~ junior high school team if the student  
34 becomes 16 years of age on or before August 31 of that school year.

35 (E) ~~A student shall~~ Shall not participate on ~~any grade 9, 10, 11, or 12~~ a high school team if the student  
36 becomes 19 years of age on or before August 31 of that school year.

37 (3) A student in ~~grade~~ Grade 6 shall not participate in tackle football.

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

3 (i) Medical Requirements. To be eligible to participate in interscholastic athletics, a student shall receive a medical  
4 examination every 395 days by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions  
5 of ~~G.S. 90-9.1, G.S. 90-9.2, G.S. 90-9.3, G.S. 90-18.1, and G.S. 90-18.2.~~ Chapter 90 of the General Statutes.

6 (j) A student shall not participate in interscholastic athletics after pleading guilty or “no contest” to, or being ~~finally~~  
7 convicted of, a felony under the laws of North Carolina, the United States, or any other state. Prior to deeming the  
8 student ineligible, an administering organization shall receive a certified copy of a criminal record reflecting the  
9 conviction and verify that the student is the same individual identified in the criminal record.

10 (k) An administering organization shall, in an individual student’s case, waive any eligibility requirement contained  
11 in this Rule ~~upon a petition by the student’s PSU and a finding by the administering organization~~ if it finds that  
12 enforcing the requirement:

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

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

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

18  
19 *History Note:* Authority *G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;*  
20 *115C-407.65; 116-235(b)*

21 *Temporary Rule Eff. July 1, 2024.*

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

AGENCY: State Board of Education

RULE CITATION: 16 NCAC 06E .0215

**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 5, I don't think you meant to strike through organization.*

*On line 17, "~~(b)~~(c)".*

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

16 NCAC 06E .0215 is adopted under temporary procedures as follows:

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

(a) The Superintendent of Public Instruction (“Superintendent”) shall appoint an independent interscholastic athletics appeals board (“appeals board”) to hear and act upon appeals from a final decision of an administering ~~organization,~~ or PSU, or from the Department of Public Instruction if necessary pursuant to Rule .0204, Paragraph (g) of this Section, regarding student eligibility to participate in interscholastic athletics; violations of limitations on recruiting or undue influence; penalties or fees imposed on students, coaches, or participating schools; ~~retaliation; or discrimination. or~~ other enforcement of rules pursuant to this Section.

(b) The administering organization’s final decision shall contain:

(1) Findings of fact.

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

(3) A description of any penalties imposed.

(4) A statement that the aggrieved party may file a notice of appeal within five days of receipt of the administering organization’s decision by sending the notice to the Superintendent via ~~email and~~ electronic mail or the United States Postal Service.

(b) An aggrieved party may file an appeal with the Superintendent within five days after receipt of the administering organization’s final decision. The final decision shall be mailed to the aggrieved party, with a copy to the local superintendent and principal with jurisdiction over the aggrieved party.

(d) The aggrieved party’s appeal shall:

(1) Be in ~~writing;~~ writing.

(2) Include a description of the facts of the ~~dispute;~~ dispute.

(3) Include any evidence submitted to the administering ~~organization; and~~ organization.

(4) Present an argument explaining with the aggrieved party believes the administering organization’s final decision was not based on substantial evidence, as defined in G.S. 150B-2(8c), or is affected by an error of law.

(e) The administering organization may file a response to the aggrieved party’s submissions within five days. The ~~panel appeals board~~ may shorten the time for filing the administering organization’s response if the decision affects a student’s or coach’s eligibility to participate in an intervening athletic contest.

(f) All documents filed in the appeal shall be simultaneously served on all parties via email and the United States Postal Service. If the aggrieved party is a student, parent, or coach, the parties shall also ~~serve~~ provide copies of the documents ~~on~~ via electronic mail or the United States Postal Service to the local superintendent and principal with jurisdiction over the aggrieved party.

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

1 (h) No later than 30 days after the Superintendent's receipt of the appeal, the panel shall issue its decision. The panel  
2 shall affirm the administering organization's final decision unless a majority of the panel determines that the final  
3 decision is not supported by substantial evidence or is affected by an error of law. The panel may also remand the  
4 decision to the administering organization for further review if there is an intervening change in any relevant law or  
5 if the panel determines that additional information is necessary to inform its decision.

6 (i) The Superintendent, or the Superintendent's authorized designee, may stay a determination of ineligibility or a  
7 penalty imposed by the administering organization pending the final decision of the appeals board.

8 ~~(+)~~ (j) The panel's decision shall be final.  
9

10 *History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;*  
11 *115C-407.65; 116-235(b);*  
12 *Temporary Rule Eff. July 1, 2024.*