

SUBCHAPTER 6E - STUDENTS

SECTION .0100 - ATTENDANCE

16 NCAC 06E .0101 ATTENDANCE DEFINED

To be considered in attendance, a student shall be present in the school or at a place other than the school with the approval of the appropriate school official to attend an authorized school activity. These activities include field trips, athletic contests, student conventions, music festivals or similar activities.

*History Note: Authority G.S. 115C-379;
Eff. July 1, 1986;
Amended Eff. June 1, 1996.*

16 NCAC 06E .0102 ATTENDANCE EXCUSED

(a) LEAs shall excuse the temporary absence of a student upon a showing of satisfactory evidence of one of the following bases:

- (1) Illness or injury prevents the student from being physically able to attend school.
- (2) The local health officer or the State Board of Health orders the isolation of the student.
- (3) The student is absent due to the death of a member of the immediate family.
- (4) The student has a medical or dental appointment.
- (5) The student is a party to or is under subpoena as a witness in the proceedings of a court or administrative tribunal.
- (6) The student is absent due to a religious observance in accordance with local school board policy.
- (7) The student obtains prior approval to take advantage of a valid educational opportunity, such as travel.

(b) LEAs may excuse temporary or occasional absences for other reasons in accordance with local board policies, provided that the student has been in attendance for at least one-half of the school day.

*History Note: Authority G.S. 115C-379;
Eff. July 1, 1986;
Amended Eff. June 1, 1996.*

16 NCAC 06E .0103 ENFORCEMENT

Each LEA must enforce the state laws and regulations which relate to compulsory attendance. LEAs may adopt rules which allow teachers to consider a student's absences in the computation of the student's grades.

*History Note: Authority G.S. 115C-379;
Eff. July 1, 1986.*

16 NCAC 06E .0104 INVOLUNTARY SUSPENSIONS

The absence of a student which results from the suspension or expulsion of that student for misconduct pursuant to the provisions of G.S. 115C-391 shall not be used for a compulsory attendance violation action.

*History Note: Authority G.S. 115C-379;
Eff. July 1, 1986;
Amended Eff. June 1, 1996.*

16 NCAC 06E .0105 EARLY ADMISSION TO KINDERGARTEN

(a) To determine the eligibility of a four-year-old child to enter kindergarten pursuant to the provisions of G.S. 115C-364(d), the principal shall confer with a committee of professional educators to consider for each child the following factors:

- (1) Student Aptitude. The child shall be precocious in academic and social development and shall score at the 98th percentile on a standard individual test of intelligence such as the Stanford-Binet, The Wechsler Preschool and Primary Scale of Intelligence, the Kaufman Anderson, or any other comparable test administered by a licensed psychologist.
- (2) Achievement. The child shall be functioning from two to three years beyond the child's peers. The child shall score at the 98th percentile on either reading or mathematics on a standard test of achievement such as

the Metropolitan Readiness Test, the Stanford Early School Achievement Test, The Mini Battery of Achievement, the Woodcock-Johnson, the Test of Early Mathematics Ability (TEMA), the Test of Early Reading Ability (TERA), or any other comparable test administered by a licensed psychologist, a member of the psychologist's professional staff, or a professional educator who is trained in the use of the instrument and who has no conflict of interest in the outcome of the assessment.

- (3) Performance. The child shall be able to perform tasks well above age peers as evidenced by behaviors in one or more areas such as independent reading, problem solving skills, advanced vocabulary, and some writing fluency. The parent shall submit a sample of the child's work that shows outstanding examples of ability in any area including, but not limited to, art, mathematics, writing, dramatic play, creative productions, science, or social interactions. The principal may also require a teacher to complete an informal reading assessment of the child.
- (4) Observable Student Behavior/Student Interest. The child shall demonstrate social and developmental maturity sufficient to participate in a structured setting for a full school day. The child shall be capable of following verbal instructions and functioning independently within a group. The parent shall provide two recommendation letters with specific documentation of physical and social maturity from preschool teachers, child care workers, pediatricians, or others who have direct knowledge of the child. Useful documentation checklists include the California Preschool Competency Scale, the Harrison Scale, or any other comparable scale of early social development.
- (5) Motivation/Student Interest. The principal or principal's designee shall conduct an informal interview with the child and a more structured interview with the parent to determine if the child displays a thirst for knowledge and seeks new and challenging learning situations.

(b) The parent shall present the information required by this Rule to the principal within the first 30 calendar days of the school's instructional year. All testing shall be administered after the April 16th that follows the child's fourth birthday. The principal shall decide whether to grant the parent's request for enrollment within three weeks after receiving this information. The principal may conditionally enroll the child for up to 90 days in order to observe whether the child is able to adjust to the school setting. If the principal determines that the child has not adjusted to the school setting, the principal shall deny the request for enrollment. However, before the child is exited from school, the principal shall invite the parent to assist in the development of intervention strategies for the child. If those strategies are not successful, the principal shall provide the parent at least 10 days notice before exiting the child from school so the parent may arrange child care, if needed.

(c) LEAs may require parents to supply information in addition to that required by this Rule. LEAs may also require specific tests or other measures to provide information relating to the factors listed in Paragraph (a) of this Rule.

(d) Early admission to kindergarten shall not automatically result in the placement of the child in the program for academically gifted students. By the time the child has been enrolled for 90 calendar days, or at any earlier time that school officials determine that the child has adjusted satisfactorily and shall be allowed to remain in school, the gifted identification team shall review the child's information to determine if the child shall receive gifted services. If the team determines that the child shall receive gifted services, it shall develop either a differentiated education plan or an individual differentiated education plan for the child.

History Note: Authority G.S. 115C-364(d); N.C. Constitution, Article IX, Sec. 5;
Temporary Adoption Eff. August 18, 1997;
Eff. March 15, 1999.

16 NCAC 06E .0106 DEFINITION OF "STUDENT CHRONIC ABSENTEE"

20 U.S.C. 6311 (h)(1)(C)(viii), requires North Carolina to disseminate an annual State report card that includes student chronic absentee rates. When local school administrative units report student chronic absentee rates, a "Student Chronic Absentee" shall mean a student who has been enrolled in a North Carolina public school for at least 10 school days during a school year and who has been absent for at least 10 percent of the days enrolled.

History Note: Authority G.S. 115C-12(27) and (27a); 20 U.S.C. 6311 (h)(1)(C)(viii);
Eff. September 1, 2020.

16 NCAC 06E .0107 SCHOOL VIOLENCE ACTS DEFINED AND THE ANNUAL REPORT OF THESE CRIMES

(a) Local Education Agencies (LEAs) shall report the following crimes and offenses within five school days to the Department of Public Instruction:

- (1) Homicide as defined in G.S. 14-17 and 14-18;
 - (2) Assault resulting in serious personal injury as defined in G.S. 14-32.4;
 - (3) Assault involving the use of a weapon as defined in G.S. 14-32 through 14-34.10;
 - (4) Rape as defined in G.S. 14-27.21 through 14-27.25;
 - (5) Sexual offense as defined in G.S. 14-27.26 through 14-27.30;
 - (6) Sexual activity, battery, contact and penetration under pretext of medical treatment as defined in G.S. 14-31 through 33;
 - (7) Kidnapping as defined in G.S. 14-39;
 - (8) Robbery with a dangerous weapon as defined in G.S. 14-87;
 - (9) Indecent liberties with a minor as defined in G.S. 14-202.1, 14-202.2 and 14-202.4;
 - (10) Assault with a firearm or powerful explosive as defined in G.S. 14-34 through 14-34.10 and 14-49 through 14-50.1;
 - (11) Robbery with a firearm or dangerous explosive as defined in G.S. 14-87;
 - (12) Willfully burning a school building as defined in G.S. 14-60;
 - (13) Making bomb threats or engaging in bomb hoaxes as defined in G.S. 14-69.2;
 - (14) Assault on school officials, employees, and volunteers as defined in G.S. 14-33(c)(6);
 - (15) Possession of a controlled substance in violation of the law as defined in G.S. 90-86 through 90-113.8;
 - (16) Possession of a weapon on campus or other educational property in violation of G.S. 14-269.2;
 - (17) Unlawful, underage sales, purchase, provision, possession, or consumption of alcoholic beverages as defined in G.S. 18B-302;
 - (18) Assault as defined in G.S. 14-33 but not resulting in an injury as severe as defined in G.S. 14-32.4;
 - (19) Fighting, or affray as defined in G.S. 14-33;
 - (20) Gang activity as defined in G.S. 14-50.17, 14-50.19 and 14-50.20;
 - (21) Robbery as defined in G.S. 14-87, but without the use of a dangerous weapon;
 - (22) Extortion as defined in G.S. 14-118.4;
 - (23) Communicating threats in violation of G.S. 14-277.1;
 - (24) Possession or use of tobacco products as defined in G.S. 14-313;
 - (25) Property damage as defined in G.S. 115C-398;
 - (26) Bullying or harassing behavior prohibited under policies adopted under G.S. 115C-407.16;
 - (27) Cyberbullying as defined in G.S. 14-458.1 and 14-458.2;
 - (28) Verbal harassment as defined in G.S. 115C-407.15;
 - (29) Sexual harassment as defined in G.S. 115C-335.5; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e;
 - (30) Discrimination as defined in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e; Title IX of the Education Amendments of 1972, 20 U.S.C. 1681-1688; Americans with Disabilities Act, 42 U.S.C. 12101.
- (b) These offenses shall be reported when they occur under the following conditions and circumstances:
- (1) on school property, defined as any public school building, bus, public school campus, grounds, recreational area, or athletic field in the charge of the principal; or
 - (2) off school property on a school-sponsored field trip.

History Note: G.S. 115C-12(18), (21); 115C-288(g);
Emergency Adoption Eff. August 20, 2019;
Eff. December 1, 2020.

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 a rule administrator, including a determination of ineligibility under Rule .0207 of this Section, a penalty imposed under Rule .0209 of this Section, or a finding of undue influence or a recruiting violation under Rule .0210 of this Section. If a student is affected, the student's parent or legal guardian may appeal the final decision pursuant to Rule .0215 of this Section.

- (3) "Bona fide purpose" means a purpose not primarily related to participation in interscholastic athletics.
- (4) "Final decision" means a written decision of a rule administrator regarding the application or enforcement of rules under this Section to a set of facts or circumstances. A ruling by a referee or official enforcing gameplay rules during an athletic competition, as recorded by the referee or official in the game record maintained by the rule administrator, that results in the ejection or suspension of a player or coach shall be deemed a final decision upon exhaustion of any available mechanisms for review under the rule administrator's internal policies and procedures.
- (5) "Immediate family member" means a spouse, parent, legal guardian or custodian, grandparent, child, grandchild, brother, sister, half-sibling, or step-sibling. The term applies to any such relationship whether by blood, adoption, or marriage.
- (6) "Initial entry" means:
 - (a) a student's first day of attendance at a participating school in which the student is enrolled as recorded by that school; or
 - (b) the first day on which a student practices or otherwise participates as a member of an interscholastic athletics team at a participating school.
- (7) "Interscholastic athletics" or "interscholastic athletic activity" means any extracurricular athletic activity that:
 - (a) involves students in any Grades 6 through 12;
 - (b) is sponsored by an individual school, PSU, or administering organization; and
 - (c) includes students from more than one school or PSU.
- (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) "NFHS" means the National Federation of State High School Associations.
- (10) "Parent" is defined in G.S. 115C-407.50(6).
- (11) "Participating school" means a middle school, junior high school, or high school that elects to participate in interscholastic athletic activities.
- (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) "Rule administrator" means any of the following:
 - (a) An administering organization, when administering and enforcing the rules provided by this Section at the high school level.
 - (b) A local superintendent or his or her authorized designee, when administering and enforcing the rules provided by this Section at the middle and junior high school level.
 - (c) The Superintendent of Public Instruction, if necessary pursuant to 16 NCAC 06E .0204(e).

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);
 Eff. July 1, 1986;
 Exp. Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.
 Temporary Adoption Eff. July 1, 2024;
 Temporary Adoption Eff. January 2, 2025;
 Eff. July 1, 2025.

16 NCAC 06E .0202 INTERSCHOLASTIC ATHLETICS
16 NCAC 06E .0203 ATHLETIC INJURY MANAGEMENT

History Note: Authority G.S. 115C-12(12); 115C-47(4); 150B-19(4);
 Eff. July 1, 1986;
 Amended Eff. July 1, 1994; July 1, 1990;
 Codifier of Rules objected to the Findings of Need for the Temporary Rule Eff. December 9, 1994;
 Temporary Amendment Eff. December 27, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
 Amended Eff. August 1, 2000; June 1, 1996; June 1, 1995;

*Codifier determined that findings did not meet criteria for temporary rule on December 10, 2001;
Temporary Amendment Eff. December 31, 2001;
Amended Eff. September 30, 2002 (Executive Order No. 33);
Repealed Eff. March 1, 2021.*

16 NCAC 06E .0204 ADMINISTRATION OF INTERSCHOLASTIC ATHLETICS

- (a) The governing body of a PSU may allow high schools under its jurisdiction to belong to an administering organization designated by the Superintendent of Public Instruction.
- (b) An administering organization that has entered into a memorandum of understanding with the Superintendent for the purpose of administering interscholastic athletics under this Section shall apply and enforce all of the requirements of this 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.
- (c) If the Superintendent enters a memorandum of understanding with one or more administering organizations consistent with G.S. 115C-407.61, the State Board of Education shall delegate to the administering organization(s) its authority over participating schools that are members of the administering organization to:
- (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 16 NCAC 06E .0207(k).
 - (3) Apply and enforce student health and safety requirements, as established in Rule .0205 of this Section.
 - (4) Adopt, apply, and enforce penalty rules, as defined in 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, consistent with Rule .0209 of this Section.
 - (5) Adopt, apply, and enforce administrative rules, as defined in G.S. 115C-407.55(5).
 - (6) Adopt, apply, and enforce gameplay rules, as defined in G.S. 115C-407.55(6).
 - (7) 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.
- (d) An administering organization shall:
- (1) Enter into a memorandum of understanding, consistent with the requirements of G.S. 115C-407.55(8) and 115C-407.61, with the Superintendent no later than March 15 prior to the start of the school year in which it is to begin administering interscholastic athletics and no later than March 15 before the expiration of an existing memorandum of understanding;
 - (2) 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 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 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 into written agreements with PSUs that allow their eligible schools to participate in interscholastic 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 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 the organization's rules through a link on the home page of its website.
- (e) 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 SBE shall delegate all authority and responsibility provided to an administering organization by this Section to the Superintendent.
- (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) The Superintendent shall be responsible for general oversight of interscholastic athletic activities at participating middle and junior high schools. The local superintendent or his or her authorized designees shall apply and enforce the requirements of this Section for participating middle and junior high schools under the jurisdiction of a PSU. The local superintendent or

his or her authorized designee 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 of this Section.

(h) Any person or PSU seeking to inquire about or report a violation of any rule enforced by a rule administrator shall direct the initial inquiry or report to the appropriate rule administrator in accordance with the policies and procedures adopted by the rule administrator.

(i) For any question or dispute involving the enforcement of any interscholastic athletics rule provided by this Section, other than a ruling by a referee or official enforcing gameplay rules during an athletic competition, the relevant rule administrator shall render a final decision within 10 business days. The rule administrator's final decision shall contain:

- (1) Findings of fact.
- (2) Conclusions of law, including a citation to and copy of any rules related to the decision.
- (3) A description of any penalties imposed.
- (4) Instructions on how the aggrieved party may file a notice of appeal with the Superintendent and a notice that the appeal must be filed within five days after receipt of the final decision.

(j) An aggrieved party seeking to appeal a final decision with the Superintendent shall do so in accordance with Rule .0215 of this Section.

(k) Nothing in this Section shall be construed as restricting the independent authority of a PSU to further limit or regulate student participation in interscholastic athletics or other extracurricular activities in accordance with local policies adopted by the governing body of the PSU. Limitations or regulations imposed under local policies shall not be subject to appeal under Rule .0215 of this Section.

*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;
Eff. March 1, 2021;
Temporary Amendment Eff. July 1, 2022;
Amended Eff. July 1, 2023;
Temporary Amendment Eff. July 1, 2024;
Amended Eff. July 1, 2025.*

16 NCAC 06E .0205 STUDENT HEALTH AND SAFETY

(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 (as defined in Rule .0206 of this Section), volunteers, and 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 16 NCAC 06E .0207(b).

(d) If a coach, athletic director, school nurse, athletic trainer, or first responder (as defined in Rule .0206 of this Section) determines that a student participating in an interscholastic athletic activity is exhibiting signs or symptoms consistent with concussion, the student shall be removed from the activity at the time and shall not be allowed to return to play or practice that day. 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;
 - (3) Approved by the principal of the school;
 - (4) Distributed to all appropriate personnel;
 - (5) Posted conspicuously for community and parental awareness at all athletic-sponsored venues; and
 - (6) Reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities.
- (f) Each participating school's emergency management plan shall include:
- (1) A delineation of roles;
 - (2) Methods of communication;
 - (3) Available emergency equipment; and
 - (4) Access to and plan for emergency transport.
- (g) Each school shall maintain complete and accurate records of its compliance with the requirements of this Rule.

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.57; 115C-407.58; 115C-407.60;
 Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);
 Emergency Rule Eff. August 20, 2019;
 Emergency Rule Exp. Eff. August 20, 2020;
 Temporary Adoption Eff. July 1, 2024;
 Eff. July 1, 2025.

16 NCAC 06E .0206 ATHLETIC TRAINERS

- (a) Each PSU shall designate for each participating high school within its jurisdiction either a licensed athletic trainer who is qualified pursuant to Chapter 90, Article 34 of the General Statutes or a first responder. These persons may be employed on a full-time or part-time basis or may serve as a volunteer.
- (b) If not a licensed athletic trainer, a first responder shall:
- (1) Complete and maintain certification in cardiopulmonary resuscitation as certified by an organization such as the American Red Cross or the American Heart Association;
 - (2) Complete and maintain certification in first aid as certified by an organization such as the American Red Cross or the American Heart Association;
 - (3) Complete and maintain training in concussion management as offered by an organization such as the NFHS;
 - (4) Complete and maintain continuing education in injury prevention and management as offered by an organization such as the NFHS; and
 - (5) Complete 10 hours total of staff development each school year specific to first aid and injury recognition and prevention. The 10 hours may include hours necessary for recertifications or renewals.
- (c) The licensed athletic trainer or first responder shall not have concurrent coaching responsibilities during the time in which the person is working as a licensed athletic trainer or first responder.
- (d) A licensed athletic trainer or first responder shall attend all practices and games for football and all matches and tournaments for wrestling, unless excused by the local superintendent due to emergency.
- (e) Each PSU shall monitor the school athletic trainer's or first responder's compliance with this Rule.

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;
 Eff. March 1, 2021;

*Temporary Amendment Eff. July 1, 2024;
Amended Eff. July 1, 2025.*

16 NCAC 06E .0207 STUDENT PARTICIPATION RULES

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

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

(c) Residency Requirements

- (1) For purposes of this Rule, a student's primary residence shall be determined as follows:
 - (A) If both of the student's parents live together, the residence of both parents.
 - (B) If the student's parents are separated or divorced, the residence of the parent to whom a court of competent jurisdiction has awarded primary custody of the student. If no custody order has been entered, the student and the student's parents shall designate one parent's residence as the primary residence and communicate that designation to the participating school prior to participation in interscholastic athletic activities. The designated primary residence shall be one that would otherwise render the student eligible to attend that school in accordance with state law and the policies of the governing body of the PSU.
 - (C) If the student has only one living parent, the residence of that parent.
 - (D) If a student lives with an individual to whom a court of competent jurisdiction has awarded legal guardianship of the student, the residence of that individual.
 - (E) If a student has been emancipated in accordance with Chapter 7B, Article 35 of the General Statutes, the student's residence at the time of emancipation.
 - (F) If a student is a foreign national participating in a foreign exchange program authorized by federal and state law, the residence to which the student is assigned by the program or host PSU.
- (2) A student shall not participate in interscholastic athletics following a change in primary residence unless the change was made for a bona fide purpose and with the intent that it be permanent. The relevant administering organization shall resolve, by a preponderance of the evidence, any disputes regarding a high school student's primary residence or whether a change in a student's primary residence was for a bona fide purpose.
- (3) Notwithstanding Subparagraph (2) of this Paragraph and absent a transfer between participating schools as provided in Paragraph (e) of this Rule, a student shall be eligible to participate in interscholastic athletics on behalf of a participating school in which the student is enrolled if the student has attended any school within the jurisdiction of the same PSU as the participating school for the two preceding semesters.

(d) Enrollment Requirements

- (1) A student enrolled in a school supervised by a local board of education shall only participate in interscholastic athletics on behalf of the school to which the student is assigned under G.S. 115C-366.
- (2) A student enrolled in a charter school, regional school, or school operated by the University of North Carolina shall meet all the enrollment criteria for that school and attend that school. A student who attends a school described in this Subparagraph shall not participate in interscholastic athletics on behalf of that school unless the student's primary residence is within either:
 - (A) the county in which the school is located, or
 - (B) twenty-five miles of the school as determined by the relevant rule administrator.
- (3) A local board of education may by policy allow a person who is enrolled in Grade 6 through 12 in a home school, as defined in G.S. 115C-563(a), and whose primary residence is within the board's jurisdiction to participate in interscholastic athletics on behalf of a participating school under the board's jurisdiction, provided that the board either agrees to cover any such person whom it allows to participate under its catastrophic athletic accident insurance policy or verifies that the person is independently covered by catastrophic accident insurance.

(e) Transfer Requirements

- (1) After a student's initial entry into Grade 9, and absent a change in residence for a bona fide purpose as provided in Paragraph (c) of this Rule:
 - (A) A student who transfers from one participating school to another participating school within the same PSU shall not participate in interscholastic athletics for 365 calendar days following the

student's enrollment in the new school, unless the governing body of the PSU has adopted a policy allowing immediate eligibility for students who are assigned by the PSU to a different school within the same PSU.

- (B) A student who transfers from a participating school in one PSU to a participating school in a different PSU shall not participate in interscholastic athletics for 365 calendar days following the student's enrollment in the new school, unless the governing bodies of both PSUs agree that the transfer was for a bona fide purpose.
 - (C) If the governing bodies of the PSU disagree that a transfer by a high school student was for a bona fide purpose, the relevant administering organization shall resolve the dispute by a preponderance of the evidence.
- (2) After a student's initial entry into Grade 9, if a student transfers to a new school within 365 calendar days after that school hires a coach for an interscholastic athletics team who was previously employed as a coach for an equivalent sport by the school from which the student is transferring, the student shall be ineligible to participate in interscholastic athletics for that sport for 365 calendar days following the student's enrollment in the new school. An administering organization may waive this restriction for a high school student if it determines by a preponderance of the evidence that the student's transfer was for a bona fide purpose.
 - (3) A student who receives priority enrollment as the child of a full-time employee of a charter school pursuant to G.S. 115C-218.45(f)(3) shall not be eligible to participate in interscholastic athletics for that charter school if the Department of Public Instruction determines that the parent's employment was a fraudulent basis for the student's priority enrollment. A student determined to be ineligible under this Subparagraph shall be ineligible to participate in interscholastic athletics for 365 calendar days following discovery of the violation.
 - (4) For purposes of this Paragraph, if a student transfers from a public school to a nonpublic school, including a home school as defined in G.S. 115C-563(a), and within 365 calendar days transfers to a different public school, the transfer from the nonpublic school shall be treated as a transfer from a public school.
 - (5) A student who transfers to the North Carolina School of Science and Mathematics is exempt from the requirements of this Paragraph upon initial entry into that school.
 - (6) No student shall participate in more than one season of interscholastic athletics per year in the same sport, regardless of the school on behalf of which the student participated.
- (f) Scholastic Requirements
- (1) To be eligible to participate in interscholastic athletics, a student must be in good academic standing. For purposes of this Rule, a student shall be deemed to be in good academic standing under the following circumstances:
 - (A) The student attended at least 85 percent of the total number of instructional days in the PSU during the previous semester;
 - (B) The student passed at least 70 percent of the courses taken in the preceding semester; and
 - (C) The student is making sufficient progress toward meeting the academic and curricular requirements of the PSU and the State Board of Education to be promoted to the next grade level or to graduate within the next calendar year.
 - (2) For the purpose of determining good academic standing during the fall semester, a student may count any course that the student passed in a summer school session toward the total number of courses passed in the preceding spring semester. The summer school course shall not affect the total number of courses attempted in the preceding spring semester.
 - (3) A student who is promoted from Grade 5 to Grade 6 shall be deemed to have satisfied the requirements set forth in this Paragraph to participate in the first semester of Grade 6.
 - (4) A student who is promoted from Grade 8 to Grade 9 shall be deemed to have satisfied the requirements set forth in this Paragraph to participate in the first semester of Grade 9.
- (g) Age Requirements
- (1) Each PSU shall determine the age of a student participating in interscholastic athletics based on a preponderance of the evidence known to the PSU.
 - (2) A student who is ineligible to participate at one grade level due to age shall be eligible to participate at the next higher grade level only, provided that a student:
 - (A) Shall be eligible to participate at the middle school level for no more than six consecutive semesters, beginning with the student's initial entry into Grade 6.

- (B) Shall be eligible to participate at the high school level for no more than eight consecutive semesters, beginning with the student's initial entry into Grade 9.
- (C) Shall not participate on a middle school team if the student becomes 15 years of age before August 31 of that school year.
- (D) Shall not participate on a junior high school team if the student becomes 16 years of age on or before August 31 of that school year.
- (E) Shall not participate on a high school team if the student becomes 19 years of age on or before August 31 of that school year.

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

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

(i) Medical Requirements. To be eligible to participate in interscholastic athletics, a student shall receive a medical examination every 395 days by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions of Chapter 90 of the General Statutes.

(j) A student shall not participate in interscholastic athletics after pleading guilty or "no contest" to, or being convicted of, a felony under the laws of North Carolina, the United States, or any other state. Prior to deeming the student ineligible, the relevant rule administrator shall obtain a certified copy of a criminal record reflecting the conviction and verify that the student is the same individual identified in the criminal record.

(k) A rule administrator shall, in an individual student's case, waive any eligibility requirement contained in this Rule if it finds by a preponderance of the evidence that enforcing the requirement:

- (1) fails to promote academic progress, health, safety, and fair play;
- (2) 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
- (3) prevents the reasonable accommodation of a student's disability, as required by the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

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

16 NCAC 06E .0208 AMATEUR RULES

(a) 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, or other thing of value, provided that:
 - (A) The value does not exceed two hundred-fifty dollars (\$250.00) per student per season;
 - (B) The item is totally consumable and nontransferable, or labeled in a permanent manner (e.g., an engraved or monogrammed item); and
 - (C) The item is approved by the principal of the student's school and the local superintendent.
- (4) Participating on an all-star team or in all-star game or bowl game that is not sanctioned by the administering organization of which the student's school is a member, provided that the student shall be ineligible only for that sport.
- (5) Entering into an NIL agreement, unless the student has complied with the requirements of Rule .0211 of this Section.

(b) A student shall not be deemed ineligible under this Rule for any of the following:

- (1) Payment by an administering organization, PSU, or athletic booster club affiliated with the student's school or PSU for essential expenses arising from a specific interscholastic athletic contest in which the student participates. Essential expenses shall include the reasonable cost of meals, lodging, and transportation.
- (2) Receipt of a nominal, standard fee or salary for instructing, supervising, or officiating an organized youth sports program, recreational activities, playground, or camp, whether or not affiliated with a PSU.
- (3) Receipt of an Operation Gold Grant from the United States Olympic Committee.

History Note: Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60; 115C-407.65; 116-235(b);
Temporary Adoption Eff. July 1, 2024;
Temporary Adoption Eff. January 2, 2025;
Eff. July 1, 2025.

16 NCAC 06E .0209 PENALTY RULES

(a) A rule administrator 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 the next game in that sport;
- (2) for a second offense, the person shall be placed on probation and suspended from participating in the next two game in that sport;
- (3) for a third offense, the person shall be suspended from participation in interscholastic athletics for one calendar year;
- (4) a coach who is suspended shall not coach any team for any grade level during the period of suspension.

(b) Penalties shall be cumulative from sport to sport and from sport season to sport season. If no member of the participating school's coaching staff is present to assume the duties of a head coach who has been ejected from an interscholastic athletic contest, the contest shall be terminated by forfeit.

(c) The PSU that has jurisdiction over a participating school may impose penalties in addition to those imposed 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);
Temporary Adoption Eff. July 1, 2024;
Eff. July 1, 2025.

16 NCAC 06E .0210 LIMITATIONS ON RECRUITING AND UNDUE INFLUENCE

(a) No student, coach, professional educator, or other employee of a PSU or administering organization shall subject a student to undue influence for the purpose of inducing or causing the student to transfer from one participating school to another to participate in interscholastic athletics on behalf of the receiving school.

(b) For purposes of this Rule, "undue influence" means communication or conduct undertaken for the purpose and intent of soliciting or encouraging a student to enroll in a participating school, including the following:

- (1) Initiating or arranging communication or contact in any form, including letters, email, or phone calls, with the student or an immediate family member of the student.
- (2) Visiting or entertaining the student or an immediate family member of the student.
- (3) Providing or arranging for transportation for the student or an immediate family member of the student to visit a participating school or meet with anyone associated with the participating school.
- (4) Communicating to a student or an immediate family member of the student, either implicitly or explicitly, that a participating school's athletic program or sports team is superior to that of another participating school, or that it would be advantageous for the student to participate in athletics at a specific participating school. Such communication may be oral, written, or audiovisual in format.

(c) A party alleging undue influence shall direct the initial inquiry or report to the appropriate administering organization in accordance with the procedures adopted by the administering organization. The party alleging undue influence bears the burden of proving undue influence by a preponderance of the evidence.

(d) If the administering organization finds by a preponderance of the evidence that the accused party has engaged in undue influence, the administering organization shall impose penalties consistent with its regulations and with Rule .0209 of this Section.

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

16 NCAC 06E .0211 NAME, IMAGE, AND LIKENESS

(a) As used in this Section:

- (1) "Compensation" means anything of value to the student or an immediate family member of the student, including cash, in-kind gifts, discounts, and other tangible benefits.
- (2) "Name, image, or likeness" or "NIL" means the use of a student's name, image, or likeness for commercial purposes and in exchange for compensation to the student or an immediate family member of the student.
- (3) "NIL agreement" means any formal agreement or contract to use a student's name, image, or likeness for commercial purposes and in exchange for compensation to the student or an immediate family member of the student.
- (4) "School administrators" includes the principal and athletic director of the student's school, the local superintendent, the chairperson of the PSU governing body, and the head coach of any sport in which the student participates during the terms of an NIL agreement.

(b) A student participating in interscholastic athletics may enter an NIL agreement subject to the following restrictions:

- (1) The NIL agreement shall not condition the receipt, type, or extent of any compensation on the extent or quality of the student's athletic performance.
- (2) If the student is under 18 years of age, the student's parent or legal guardian shall be a party to the NIL agreement.
- (3) The NIL agreement shall hold the following parties harmless from any liability related to, or arising from the NIL agreement:
 - (A) The governing body of the PSU in which the student is enrolled, as well as its officers and employees.
 - (B) Any administering organization with which the PSU is affiliated, as well as its officers and employees.
 - (C) The State Board of Education and the Department of Public Instruction, as well as their officers and employees.
- (4) The NIL agreement shall otherwise comply with state and federal law.

(c) The student shall disclose the NIL agreement to school administrators in accordance with the following procedures:

- (1) No later than 10 business days prior to the execution of a proposed NIL agreement or an amendment to an existing NIL agreement, the student shall provide a complete and unredacted copy of the proposed NIL agreement or amendment to school administrators.
- (2) No later than five business days after the execution or amendment of the NIL agreement, the student shall provide a complete and unredacted copy of the executed NIL agreement or amendment to school administrators.

(d) No later than 10 business days prior to a student's entry into an NIL agreement, the student shall complete the NIL education course offered by the NFHS. If the student is under 18 years of age, the student's parent or legal guardian shall also complete the course. Those persons required to complete the course shall provide school administrators with a certificate of completion from the NFHS.

(e) A student participating in interscholastic athletics may enter into an NIL agreement to use the student's name, image, or likeness in any of the following ways:

- (1) Public appearances or commercials.
- (2) Autograph signings.
- (3) Athletic camps and clinics.
- (4) Sale of non-fungible tokens ("NFTs").
- (5) Product or service endorsements.
- (6) Promotional activities, including in-person events and social media advertisements.
- (7) Any other commercial activities that are intended to promote a product or service offered by, increase the profits of, or otherwise generate financial benefits for a party to the NIL agreement from the use of the student's name, image, or likeness.

(f) No student engaged in an NIL agreement-related activity shall do any of the following:

- (1) Make any reference to a school, PSU, conference, or administering organization.
- (2) Receive compensation for the use of intellectual property of any school, PSU, conference, administering organization, or the NFHS. Intellectual property includes the name, uniform, mascot, mark, or logo of the entity that owns the intellectual property.
- (3) Appear in the uniform of the student's school or the school's sports team, or otherwise display the intellectual property of any school, PSU, conference, administering organization, or the NFHS.

(g) No student shall endorse or promote the goods or services of any third-party entity with which the student has entered an NIL agreement during interscholastic athletic competition or other school-based activities or events. This restriction applies to the wearing of apparel displaying the mark, logo, brand, or other identifying insignia of the third-party entity, unless it is part of the standard uniform for the school or sport.

(h) No student participating in interscholastic athletics shall enter into an NIL agreement or otherwise use the student's name, image, or likeness to promote any of the following:

- (1) An adult establishment, as defined in G.S. 14-202.10(2), or adult entertainment services.
- (2) Alcohol or alcoholic products.
- (3) Tobacco, vaping or other electronic smoking devices, or other nicotine products.
- (4) Cannabis or cannabis products.
- (5) Controlled substances, as defined in G.S. 90-87(5).
- (6) Opioids or prescription pharmaceuticals.
- (7) Weapons, firearms, or ammunition.
- (8) Casinos or gambling, including sports betting.
- (9) Activities that would disrupt the operations of a school or PSU.

(i) The athletic director of a participating school shall submit a current copy of any executed or amended NIL agreement involving a student at the school to any administering organizations of which the student's school is a member within 30 days of the disclosure of the executed or amended NIL agreement by the student. The administering organization shall maintain accurate records of all NIL agreements received and provide a summary report of all NIL agreements to the State Board of Education no later than June 30 of each year.

(j) No athletic director, coach, other employee of a PSU, representative of an athletic booster club, or representative of an NIL collective shall use the promise of an NIL agreement to recruit a student to attend a specific participating school or participate in a specific sport. No athletic director, coach, other employee of a PSU, representative of an athletic booster club, or representative of an NIL collective shall act as a student's agent or marketing representative or otherwise facilitate an NIL agreement between a student and a third party. If the relevant administering organization finds a violation of this Paragraph by a preponderance of the evidence, the administering organization shall impose penalties consistent with its regulations and with Rule .0209 of this Section.

(k) This Rule shall apply to any NIL agreement that a student or the student's parent or legal guardian execute during the time the student is enrolled in a PSU, even if the benefits of said agreement do not accrue to the student or an immediate family member of the student until after the student has graduated.

*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);
Eff. July 1, 2025.*

16 NCAC 06E .0215 APPEALS

(a) The Superintendent of Public Instruction shall appoint an independent interscholastic athletics appeals board ("appeals board") to hear and act upon appeals from the final decision of a rule administrator 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; or other enforcement of rules provided by this Section.

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

- (1) The name of the aggrieved party's participating school and PSU.
- (2) The name, address, and phone number of the aggrieved party. If the aggrieved party is a school or PSU, the aggrieved party shall also provide the name, address, phone number, and title of an employee who will serve as the official representative of the school or PSU during the appeal.
- (3) The names, email addresses, and phone numbers of the principal and local superintendent.
- (4) The names of any students affected by the final decision and the sports in which the student participates.
- (5) A description of the facts underlying the final decision.
- (6) A description of the final decision, the date it was issued, and the name, email, and phone number of the rule administrator or staff member thereof who issued the final decision.
- (7) An argument explaining why the aggrieved party believes the rule administrator's final decision was erroneous for one or both of the reasons provided in Paragraph (g) of this Rule.
- (8) If applicable, the date of any imminent interscholastic athletic activity that the final decision may affect.

- (9) Any relevant documents or other evidence that the aggrieved party deems relevant to the appeal and that the aggrieved party provided to the rule administrator for consideration prior to the final decision.
- (c) The Superintendent shall appoint panels of no fewer than three members of the appeals board to hear and decide individual appeals on behalf of the appeals board. The panel may conduct a live hearing in person or via teleconference. Any hearing so conducted shall be recorded.
- (d) The rule administrator may file a response to the aggrieved party's submissions within five days. The panel may shorten the time for filing the rule administrator's response if the decision affects a student's or coach's eligibility to participate in an intervening interscholastic athletic activity.
- (e) All parties shall simultaneously provide copies of all records submitted as part of the appeal to the other parties involved. If the aggrieved party is a student, parent, or coach, the parties shall also provide copies of the documents and forms to the local superintendent and principal with jurisdiction over the aggrieved party.
- (f) No later than 30 days after the Superintendent's receipt of the appeal, the panel shall issue its judgment.
- (g) The panel shall affirm the rule administrator's final decision unless a majority of the panel determines that the final decision either:
- (1) erroneously applies SBE rules or other applicable laws; or
 - (2) is not supported by the evidence, based on the following standards of review:
 - (A) For a ruling by a referee or official enforcing gameplay rules during an athletic competition, the panel shall affirm the referee or official's ruling and uphold the resulting penalty unless the aggrieved party presents clear and convincing evidence to contradict the ruling.
 - (B) For a final decision of a rule administrator regarding the application of any other SBE rule, the panel shall affirm the final decision unless the aggrieved party demonstrates that the final decision was not supported by substantial evidence, as defined in G.S. 150B-2(8c).
- (h) The panel may also remand the final decision to the rule administrator for reconsideration in light of new information or evidence that was not provided to the rule administrator prior to its final decision, if there is an intervening change in any relevant law, or if the panel determines that additional information is necessary to inform its judgment. The panel shall not consider information or evidence presented that was not presented to the rule administrator in the first instance.
- (i) The Superintendent, or the Superintendent's authorized designee, may stay a determination of ineligibility or a penalty imposed by the rule administrator pending the judgment of the appeals board.
- (j) The panel's judgment shall be deemed a final agency decision and not subject to further appeal to the Superintendent or State Board of Education.

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

SECTION .0300 – DRIVER TRAINING

16 NCAC 06E .0301 DRIVER TRAINING

- (a) In discharging their duty to provide a course of training and instruction in the operation of motor vehicles as set forth in G.S. 115C-216, local boards of education shall provide a program which meets the following standards and requirements:
- (1) Principals shall enroll students who meet the criteria established by G.S. 20-88.1(a)(i), (iii) and (iv);
 - (2) The program will be free of charge to eligible students;
 - (3) Enrollees must obtain either a temporary learner's permit or a restricted instruction permit before they begin behind-the-wheel instruction.
 - (4) Classroom instruction will consist of at least 30 clock hours of instruction. Beginning in school year 1992-93, students may take and pass a proficiency examination developed or designated by the Department of Public Instruction to waive the classroom instruction. Each student must complete a minimum of 6 hours of behind-the-wheel instruction.
 - (5) The program will be reasonably available on a year-round basis to all eligible persons.
 - (6) The local board of education will determine class size restrictions, but may not allow instruction in the car to less than two nor more than four students.
 - (7) The local board of education will determine the amount of instruction per day for classroom or in-car instruction or a combination of both.

- (8) The local board of education will issue a certificate to students who satisfactorily complete the prescribed course.
 - (9) Driver education instructors must possess a valid North Carolina driver's license and must have a driving record acceptable to the local board of education. In addition, instructors hired for driver education shall either:
 - (A) hold a driver education certificate issued by the SBE; or
 - (B) have non-certified status according to minimum standards established by Rule .0302 of this Section.
 - (10) The program shall not be provided during the regular instructional day.
- (b) Two or more local boards of education may jointly operate a program under a written agreement meeting the requirements of G.S. 160A-460 et seq. The agreement shall provide for one local board of education to assume administrative responsibility for the program.
- (c) For purposes of G.S. 20-11, G.S. 20-13.2(c1), and G.S. 115C-12(28), the following definitions shall apply:
- (1) "High school diploma or its equivalent" means and includes the General Equivalency Diploma (G.E.D.) and the adult high school diploma.
 - (2) "Making progress toward obtaining a high school diploma" means that the student must pass at least seventy percent (70%) of the maximum of possible courses each semester and meet promotion standards established by the LEA.
 - (3) "Substantial hardship" means a demonstrable burden on the student or the student's family as evidenced by circumstances such as the following:
 - (A) The parent is unable to drive due to sickness or other impairment and the student is the only person of driving age in the household.
 - (B) The student requires transportation to and from a job that is necessary to the welfare of the student's family and the student is unable to obtain transportation by any means other than driving.
 - (C) The student has been unable to attend school due to documented medical reasons, but the student is demonstrating the ability to maintain progress toward obtaining a high school diploma.
 - (4) A "student who cannot make progress toward obtaining a high school diploma or its equivalent" shall mean a student who has been identified by the principal or principal's designee, together with the IEP committee or the school's student assistance team, as not having the capacity to meet the requirements for a high school diploma or its equivalent due to a disability.
 - (5) "Exemplary behavior" shall mean that a student whose operator's permit or license has been revoked pursuant to G.S. 20-13.2(c1) and who has returned to school has, since returning to school:
 - (A) had no additional incidents of misconduct for which expulsion, suspension, or assignment to an alternative educational setting is required; and
 - (B) had no violations of local school board policies such as attendance, dress codes, or other behaviors that may result in disciplinary action against the student.
 - (6) "Successful completion of a treatment counseling program" shall mean completion of a minimum of 12 hours of drug or alcohol treatment, counseling, a mental health treatment program, or other intervention program required by the LEA.
- (d) Each LEA shall determine the process by which decisions concerning the issuance of a driving eligibility certificate shall be appealed.
- (e) The principal of a high school or the principal's designee shall notify the Division of Motor Vehicles whenever a student is no longer making progress toward obtaining a high school diploma or its equivalent or when the student has dropped out of school.
- (f) Each charter school, non-public school, and community college shall designate an official who shall notify the Division of Motor Vehicles whenever a student is no longer making progress toward obtaining a high school diploma.

History Note: Filed as a Temporary Adoption Eff. August 12, 1991 for a period of 180 days to expire on February 7, 1992;
Authority G.S. 20-88.1; 115C-12(28); 115C-216;
ARRC Objection Lodged August 22, 1991;
Eff. March 1, 1992;
Temporary Amendment Eff. August 15, 1998;
Temporary Amendment Eff. March 15, 2000;
Amended Eff. July 1, 2000;

*Temporary Amendment Eff. March 15, 2000 expired on December 10, 2000;
Amended Eff. July 18, 2002.*

16 NCAC 06E .0302 NON-CERTIFIED INSTRUCTOR STATUS

To qualify for non-certified instructor status, a person must, as a minimum:

- (1) be at least 21 years of age and have graduated from high school or hold a high school equivalency certificate;
- (2) be of good moral character;
- (3) not have had convictions of moving violations totaling seven or more points in the three years preceding the date of application;
- (4) have at least four years' experience as a licensed operator of a motor vehicle;
- (5) not have had a revocation or suspension of his or her driver's license in the four years immediately preceding the date of application; and
- (6) have completed the licensed instructor course offered through the community college system and approved by the Department and the Division of Motor Vehicles.

*History Note: Filed as a Temporary Adoption Eff. August 12, 1991 For a Period of 180 Days to Expire on February 7, 1992;
Authority G.S. 20-88.1; 115C-216;
Eff. March 1, 1992.*

16 NCAC 06E .0303 DRIVER EDUCATION CONTRACTS

(a) Local boards of education may enter into contracts with public or private entities or individuals to provide a program of driver education for students.

(b) Contracts shall be awarded on a competitive basis through requests for proposals to contract. Local boards of education shall establish the process for soliciting proposals, the number of proposals required, and the time and place for receiving and opening proposals. In addition, local boards of education shall determine whether bid bonds or performance bonds shall be required. Decisions to award contracts shall be based on quality, safety, costs and such other reasonable factors as local boards of education may establish.

(c) A contract may not be awarded to an entity not licensed by the Division of Motor Vehicles as a commercial driving school pursuant to G.S. 20-322. A contract may be awarded to an individual not licensed as a commercial driving school by the Division of Motor Vehicles if he or she is certified by the SBE in driver education or hold non-certified instructor status.

(d) All contracts shall specifically require the contractor to adhere to the requirements of these Rules, 16 NCAC 6E .0301 - .0303. In addition, all contracts shall prescribe:

- (1) the term of the contract, which may not exceed one year;
- (2) the procedure for renewal of the term of the contract, if any, except that a contract may not be renewed for more than two successive one-year terms;
- (3) the grounds for termination of the contract, including automatic termination in the event of revocation of the license required by G.S. 20-325;
- (4) whether school facilities or vehicles are to be leased or used by the contractor and, if so, the terms and conditions or the lease;
- (5) whether the contractor will provide transportation home for students;
- (6) the types of vehicles and equipment to be provided by the contractor, if any; and
- (7) such other terms and conditions, including the purchase of insurance by the contractor, as the local board of education may determine to be reasonable and appropriate.

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