

1 16 NCAC 06C .0372 - .0376 are proposed for repeal under temporary procedures as follows:
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4 **16 NCAC 06C .0372 DENYING A LICENSE APPLICATION OR SUSPENSION OR REVOCATION OF**
5 **A LICENSE ISSUED BY THE NORTH CAROLINA DEPARTMENT OF PUBLIC**
6 **INSTRUCTION**

7 **16 NCAC 06C. 0373 REPORTING REQUIREMENTS FOR SUSPECTED CHILD ABUSE BY A**
8 **LOCAL EDUCATION AGENCY ADMINISTRATOR TO THE**
9 **SUPERINTENDENT OF PUBLIC INSTRUCTION**

10 **16 NCAC 06C .0374 INVESTIGATION REQUIREMENTS TO DETERMINE REASONABLE CAUSE**
11 **TO SUSPEND OR REVOKE AN EDUCATOR LICENSE**

12 **16 NCAC 06C .0375 VOLUNTARY SURRENDER OF AN EDUCATOR LICENSE**

13 **16 NCAC 06C .0376 REINSTATEMENT OR ISSUANCE OF A SUSPENDED, REVOKED, OR DENIED**
14 **LICENSE**

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16 *History Note: Authority G.S. 115C-12; 115C-268.1; 116C-268.5; 115C-270.5; 115C-270.20; 115C-270.35;*
17 *115C-325; 115C-325.9; 115C-400;*

18 *Eff. October 1, ~~2020~~ 2020;*

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

1 16 NCAC 06C .0601 is amended under temporary procedures as follows:

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3 **SECTION .0600 – ~~CODE OF PROFESSIONAL PRACTICE AND~~ STANDARDS OF PROFESSIONAL**
4 **CONDUCT FOR NORTH CAROLINA EDUCATORS**

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6 **16 NCAC 06C .0601 PURPOSE AND ~~APPLICABILITY~~ DEFINITIONS**

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8 ~~The purpose of these~~ (a) These Rules is to establish and uphold uniform standards of professional conduct establish
9 uniform Standards of Professional Conduct (“Standards”) for licensed professional educators throughout the State and
10 apply to all persons employed in a North Carolina public school or who hold a professional educator license issued
11 pursuant this Subchapter and Chapter 115C, Article 17E of the General Statutes. These Rules shall be binding on
12 every person licensed by the SBE, hereinafter referred to as "educator" or "professional educator," and the possible
13 consequences of any willful breach shall include license suspension or revocation. The prohibition of certain conduct
14 in these Rules shall not be interpreted as approval of conduct not specifically cited.

15 (b) Violation of these Standards shall be grounds for disciplinary sanctions against a professional educator’s license
16 as provided in this Section.

17 (c) As used in this Section, the following definitions apply:

- 18 (1) “Public school unit” or “PSU” is defined in G.S. 115C-5(7a).
19 (2) “License” means a professional educator license issued by the Department of Public Instruction (“DPI”) in
20 accordance with this Subchapter and Chapter 115C, Article 17E of the General Statutes.
21 (3) “Local superintendent” means the superintendent of a local school administrative unit, as provided in Chapter
22 115C, Article 18 of the General Statutes, or the staff member with the highest decision-making authority for
23 a PSU, if there is no superintendent.
24 (4) “Respondent” means a person who currently holds a license or who has applied for a license.
25 (5) “Student” is defined in G.S. 14-202.4(d)(4).

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28 *History Note: Authority G.S. ~~115C-295.3~~; 115C-12(9); 115C-270.5; 115C-307;*
29 *Eff. April 1, 1998.*
30 *Temporary Amendment Eff. XXX.*

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

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

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

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

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

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

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

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

25 (B) Intentional solicitation, encouragement, or consummation of a romantic, physical, or sexual relationship
26 with a student. As used in this context, “solicitation” or “encouragement” shall include engaging in a pattern
27 of flirtatious behavior; efforts to gain access to, or time alone with, a student with no clear educational
28 objective; provision of individualized or specialized treatment, including tangible or monetary gifts, to a
29 student that does not comply with generally recognized professional standards for educators; or any other
30 behavior that could be perceived by a rational observer as excessively personal or intimate in the context of
31 the educator-student relationship.

32 (D) Solicitation, encouragement, or consummation of sexual contact with a student.

33 (C) Sexual harassment, as defined in 34 C.F.R. 106.30(a).

34 (E) Child abuse, as defined in G.S. 14-318.2 or G.S. 14-318.4.

35 (4) Alcohol and Controlled Substances. The educator shall not be under the influence of, possess, use, or consume
36 an alcoholic beverage or a controlled substance, as defined in G.S. 90-95, on school premises, at a school-
37 sponsored activity, or when otherwise discharging the educator’s professional duties, unless the educator has a

1 prescription from a licensed medical professional authorizing such use. The educator shall not furnish alcoholic
2 beverages or controlled substances to a student, except for the administration of medication prescribed by a license
3 medical professional in accordance with the educator's professional duties.

4 ~~(3)~~(5) Honesty. The educator shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation
5 in the performance of the educator's professional duties, including the following:

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

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

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

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

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

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

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

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

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

26 ~~(4)~~(7) Proper ~~remunerative conduct.~~ Remunerative Conduct. The educator shall not solicit current students or
27 parents of students to purchase equipment, supplies, or services from the educator in a private remunerative
28 capacity. An educator shall not tutor for remuneration students currently assigned to the educator's classes, unless
29 approved by the local superintendent. An educator shall not accept any compensation, benefit, or thing of value
30 other than the educator's regular compensation for the performance of any service that the educator is required to
31 render in the course and scope of the educator's employment. This Rule shall not restrict performance of any
32 overtime or supplemental services at the request of the LEA; PSU, nor shall it ~~apply to or~~ restrict the acceptance
33 of gifts ~~or tokens of minimal value offered and accepted openly~~ from students, parents, or other persons in
34 recognition or appreciation of ~~service.~~ the educator's professional service, provided the gift is given and received
35 freely, openly, and without expectation of favor or advantage to the donor in return.

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

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

~~(B) any sexual act;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(12) ~~Scope of professional practice. Professional Practice.~~ The educator shall not perform any ~~act as an employee in a position~~ professional duty or function for which licensure is required by ~~the rules of the SBE or by G.S. 115C~~

1 ~~or the North Carolina General Statutes this Chapter or by Chapter 115C of the General Statutes~~ during any period
2 in which the educator's license ~~has been~~ is suspended or revoked.

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

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11 *History Note:* Authority G.S. ~~115C-295.3~~; 115C-12(9); 115C-270.5; 115C-307;

12 Eff. May 1, 1998.

13 Temporary Amendment Eff. XXX.

1 16 NCAC 06C .0603 is proposed for adoption under temporary procedures as follows:

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

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

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

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

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

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

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

1 16 NCAC 06C .0604 is proposed for adoption under temporary procedures as follows:

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

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

- 9 (1) Engaged in fraud, material misrepresentation, or concealment in an application for the license.
10 (2) Become ineligible for the license due to changes or corrections in the license documentation.
11 (3) Been convicted of a crime in any state, federal, or territorial court of the United States, including military
12 tribunals.
13 (4) Been dismissed by a local board of education, pursuant to G.S. 115C-325(e)(1), or by the governing body of
14 any other PSU.
15 (5) Resigned from employment with a PSU without thirty calendar days’ notice, except with the prior consent
16 of the superintendent.
17 (6) Had a professional educator license or other occupational licensed issued by another state revoked or
18 suspended due to a finding of misconduct by the relevant occupational licensing board or agency.
19 (7) Failed to report suspected child abuse in accordance with G.S. 115C-400 or other suspicion of professional
20 misconduct by a licensed employee in accordance with Rule .0607 of this Section.
21 (8) Violated the Testing Code of Ethics, codified at 16 NCAC 06D .0311.
22 (9) Engaged in any other illegal, unethical, or lascivious conduct, or otherwise violated the Standards of
23 Professional Conduct as described in Rule .0602 of this Section.

24 (b) When deciding whether to impose disciplinary sanctions or deny an application for a license, the SBE shall
25 consider the following factors:

- 26 (1) The existence of a reasonable and adverse relationship between the underlying misconduct and the ability of
27 the respondent to perform the respondent’s professional duties as an educator.
28 (2) The severity of the misconduct.
29 (3) The impact of the misconduct on students, other educators, and the school community.
30 (4) The respondent’s degree of culpability in the misconduct.
31 (5) The degree of remorse exhibited by the respondent for the misconduct.
32 (6) Any evidence of reformed behavior on the part of the respondent.
33 (7) Subsequent incidents of misconduct by the respondent or the probability of future misconduct.

34 (c) If the SBE determines that sanctions against a current licensee are warranted, it shall impose sanctions in
35 accordance with Rule .0605 of this Section.
36

1 History Note: Authority G.S. 115C-12(9); 115C-174.11; 115C-174.12; 115C-270.5; 115C-270.30; 115C-270.35;
2 150B-22; 150B-23;
3 Temporary Adoption Eff. XXX.

1 16 NCAC 06C .0604 is proposed for adoption under temporary procedures as follows:

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

4
5 (a) Upon finding of a basis for imposing disciplinary sanctions against a respondent's license under Rule .0604
6 following an investigation under Rule .0603 of this Section, the State Board of Education ("SBE") may impose any
7 of the following sanctions:

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

12 (b) In addition to one of the sanctions listed in Paragraph (a), the SBE may impose additional conditions upon a
13 respondent—including requirements for the respondent to complete additional CEUs, community service hours, or
14 other activities—if the purpose of the condition is remedial, relevant to the misconduct giving rise to the sanction, and
15 designed to reduce the possibility of recidivism.

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

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

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31 History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-3; 150B-22; 150B-23;
32 Temporary Adoption Eff. XXX.

1 16 NCAC 06C .0606 is proposed for adoption under temporary procedures as follows:
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3 **16 NCAC 06C .0606 VOLUNTARY SURRENDER OF A LICENSE**
4

5 (a) An individual licensed under Chapter 115C, Article 17E of the General Statutes may notify the State Board of
6 Education (“SBE”) in writing of the individual’s intention to voluntarily surrender the individual’s license to the SBE.

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

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

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

23 Temporary Adoption Eff. XXX.

1 16 NCAC 06C .0607 is proposed for adoption under temporary procedures as follows:
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3 **16 NCAC 06C .0607 REINSTATEMENT OF OR RECONSIDERATION FOR A LICENSE**
4

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

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

11 (b) The SBE may deny the request, grant the request, or grant the request on a probationary basis. If the SBE grants
12 the request on a probationary basis, the respondent’s license status shall be subject to review by the SBE one year
13 from the date that the license is granted, and the respondent shall comply with any conditions the SBE may impose.
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16 History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 150B-22; 150B-23;
17 Temporary Adoption Eff. XXX.

1 16 NCAC 06C .0608 is proposed for adoption under temporary procedures as follows:

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

4
5 (a) In addition to any duty to report suspected child abuse under G.S. 115C-400, any PSU administrator who knows,
6 has reason to believe, or has actual notice of a complaint that an employee licensed under Chapter 115C, Article 17E
7 of the General Statutes has engaged in conduct that would justify the automatic revocation of the license under G.S.
8 115C-270.35(b), or which involves the physical abuse of a child as defined in G.S. 14-318.2 or G.S. 14-318.4, and
9 that results in the dismissal of, disciplinary action against, or resignation of the employee shall report the conduct in
10 writing to the State Board of Education (“SBE”) within five days of dismissal, determination of disciplinary action,
11 or acceptance of resignation.

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

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

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

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21 History Note: Authority G.S. 115C-12(9); 115C-270.5; 115C-270.30; 115C-270.35; 115C-326.20; 150B-22;

22 150B-23;

23 Temporary Adoption Eff. XXX.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2023-128
HOUSE BILL 142**

AN ACT TO MODIFY PENALTIES AND DEFINITIONS FOR CERTAIN SEX OFFENSES AGAINST STUDENTS, TO INCREASE THE PENALTIES FOR THE FAILURE OF SCHOOL ADMINISTRATORS TO REPORT CERTAIN MISCONDUCT TO THE STATE BOARD OF EDUCATION, TO REQUIRE PUBLIC SCHOOL UNITS TO SHOW STUDENTS IN GRADES SIX THROUGH TWELVE A VIDEO PRODUCED BY THE CENTER FOR SAFER SCHOOLS CONTAINING AGE-APPROPRIATE INFORMATION ABOUT SEXUAL ABUSE, AND TO DEFINE CONDUCT DIRECTLY RELATED TO THE OFFICE OR EMPLOYMENT AS IT PERTAINS TO THE FORFEITURE OF RETIREMENT BENEFITS, AS RECOMMENDED BY THE DEPARTMENT OF PUBLIC INSTRUCTION; TO CLARIFY THE REQUIREMENT FOR THE BUNCOMBE COUNTY BOARD OF EDUCATION TO ESTABLISH ITS ELECTORAL DISTRICTS; AND TO REQUIRE THE BUNCOMBE COUNTY BOARD OF EDUCATION AND ASHEVILLE CITY BOARD OF EDUCATION TO STUDY MERGING THE BUNCOMBE COUNTY SCHOOL ADMINISTRATIVE UNIT AND THE CITY OF ASHEVILLE SCHOOL ADMINISTRATIVE UNIT.

The General Assembly of North Carolina enacts:

PART I. MODIFY PENALTIES AND DEFINITIONS FOR CERTAIN SEX OFFENSES AGAINST STUDENTS

SECTION 1.(a) G.S. 14-27.32 reads as rewritten:

"§ 14-27.32. Sexual activity with a student.

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel, and who is at least four years older than the victim engages in vaginal intercourse or a sexual act with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school, but before the victim ceases to be a student, the defendant is guilty of a Class G felony, except when the defendant is lawfully married to the student. The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers.

(b) A defendant who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and is less than four years older than the victim and engages in vaginal intercourse or a sexual act with a victim who is a student, is guilty of a Class ~~F~~G felony.

(c) This section shall apply unless the conduct is covered under some other provision of law providing for greater punishment.

(d) Consent is not a defense to a charge under this section.

(e) For purposes of this section, the terms "school", "school personnel", and "student" shall have the same meaning as in G.S. 14-202.4(d). For purposes of this section, the term "school safety officer" shall include a school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools. following definitions apply:

(1) School. – As defined in G.S. 14-202.4(d)(2).



- (2) School personnel. – As defined in G.S. 14-202.4(d)(3).
- (3) School safety officer. – A school resource officer or any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools.
- (4) Student. – A person enrolled in kindergarten, or in grade one through grade 12 in any school within six months of any violation of this section."

SECTION 1.(b) G.S. 14-202.4 reads as rewritten:

"§ 14-202.4. Taking indecent liberties with a student.

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel and is at least four years older than the victim, takes indecent liberties with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school but before the victim ceases to be a student, the defendant is guilty of a Class ~~I-G~~ felony, unless the conduct is covered under some other provision of law providing for greater punishment. A person is not guilty of taking indecent liberties with a student if the person is lawfully married to the student.

(b) If a defendant, who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and who is less than four years older than the victim, takes indecent liberties with a student as provided in subsection (a) of this section, the defendant is guilty of a Class ~~I-G~~ felony.

(c) Consent is not a defense to a charge under this section.

(d) For purposes of this section, the following definitions apply:

- (1) ~~"Indecent liberties" means:~~Indecent liberties. – Means any of the following:
 - a. Willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the purpose of arousing or gratifying sexual ~~desire; or~~desire.
 - b. Willfully committing or attempting to commit any lewd or lascivious act upon or with the body or any part or member of the body of a student.

For purposes of this section, the term indecent liberties does not include vaginal intercourse or a sexual ~~act as defined by G.S. 14-27.20.act.~~

- (1a) ~~"Same school" means a~~Same school. – A school at which (i) the student is enrolled or is present for a school-sponsored or school-related activity and (ii) the school personnel is employed, volunteers, or is present for a school-sponsored or school-related activity.
- (2) ~~"School" means any~~School. – Any public school, charter school, or nonpublic school under Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes.
- (3) ~~"School personnel" means any~~School personnel. – Any person included in the definition contained in G.S. 115C-332(a)(2), including those employed by a nonpublic, charter, or regional school, and any person who volunteers at a school or a school-sponsored activity.
- (3a) ~~"School safety officer" means any~~School safety officer. – Any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools and includes a school resource officer.
- (3b) Sexual act. – As defined in G.S. 14-27.20.
- (4) ~~"Student" means a~~Student. – A person enrolled in kindergarten, or in grade one through grade 12 in any school-school within six months of any violation of this section."

SECTION 1.(c) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

PART II. INCREASE PENALTIES FOR FAILING TO REPORT MISCONDUCT TOWARD CHILDREN

SECTION 2.(a) Article 22 of Chapter 115C of the General Statutes is amended by adding a new Part to read:

"Part 3B. Reporting Misconduct of Licensed School Employees.

"§ 115C-326.20. Reporting misconduct of licensed school employees.

(a) For the purposes of this section, "misconduct" includes any of the following:

- (1) Conduct that justifies automatic revocation of a license under G.S. 115C-270.35(b).
- (2) The infliction of a physical injury against a child other than by accident or in self-defense.

(b) Any superintendent, assistant superintendent, associate superintendent, personnel administrator, or principal who knows, has reason to believe, or has actual notice of a complaint that an employee licensed under Article 17E of this Chapter has engaged in misconduct resulting in dismissal, disciplinary action, or resignation shall report the misconduct to the State Board of Education within five days of dismissal, determination of disciplinary action, or acceptance of resignation. If the employee resigns within 30 days of a complaint for misconduct or during an ongoing investigation of a complaint, the misconduct is presumed to have resulted in the resignation. Failure to report misconduct pursuant to this section is a Class I felony.

(c) School personnel shall not threaten, harass, or retaliate against any other person for making a report as required by this section."

SECTION 2.(b) The State Board of Education has authority to adopt temporary rules to (i) implement the requirements of this section, (ii) address disciplinary actions against professional educator licenses, and (iii) modify 16 NCAC 06C .0602 (Standards of Professional Conduct). The State Board shall adopt permanent rules no later than July 1, 2024.

SECTION 2.(c) This section becomes effective December 1, 2023, and applies to offenses committed on or after that date.

PART III. PRODUCE AND DISTRIBUTE CFSS TRAINING VIDEO

SECTION 3.(a) G.S. 115C-105.57(c) is amended by adding a new subdivision to read:

"(2a) Develop and produce age-appropriate videos to be shown to students in grades six through 12 that include at least the information listed in G.S. 115C-12(47). The videos shall be distributed to all public school units and may be provided to nonpublic schools at the request of the nonpublic school."

SECTION 3.(b) G.S. 115C-12(47) reads as rewritten:

"(47) Duty Regarding Child Abuse and Neglect. – The State Board of Education, in consultation with the Superintendent of Public Instruction, shall adopt a rule requiring information on child abuse and neglect, including age-appropriate information on sexual abuse, to be provided by public school units to students in grades six through 12. This rule shall also apply to high schools under the control of The University of North Carolina. Information shall be provided in the form of (i) a document provided to all students at the beginning of each school year and year, (ii) a display posted in visible, high-traffic areas throughout each public secondary school-school, and (iii) a video, produced in accordance with G.S. 115C-105.57(c)(2a), shown to all students no more than five days after the first day of the school year. The document and display document, display, and video shall include, at a minimum, the following information:
...."

SECTION 3.(c) The Center for Safer Schools shall produce and distribute the videos required by this section no later than June 30, 2024.

SECTION 3.(d) This section is effective when it becomes law and applies beginning with the 2024-2025 school year.

PART IIIA. DEFINE CONDUCT DIRECTLY RELATED TO THE OFFICE OR EMPLOYMENT AS IT PERTAINS TO THE FORFEITURE OF RETIREMENT BENEFITS

SECTION 3A.(a) G.S. 128-21 reads as rewritten:

"§ 128-21. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- ...
- (7c) "Conduct directly related to the office or employment" shall mean conduct by the member resulting in a felony conviction that:
- a. Is an offense identified in G.S. 115C-270.35(b), and the commission of the offense occurred while the member was employed in a public school or working in a public school subject to a memorandum of understanding.
 - b. Is an offense which required the revocation of the member's licensure or certification required for the member's employment or office at the time of the commission of the offense.
 - c. Is conduct that was directly related to the member's employment or office as determined by the Board of Trustees.
- ~~(7e)~~(7d) "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, all items, not seasonally adjusted, standard reference base, as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

...."

SECTION 3A.(b) G.S. 135-1 reads as rewritten:

"§ 135-1. Definitions.

The following words and phrases as used in this Chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- ...
- (7c) "Conduct directly related to the office or employment" shall mean conduct by the member resulting in a felony conviction that:
- a. Is an offense identified in G.S. 115C-270.35(b), and the commission of the offense occurred while the member was employed in a public school or working in a public school subject to a memorandum of understanding.
 - b. Is an offense which required the revocation of the member's licensure or certification required for the member's employment or office at the time of the commission of the offense.
 - c. Is conduct that was directly related to the member's employment or office as determined by the Board of Trustees.
- ~~(7e)~~(7d) "Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, all items, not seasonally adjusted, standard reference base, as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

...."

SECTION 3A.(c) This section becomes effective July 1, 2023, and applies to offenses committed on or after that date.

PART IV. BUNCOMBE COUNTY BOARD OF EDUCATION ELECTORAL DISTRICTS AND STUDY OF MERGING THE BUNCOMBE COUNTY SCHOOL ADMINISTRATIVE UNIT AND THE CITY OF ASHEVILLE SCHOOL ADMINISTRATIVE UNIT

SECTION 4.(a) Section 6(d) of S.L. 2023-32 is repealed.

SECTION 4.(b) In establishing or revising electoral districts as required by S.L. 2023-32, the Buncombe County Board of Education shall comply with all requirements of State and federal law.

SECTION 4.(c) Section 6(e) of S.L. 2023-32 reads as rewritten:

"**SECTION 6.(e)** No later than ~~February 1, 2024~~, June 30, 2024, the Buncombe County Board of Education shall establish the boundaries of the six electoral districts required by this section, to be used in the 2024 elections and thereafter until revised again, in accordance with G.S. 115C-37(i) and this act."

SECTION 4.(d) Notwithstanding Chapters 115C and 163 of the General Statutes, the filing period for the Buncombe County Board of Education in the 2024 election shall be from noon on the third Friday in July until noon on the first Friday in August.

SECTION 4.(e) The Buncombe County Board of Education and the Asheville City Board of Education shall jointly study the feasibility of the merger of the Buncombe County School Administrative Unit and the City of Asheville School Administrative Unit, including the potential economic and educational impact of merging the school units and any other relevant information. The Buncombe County Board of Education and the Asheville City Board of Education shall report findings and recommendations to the standing committees of the General Assembly hearing elections matters no later than February 15, 2025.

PART V. EFFECTIVE DATE

SECTION 5. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of September, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:59 p.m. this 29th day of September, 2023