

16 NCAC 06H .0101 is proposed for readoption with substantive changes as follows:

SUBCHAPTER 06H - FEDERAL PROGRAMS

SECTION .0100 – OPERATION OF FEDERAL PROGRAMS

16 NCAC 06H .0101 DEFINITIONS

As used in this ~~Subchapter.~~ Subchapter, the following definitions apply:

(1) "Federal agency" is defined in 2 C.F.R. 200.1.

(2) "Federal award" is defined in 2 C.F.R. 200.1.

(3) "Federal financial assistance" is defined in 2 C.F.R. 200.1.

(4) "Federal program" is defined in 2 C.F.R. 200.1.

~~(4) (5)~~ "Free appropriate public education" (~~FAPE~~) or "FAPE" is defined ~~by 34 CFR 300.13. in 34 C.F.R.~~
300.101.

~~(2) (6)~~ "Individualized education program" (~~IEP~~) or "IEP" is defined ~~by 34 CFR 300.340. in 34 C.F.R.~~
300.320.

~~(3) (7)~~ "Least restrictive environment" (~~LRE~~) or "LRE" is defined ~~by 34 CFR 300.550 – 300.556. in 34~~
C.F.R. 300.114.

(8) "Local education agency" or "LEA" is defined in 34 C.F.R. 303.28(a). For the purpose of federal
programs administered by the State Board of Education, the term "LEA" includes any public school
unit, as defined in G.S. 115C-5(7a), that is a subrecipient of a federal award.

~~(4) (9)~~ "Parent" is defined ~~by 34 CFR 300.20. in 34 C.F.R. 300.30.~~

~~(5)~~ "Willie M." class members are children under age 18 who now or will in the future suffer from
serious emotional, mental or neurological handicaps, which handicaps have been accompanied by
behavior which is characterized as violent or assaultive; and who are or will be in the future
involuntarily placed in institutions or otherwise placed in residential programs; and who have not
been provided appropriate treatment and education programs by the state.

(10) "Recipient" is defined in 2 C.F.R. 200.1. For the purpose of federal programs administered by the
State Board of Education, "recipient" includes a "grantee" as defined in 34 C.F.R. 77.1(c).

(11) "State education agency" or "SEA" is defined in 34 C.F.R. 300.41. The State Board of Education is
the SEA for the State of North Carolina.

(12) "Subaward" is defined in 2 C.F.R. 200.1.

(13) "Subrecipient" is defined in 2 C.F.R. 200.1. For the purpose of federal programs administered by
the State Board of Education, "subrecipient" includes a "subgrantee" as defined in 34 C.F.R. 77.1(c).

*History Note: Authority G.S. ~~115C-141; 115C-106.3; 115C-107.2; 2 C.F.R. 200.1; 34 C.F.R. 300.28; 34 C.F.R.~~
~~300.30; 34 C.F.R. 300.41; 34 C.F.R. 300.101; 34 C.F.R. 300.114; 34 C.F.R. 320;~~*

Eff. July 1, 1986;

Amended Eff. December 1, 1999; June 1, ~~1996~~ 1996;

1 16 NCAC 06H .0102 is proposed for readoption with substantive changes as follows:

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3 **16 NCAC 06H .0102 OPERATION OF ~~FEDERAL~~ CHILD NUTRITION PROGRAMS**

4 ~~(a) The Department administers in accordance with applicable federal regulations such federal education programs~~
5 ~~as are authorized by Congress and accepted by the SBE.~~

6 ~~(b)~~ In administering child nutrition programs, the ~~Department will~~ State Board of Education may reclaim ~~and/or or~~
7 withhold funds from any LEA or ~~program sponsor which~~ subrecipient that fails to comply with current federal
8 regulations and ~~state policies SBE rules~~ until the LEA or ~~program sponsor~~ subrecipient complies.

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10 *History Note: Authority G.S. 115C-263; ~~115C-264~~; 115C-409; 2 C.F.R. 200.339;*

11 *Eff. July 1, ~~1986~~. 1986;*

12 *Readopted Eff. February 1, 2026.*

16 NCAC 06H .0103 is proposed for readoption with substantive changes as follows:

16 NCAC 06H .0103 COMPLAINT PROCEDURES FOR FEDERAL PROGRAMS

(a) This Rule shall apply to federal programs of United States federal agencies that provide federal awards administered by the State Board of Education. The department SBE shall receive, review and resolve complaints for which no other procedures or remedies are available. available by law or contract. These complaints must shall involve the allegation that LEAs, another subgrantee or the department the SBE, an LEA, or a subrecipient has violated a federal statute, federal regulation or interpretive rule. SBE rule governing a federal program. This Rule shall affect those federal education programs listed in 34 CFR Part 76.

(b) Any ~~person(s)~~ person who believes that grounds exist for filing a complaint under Paragraph (a) of this Rule may file a written complaint with the ~~department.~~ SBE. The complaint must: shall include the following:

- (1) ~~be signed by the person(s) making it;~~ The signature of the complainant;
- (2) ~~show who has violated a specific federal requirement;~~ The name of the party alleged to have violated a federal statute, federal regulation, or SBE rule;
- (3) ~~tell how the requirement has been violated;~~ An identification of the federal statute, federal regulation, or SBE rule alleged to have been violated by the party;
- (4) ~~state the facts upon which the complaint is based;~~ A detailed description of facts to support the complaint; and
- (5) ~~tell what~~ A description of the relief the person complainant is seeking.

~~(c) If the department receives a complaint which is not complete, it shall contact the person making it and explain how the complaint may be made complete.~~

~~(d) (c) The department shall send the complaint to staff for review and response. If the complaint involves a subgrantee, subrecipient, the department SBE shall send the complaint to that subgrantee, subrecipient.~~

~~(e) The department may, in its discretion, allow the person to appear and present evidence.~~

~~(f) (d) The department SBE shall review and issue a final written resolution of decision for each acceptable complete complaint to each party involved within 60 days of receipt, unless it finds good cause, as that term is defined in 26 NCAC 03 .0118, for an extension. The SBE may extend the time for issuing a final written decision up to an additional 60 days if:~~

- (1) The complainant agrees to an extension; or
- (2) The SBE makes a finding good cause, as defined in 26 NCAC .0118(a)(1), for an extension.

~~(g) (e) The resolution final written decision shall include:~~

- (1) a A summary of the facts involved; relevant and material evidence;
- (2) a statement of the federal requirement involved; Citations to the relevant federal statute(s), federal regulation(s), and SBE rules;
- (3) the department's findings of fact and a summary of the evidence it considered; Findings of material fact;

(4) ~~the department's conclusions~~ Conclusions of law regarding each allegation and a summary of ~~its~~ the reasons for ~~them~~; those conclusions; and

(5) ~~the department's~~ An order for any technical assistance, ~~negotiation~~ negotiation, or corrective action that must occur and when those actions must be taken.

~~(h)~~ (f) If a federal ~~education~~ program requires a ~~subgrantee~~ subrecipient to develop and use a complaint procedure, the ~~person complaining~~ complainant may use either ~~that~~ the subrecipient's procedure or the ~~department's~~ SBE procedure. If the ~~person~~ complainant uses the subgrantee's procedure, the person may appeal ~~that~~ the subrecipient's final decision to the ~~department~~ SBE within 30 days ~~after receiving it.~~ of receipt.

History Note: ~~Authority G.S. 115C-113; 115C-12(5); 15C-409; 34 C.F.R. 76.780; N.C. Constitution Article IX, s. 5; 34 C.F.R. 300.660-662; 7 C.F.R. 210.18; 34 C.F.R. 76.770; 34 C.F.R. 300.149-300.151;~~
~~Eff. July 1, 1986;~~
~~Amended Eff. August 1, 2000; 2000;~~
Readopted Eff. February 1, 2026.

1 16 NCAC 06H .0104 is proposed for readoption with substantive changes as follows:

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3 **16 NCAC 06H .0104 ~~CHILD NUTRITION PROCEDURES~~ SALE OF COMPETITIVE FOODS**

4 (a) ~~National School Lunch Program policies and standards are as follows:~~

5 ~~(1) A la carte sales are limited to foods contributing to the nutritional well being of the child and aiding~~
6 ~~in the establishment of good food habits. School food authorities and sponsoring organizations may~~
7 ~~provide these foods under the following conditions:~~

8 ~~(A) Sponsors must operate all food and beverage services during or before the established lunch~~
9 ~~period through the school food service department.~~

10 ~~(B) The school food service department retains all receipts from the sale of these items.~~

11 ~~(C) Sponsors must use all food service income for the purpose of the school's non-profit child~~
12 ~~nutrition programs.~~

13 ~~(D) A la carte items may not include foods of minimum nutritional value, as follows:~~

14 ~~(i) soda water (soda pop);~~

15 ~~(ii) water ices;~~

16 ~~(iii) chewing gum;~~

17 ~~(iv) processed foods made predominately from sweeteners or artificial sweeteners~~
18 ~~with a variety of minor ingredients. These foods include hard candy, jellies and~~
19 ~~gums, marshmallow candies, fondant, licorice, spun candy, and candy-coated~~
20 ~~popcorn; and~~

21 ~~(v) confections and carbonated drinks.~~

22 ~~(E) Adults may purchase individual food items without purchasing a complete lunch.~~

23 ~~(2) Competitive food sales by a school of extra food items in the lunchroom or its general environs must~~
24 ~~be on a non-profit basis. "On a non-profit basis" means that the sponsor deposits income from the~~
25 ~~sale of such food items to the account of the school's non-profit lunch and breakfast programs and~~
26 ~~uses the income solely for these programs.~~

27 ~~(A) The school may sell extra food items after the established lunch hour is over, only with the~~
28 ~~approval of the LEA. The established lunch hour is over when the last pupil has been~~
29 ~~served for the day.~~

30 ~~(B) Occupational home economics instructional programs which operate under an approved~~
31 ~~annual vocational education plan and which involve the preparation and sale of foods to~~
32 ~~individuals other than students are not in competition with the child nutrition program.~~

33 ~~(C) The Department may deny the opportunity to participate in the program to any school food~~
34 ~~authority which operates in violation of state policy.~~

35 (a) As used in this Rule, the following definitions shall apply:

36 (1) "Competitive food" is defined in 7 C.F.R. 210.11(a)(2).

37 (2) "National School Lunch Program" is defined in 7 C.F.R. 210.2.

- 1 (3) "Nonprofit school food service" is defined in 7 C.F.R. 210.2.
- 2 (4) "Nonprofit school food service account" is defined in 7 C.F.R. 210.2.
- 3 (5) "School campus" is defined in 7 C.F.R. 210.11(a)(4).
- 4 (6) "School day" is defined in 7 C.F.R. 210.11(a)(5).
- 5 ~~(b) Sponsors must use receipts from child nutrition programs for the cost of operation as outlined in current federal~~
- 6 ~~regulations and state policy.~~
- 7 (b) All competitive foods shall, at minimum, meet the general nutrition standards established by 7 C.F.R. 210.1.
- 8 (c) Each LEA shall maintain records in accordance with 7 CFR 210.11.
- 9 (d) Each LEA may sell competitive foods during the school day, on the school campus, under the following conditions:
- 10 (1) All receipts from the sale of these items before the cafeteria closes for the day shall be deposited in
- 11 the nonprofit school food service account.
- 12 (2) Adults may purchase individual food items without purchasing a complete lunch.
- 13 (e) Instructional programs in culinary arts, which operate under an approved Career and Technical Education plan and
- 14 involve the preparation and sale of foods to individuals other than students, are not subject to this Rule.
- 15 (f) The State Board of Education may deny the opportunity to participate in the National School Lunch Program to
- 16 any LEA which operates in violation of this Rule.
- 17 ~~(e)~~ (g) No full-time public school employee is eligible for part-time employment in nonprofit school food services.
- 18 ~~(d)~~ (h) The only adults who may eat in the school food service department nonprofit school food services are school
- 19 employees, personnel on official school business business, and invited local patrons. These persons shall pay, as a
- 20 minimum, the adult price for lunch.

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22 *History Note: Authority G.S. 115C-263; 115C-264; 7 C.F.R. 210.11(b)(1);*

23 *Eff. July 1, 1986. 1986;*

24 *Readopted Eff. February 1, 2026.*