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1 16 NCAC 06E .0207 is proposed for adoption as follows:

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3 **16 NCAC 06E .0207 ELIGIBILITY REQUIREMENTS FOR PARTICIPATION IN**
4 **INTERSCHOLASTIC ATHLETICS**

5 (a) A student in grades 6 through 12 shall not participate in interscholastic athletics on behalf of a North Carolina
6 public school unless the student has satisfied the eligibility requirements set forth in this Rule.

7 (b) PSUs are authorized to determine whether and to what extent students in grades 6 through 12 under their
8 jurisdiction may participate in interscholastic athletics, not inconsistent with the requirements of this Rule, provided
9 that students in grade 6 are not eligible to participate in tackle football. This Rule shall not apply to charter school
10 athletic programs in grades 6 through 8.

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

14 (d) Residency Requirements

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

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

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

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

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

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

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

28 (2) A student shall not participate in interscholastic athletics following a change in primary residence unless it is
29 made for a bona fide purpose. A bona fide purpose means that the change in primary residence was made
30 with the intent that it be permanent and not primarily for athletic purposes.

31 (3) An administering organization shall resolve, by preponderance of the evidence, any disputes regarding a
32 student's primary residence or whether a change in a student's primary residence was for a bona fide purpose.

33 (e) Enrollment Requirements

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

36 (2) A student enrolled in a charter, regional statewide public school, or school operated by the University of
37 North Carolina shall meet all the enrollment criteria for that school and attend that school. A student who

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1 attends a school described in this Subparagraph shall not participate in interscholastic athletics on behalf of
2 that school unless the student's primary residence is within either:

3 (A) the county in which the school is located, or

4 (B) twenty-five (25) miles of the school as determined by an administering organization.

- 5 (3) Each local board of education shall adopt a policy addressing the participation in interscholastic athletics
6 of students whose primary residence is within the local board's jurisdiction and who are enrolled in a home
7 school, as defined in G.S. 115C-563(a), provided that the PSU either agrees to cover any home school student
8 that it allows to participate under its catastrophic athletic accident insurance policy or verifies that the student
9 is independently covered by catastrophic accident insurance.

10 (f) Transfer Requirements for High School Interscholastic Athletics

- 11 (1) After a student's initial entry into grade 9, and absent a change in residence for a bona fide purpose as provided
12 in Paragraph (d) of this Rule:

13 (A) a student who transfers from one school to another school within the same PSU shall not participate
14 in interscholastic athletics for 365 calendar days following the student's enrollment in the new
15 school, unless the governing authority of the PSU has adopted a policy allowing immediate
16 eligibility for students who are assigned by the PSU to a different school within the same PSU.

17 (B) a student who transfers from a school in one PSU to a school in a different PSU shall not participate
18 in interscholastic athletics for 365 calendar days following the student's enrollment in the new
19 school, except by mutual agreement of the governing authorities of each PSU.

- 20 (2) If a student transfers to a new school within 365 calendar days of the hiring by that school of a coach for an
21 interscholastic athletics team who was previously employed as a coach for an equivalent sport by the school
22 from which the student is transferring, the student shall be ineligible to participate in interscholastic athletics
23 for that sport. An administering organization may waive this requirement upon petition by the student if it
24 determines by a preponderance of the evidence that the student's transfer was not primarily for athletic
25 purposes.

- 26 (3) For purposes of this Paragraph, if a student transfers from a public school to a nonpublic school, including a
27 home school as defined in G.S. 115C-563(a), and within 365 calendar days transfers to a different public
28 school, the transfer from the nonpublic school shall be treated as a transfer from a public school.

- 29 (4) A student who transfers to the North Carolina School of Science and Math is exempt from the requirements
30 of this Paragraph upon initial entry into that school.

- 31 (5) No student shall participate in more than one season of interscholastic athletics per year in the same sport,
32 regardless of the school on behalf of which the student participated.

33 (g) Age Requirements

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

- 36 (2) A student who is ineligible to participate at one grade level due to age shall be eligible to participate at the
37 next higher grade level only, subject to the following restrictions:

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1 (A) A student shall not be eligible to participate at the middle school level for a period lasting longer
2 than six (6) consecutive semesters, beginning with the student's initial entry into grade 6.

3 (B) A student shall not be eligible to participate at the high school level for more than eight (8)
4 consecutive semesters, beginning with the student's initial entry into grade 9.

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

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

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

11 (h) Gender Requirements [OPTION 1 – BASED ON CURRENT NCHSAA RULE]

12 (1) Every participating school shall designate each of its teams participating in interscholastic athletics as one of
13 the following:

14 (A) males, men, or boys

15 (B) females, women, or girls

16 (C) Coed or mixed

17 (2) A student participating in a single-sex team shall participate on the team matching the sex noted on the
18 student's certificate of birth. Teams for males, men, or boys, except those for wrestling, shall be open to
19 students of the female sex if the school no comparable team for females, women, or girls in that sport.

20 (3) If a student's gender identity differs from the sex noted on the student's certificate of birth and the student
21 desires to participate on a single-sex team consistent with the student's gender identity, the student may
22 petition the relevant administering organization for an exemption from Subparagraph 2 of this Paragraph.
23 The student shall be allowed to participate on a single-sex team consistent with the student's gender identity
24 following approval by the administering organization in accordance with Subparagraph 4 of this Paragraph.

25 (4) An administering organization shall adopt policies and procedures for consideration of petitions filed
26 pursuant to Subparagraph 3 of this Paragraph. Such policies and procedures shall include a review committee
27 consisting of a member of the administering organization's governing board, a senior administrator of the
28 student's PSU, a licensed physician with experience in gender identity health care, and a psychiatrist,
29 psychologist, or licensed mental health professional with experience in gender identity issues. The review
30 committee may grant the student's petition if it determines that the student's words, behavior, and gender
31 expression at school and in the community are consistent with the gender identified in the petition. In
32 conducting the review, the review committee shall consider the following:

33 (A) Any written statements by a parent or legal guardian, friend, teacher, coach, religious leader, or
34 other individual with a personal relationship with the student regarding the student's words,
35 behavior, and gender expression at school or in the community.

36 (B) Any other cognitive, behavioral, or emotional interventions the student has received related to the
37 student's gender identity.

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1 (C) Any gender affirming medical care the student has received from a licensed physician or healthcare
2 provider. The student must provide a signed and written statement from an appropriate professional
3 healthcare provider, such as a physician, psychiatrist, or other mental health professional with
4 experience in gender identity healthcare, affirming that the student’s words, behavior, and gender
5 expression are consistent with the student’s gender identity.

6 (5) It shall be the responsibility of the student filing a petition pursuant to Subparagraph 3 of this Paragraph to
7 provide all documentation requested by the review committee pursuant to Subparagraph 4. Members of the
8 review committee shall respect and promote the student’s privacy rights consistent with the Family
9 Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act
10 (HIPAA), and other applicable federal and state laws.

11 (h) Gender of Player [OPTION 2 – BASED ON CURRENT NCHSAA RULE AND PROPOSED TITLE IX RULE
12 FROM BIDEN ADMINISTRATION]

13 (1) Every participating school shall designate each of its teams participating in interscholastic athletics as one of
14 the following:

15 (A) males, men, or boys

16 (B) females, women, or girls

17 (C) Coed or mixed

18 (2) A student participating in a single-sex team shall participate on the team matching the sex noted on the
19 student’s certificate of birth. Teams for males, men, or boys, except those for wrestling, shall be open to
20 students of the female sex if the school no comparable team for females, women, or girls in that sport.

21 (3) If a student’s gender identity differs from the sex noted on the student’s certificate of birth and the student
22 desires to participate on a single-sex team consistent with the student’s gender identity, the student may
23 petition the relevant administering organization for an exemption from Subparagraph 2 of this Paragraph.
24 The student shall be allowed to participate on a single-sex team consistent with the student’s gender identity
25 following approval by the administering organization in accordance with Subparagraph 4 of this Paragraph.

26 (4) An administering organization shall adopt policies and procedures for consideration of petitions filed
27 pursuant to Subparagraph 3 of this Paragraph. Such policies and procedures shall include a Review
28 Committee consisting of a member of the administering organization’s governing board, a senior
29 administrator of the student’s PSU, a licensed physician with experience in gender identity health care, and
30 a psychiatrist, psychologist, or licensed mental health professional with experience in gender identity issues.
31 The Review Committee may grant the student’s petition if it determines that the student’s words, behavior,
32 and gender expression at school and in the community are consistent with the gender identified in the petition.
33 In conducting the review, the Review Committee shall consider the following:

34 (A) Any written statements by a parent or legal guardian, friend, teacher, coach, religious leader, or
35 other individual with a personal relationship with the student regarding the student’s words,
36 behavior, and gender expression at school or in the community.

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1 (B) Any other cognitive, behavioral, or emotional interventions the student has received related to the
2 student's gender identity.

3 (C) Any gender affirming medical care the student has received from a licensed physician or healthcare
4 provider. The student must provide a signed and written statement from an appropriate professional
5 healthcare provider, such as a physician, psychiatrist, or other mental health professional with
6 experience in gender identity healthcare, affirming that the student's words, behavior, and gender
7 expression are consistent with the student's gender identity.

8 (5) It shall be the responsibility of the student filing a petition pursuant to Subparagraph 3 of this Paragraph to
9 provide all documentation requested by the review committee pursuant to Subparagraph 4. Members of the
10 review committee shall respect and promote the student's privacy rights consistent with the Family
11 Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act
12 (HIPAA), and other applicable federal and state laws.

13 (6) Notwithstanding information provided to the Review Committee pursuant to Parts A through C of
14 Subparagraph 4 of this Paragraph, the Review Committee shall deny a petition filed pursuant to
15 Subparagraph 3 if it determines that granting the petition and allowing the student to participate on a
16 single-sex team consistent with the student's gender identity would undermine fair play the
17 substantially compromise the health and safety of any student. In making this determination, the
18 Review Committee shall consider the unique facts and circumstances of each case and shall not by
19 policy or practice engage in the categorical denial of petitions filed pursuant to Subparagraph 4 on the
20 grounds of fair play, health, and safety.

21 (h) Gender Requirements [OPTION 3 – BASED ON PENDING LEGISLATION IN GENERAL ASSEMBLY – HB
22 574/SB 636]

23 (1) Every participating school shall designate each of its teams participating in interscholastic athletics as one of
24 the following:

25 (A) males, men, or boys

26 (B) females, women, or girls

27 (C) Coed or mixed

28 (2) A student participating in a single-sex team shall participate on the team matching the sex noted on the
29 student's certificate of birth. Teams for males, men, or boys, except those for wrestling, shall be open to
30 students of the female sex if the school no comparable team for females, women, or girls in that sport.

31 (h) Gender Requirements [OPTION 4] - [NO RULE]

32 (i) Scholastic Requirements

33 (1) Each PSU shall establish a policy that defines the circumstances under which a student is considered to be in
34 good academic standing. The policy shall address, at minimum, the following:

35 (A) Total course load.

36 (B) Daily class attendance.

37 (C) Grades or other metrics used by the PSU to establish academic proficiency.

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1 (D) Progress toward graduation.

2 (2) A student who is deemed by the student's PSU to not be in good academic standing in accordance with the
3 PSU's policy shall not be eligible to participate in interscholastic athletics until such time as the PSU deems
4 the student to be in good academic standing.

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

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

9 (j) To be eligible to participate in interscholastic athletics, a student shall receive a medical examination every 395
10 cays by a licensed physician, nurse practitioner, or physician assistant, subject to the provisions of G.S. 90-9.1, G.S.
11 90-9.2, G.S. 90-9.3, G.S. 90-18.1, and G.S. 90-18.2.

12 (k) A student shall not participate in interscholastic athletics after pleading guilty or "no contest" to, or being finally
13 convicted of, a felony under the laws of North Carolina, the United States, or any other state, or being adjudicated
14 delinquent in a juvenile court for an offense that would be a felony if committed by an adult. Prior to deeming the
15 student ineligible, an administering organization shall receive a certified copy of a criminal record reflecting the
16 conviction or adjudication and verify that the student is the same individual identified in the criminal record.

17 (l) Amateur Status Requirements

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

19 (A) graduation, except that the student may continue to participate in playoff and state championship
20 contests in spring sports after graduation;

21 (B) signing a professional athletic contract, except that the student may continue to participate in any
22 sport for which the student has not signed a professional contract.

23 (C) receiving remuneration as a participant in an athletic contest, except that the student may accept a
24 gift, merchandise, or other thing of value, provided that:

25 (i) the value does not exceed two hundred-fifty dollars (\$250.00) per student per season;

26 (ii) the item is totally consumable and nontransferable, or labeled in a permanent manner
27 (e.g., an engraved or monogrammed item); and

28 (iii) the item is approved by the student's principal and superintendent.

29 (D) participating on an all-star team or in all-star game or bowl game that is not sanctioned by the
30 administering organization of which the student's school is a member, provided that the student
31 shall be ineligible only for that sport.

32 (2) A student shall not be deemed ineligible under this Paragraph for payment by an administering organization,
33 PSU, or athletic booster club affiliated with the student's school or PSU for "essential expenses" arising from
34 a specific interscholastic athletic contest in which the student participates. "Essential expenses" include the
35 reasonable cost of meals, lodging, and transportation.

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1 (3) A student shall not be deemed ineligible under this paragraph for receipt of a nominal, standard fee or salary
2 for instructing, supervising, or officiating an organized youth sports program, recreational activities,
3 playground, or camp, whether or not affiliated with a North Carolina public school.
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5 *History Note:* Authority G.S. 115C-12(12); 115C-12(23); 115C-47(4); 115C-407.50; 115C-407.55; 115C-407.60;
6 115C-407.65; 116-235(b)