

Proposed Rule Changes

16 NCAC 06C .0600

Standards of Professional Conduct





Background (S.L. 2023-128)

- S.L. 2023-128, effective December 1, 2023, expands the applicability of the criminal statute related to indecent liberties with a student and increases penalties on school personnel who fail to report certain misconduct by educators.
- The legislation also gives the State Board of Education (“SBE”) authority to adopt temporary rules to implement the requirements of the legislation, to address disciplinary action against professional educator licenses, and to modify the Standards of Professional Conduct.



Background (Periodic Review)

- The Standards of Professional Conduct, codified 16 NCAC 06C .0601–.0602, are also among the SBE Rules that must be readopted within the next two years as part of the periodic review process required by the North Carolina Administrative Procedure Act (“APA”). *See* G.S. 150B-21.3A.
- The Office of General Counsel recommends using the temporary rulemaking authority in S.L. 2023-128 to:
 - Update and readopt the Standards of Professional Conduct; and
 - Adopt new rules governing disciplinary action against professional educator licenses.
- PEPSC reviewed and favorable recommended proposed rules on December 14, 2023.



Summary of Proposed Changes

- Revise language in the Standards of Professional Conduct (16 NCAC 06C .0602-.0602) to provide greater clarity, improve organizational structure, avoid repetition, and reflect current law.
- Repeal existing rules related to the denial, suspension, or revocation of a professional educator license, currently codified at 16 NCAC 06C .0372–.0376, and replace them with new rules, to be codified as 16 NCAC 06C .0603–.0608.
- The “repeal and replace” approach is administratively easier than the copious amendments to the existing rules that would be necessary to bring them up to date. It also improves the organizational structure of the SBE Rules by placing the licensure discipline rules in the same section as Standards of Professional Conduct, to which they are closely related.



16 NCAC 06C .0601 (Purpose and Definitions)

- Existing rule to be re-adopted pursuant to G.S. 150B-21.3A.
- Cleans up existing language.
- Adds definition section.



16 NCAC 06C .0602 (Standards of Professional Conduct)

- Existing rule to be re-adopted pursuant to G.S. 150B-21.3A.
- Cleans up existing language and re-organizes Standards for more logical flow.
- Defines “solicitation” or “encouragement” of a romantic, physical, or sexual relationship with a student.
- Clarifies that educators may not accept gifts as a “quid pro quo.”



16 NCAC 06C .0603

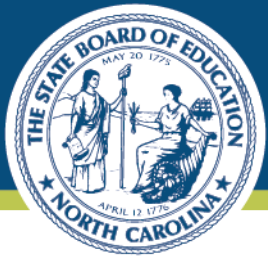
(Investigation of Alleged Misconduct by a Licensed Professional Educator or License Applicant)

- New rule, replaces 16 NCAC 06C .0374.
- Updates existing rule to reflect current practice and the requirements of the APA.



16 NCAC 06C .0604 (Denying or Sanctioning a License)

- New rule, replaces 16 NCAC 06C .0372.
- Clarifies that a licensee may face disciplinary action against the license for violating the Standards of Professional Conduct.
- Empowers the SBE to deny an application or *impose disciplinary sanctions* (instead of just suspending or revoking a license).



16 NCAC 06C .0605 (Disciplinary Sanctions)

- New rule, no current counterpart.
- Specifies all possible disciplinary sanctions that may be imposed, including written warnings, reprimands, and remedial activities.
- Codifies in rule the power to “summarily suspend” a license under G.S. 150B-23(c) when necessary for “public health, safety, or welfare.”
- Clarifies SBE obligation to report certain disciplinary sanctions to NASDTEC.



16 NCAC 06C .0606 (Voluntary Surrender of a License)

- New rule, replaces 16 NCAC 06C .0375.
- Codifies current practice of giving an educator notice of the proposed revocation order and 10 days to challenge the factual findings in the order.
- Clarifies SBE obligation to report voluntary surrenders to NASDTEC.



16 NCAC 06C .0607

(Reinstatement of or Reconsideration for a License)

- New rule, replaces 16 NCAC 06C .0376.
- Establishes process for requesting reinstatement of a revoked license or reconsideration of a denial of a license in *all* circumstances, not just the narrow and ill-defined circumstances in 16 NCAC 06C .0376.
- Establishes minimum waiting period of 12 months prior to request for reinstatement or reconsideration.



16 NCAC 06C .0608

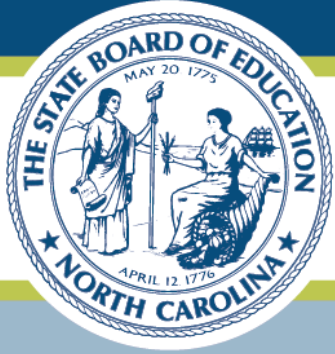
(Reporting Requirements for PSU Administrators)

- New rule, replaces 16 NCAC 06C .0373.
- Clarifies that all PSUs, not just LEAs, are required to report certain types of misconduct to the SBE within 5 days, consistent with G.S. 115C-326.20.
- Requires reporting of other types of misconduct that may justify disciplinary action within 30 days.



Proposed Timeline

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| SBE Proposes Temporary Rules | January 4, 2024 |
| Public Comment Period | January 12 – February 9, 2024 |
| Public Hearing | February 2, 2024 |
| SBE Adopts Temporary Rules | March 7, 2024 |
| Temporary Rules Take Effect | April 8, 2024 (or earlier) |



Questions?

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