

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);
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