

SUBCHAPTER 06H - FEDERAL PROGRAMS

16 NCAC 06H .0101 DEFINITIONS

As used in this Subchapter:

- (1) "Free appropriate public education" (FAPE) is defined by 34 CFR 300.13.
- (2) "Individualized education program" (IEP) is defined by 34 CFR 300.340.
- (3) "Least restrictive environment" (LRE) is defined by 34 CFR 300.550 - 300.556.
- (4) "Parent" is defined by 34 CFR 300.20.
- (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.

History Note: Authority G.S. 115C-141;
Eff. July 1, 1986;
Amended Eff. December 1, 1999; June 1, 1996.

16 NCAC 06H .0102 OPERATION OF FEDERAL PROGRAMS

- (a) The Department administers in accordance with applicable federal regulations such federal education programs as are authorized by Congress and accepted by the SBE.
- (b) In administering child nutrition programs, the Department will reclaim and/or withhold funds from any LEA or program sponsor which fails to comply with current federal regulations and state policies until the LEA or program sponsor complies.

History Note: Authority G.S. 115C-263; 115C-264; 115C-409;
Eff. July 1, 1986.

16 NCAC 06H .0103 COMPLAINT PROCEDURES FOR FEDERAL PROGRAMS

- (a) The department shall receive, review and resolve complaints for which no other procedures or remedies are available. These complaints must involve the allegation that LEAs, another subgrantee or the department has violated a federal statute, regulation or interpretive rule. This Rule shall affect those federal education programs listed in 34 CFR Part 76.
- (b) Any person(s) who believes that grounds exist for filing a complaint under Paragraph (a) of this Rule may file a written complaint with the department. The complaint must:
 - (1) be signed by the person(s) making it;
 - (2) show who has violated a specific federal requirement;
 - (3) tell how the requirement has been violated;
 - (4) state the facts upon which the complaint is based; and
 - (5) tell what relief the person 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) The department shall send the complaint to staff for review and response. If the complaint involves a subgrantee, the department shall send the complaint to that subgrantee.
- (e) The department may, in its discretion, allow the person to appear and present evidence.
- (f) The department shall issue a final written resolution of each acceptable 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.
- (g) The resolution shall include:
 - (1) a summary of the facts involved;
 - (2) a statement of the federal requirement involved;
 - (3) the department's findings of fact and a summary of the evidence it considered;
 - (4) the department's conclusions regarding each allegation and a summary of its reasons for them; and
 - (5) the department's order for any technical assistance, negotiation or corrective action that must occur and when those actions must be taken.
- (h) If a federal education program requires a subgrantee to develop and use a complaint procedure, the person complaining may use either that or the department's procedure. If the person uses the subgrantee's procedure, the person may appeal that decision to the department within 30 days after receiving it.

History Note: Authority G.S. 115C-113; 15C-409; 34 C.F.R. 76.780; N.C. Constitution Article 1X, s. 5; 34 C.F.R. 300.660-662; Eff. July 1, 1986; Amended Eff. August 1, 2000.

16 NCAC 06H .0104 CHILD NUTRITION PROCEDURES

- (a) National School Lunch Program policies and standards are as follows:
- (1) A la carte sales are limited to foods contributing to the nutritional well-being of the child and aiding in the establishment of good food habits. School food authorities and sponsoring organizations may provide these foods under the following conditions:
 - (A) Sponsors must operate all food and beverage services during or before the established lunch period through the school food service department.
 - (B) The school food service department retains all receipts from the sale of these items.
 - (C) Sponsors must use all food service income for the purpose of the school's non-profit child nutrition programs.
 - (D) A la carte items may not include foods of minimum nutritional value, as follows:
 - (i) soda water (soda pop),
 - (ii) water ices,
 - (iii) chewing gum,
 - (iv) processed foods made predominately from sweeteners or artificial sweeteners with a variety of minor ingredients. These foods include hard candy, jellies and gums, marshmallow candies, fondant, licorice, spun candy, and candy-coated popcorn; and
 - (v) confections and carbonated drinks.
 - (E) Adults may purchase individual food items without purchasing a complete lunch.
 - (2) Competitive food sales by a school of extra food items in the lunchroom or its general environs must be on a non-profit basis. "On a non-profit basis" means that the sponsor deposits income from the sale of such food items to the account of the school's non-profit lunch and breakfast programs and uses the income solely for these programs.
 - (A) The school may sell extra food items after the established lunch hour is over, only with the approval of the LEA. The established lunch hour is over when the last pupil has been served for the day.
 - (B) Occupational home economics instructional programs which operate under an approved annual vocational education plan and which involve the preparation and sale of foods to individuals other than students are not in competition with the child nutrition program.
 - (C) The Department may deny the opportunity to participate in the program to any school food authority which operates in violation of state policy.
- (b) Sponsors must use receipts from child nutrition programs for the cost of operation as outlined in current federal regulations and state policy.
- (c) No full-time public school employee is eligible for part-time employment in food services.
- (d) The only adults who may eat in the school food service department are school employees, personnel on official school business and invited local patrons. These persons pay, as a minimum, the adult price for lunch.

History Note: Authority G.S. 115C-263; 115C-264; Eff. July 1, 1986.

16 NCAC 06H .0105 ADMINISTRATION OF SPECIAL EDUCATION PROGRAMS

- (a) Implementation of the provisions of this Section which relate to providing special education and related services is the responsibility of the LEA. All agencies not associated with local school administrative units, the Department of Health and Human Services or the Department of Correction must also meet the standards described in this Section if they provide educational services to children with special needs. LEAs shall ensure that an agency meets these standards before they contract for services from such programs.
- (b) When a newly identified child with special needs has been diagnosed or evaluated by personnel under the Department of Health and Human Services, appropriate personnel from that department shall contact the LEA of the child's residence and inform that LEA in writing of the evaluation and results.

(c) LEAs, including all local school administrative units and the Departments of Health and Human Services and Correction, shall work together to plan and implement programs and services for children with special needs.

*History Note: Authority G.S. 115C-141;
Eff. July 1, 1986;
Amended Eff. December 1, 1999.*

16 NCAC 06H .0106 NON-INSTRUCTIONAL SPECIAL EDUCATION SERVICES

(a) Transportation.

- (1) LEAs shall provide or pay for the costs of transportation for children with disabilities enrolled in the schools or programs in their local school systems and shall also provide or pay for the costs of transportation to any private residential or nonresidential program if the student has been placed in or assigned to that private program by the LEA. Transportation funds for this purpose may be provided through local boards of education annual budget transportation allotments that are administered by the School Support Division of the Department. These funds shall be incorporated in the general transportation plan of each local board. For preschool children with disabilities, payment of these transportation costs must be made from either federal or state preschool program funds.
- (2) If a child with disabilities is assigned to or enrolled in any residential or nonresidential program operated by or under the jurisdiction of the Departments of Health and Human Services or Correction, the department operating the program or having the program under its jurisdiction or control shall provide or pay the costs of transportation. This shall be applicable for programs for school age students with disabilities as well as programs for preschool children with disabilities. The only exception shall be when a child is enrolled in a LEA and is counted for funding purposes by the LEA, but attends a class or classes at a Department of Health and Human Services program. In this case, the LEA shall provide the transportation to the Department of Health and Human Services program and return to the LEA or home.
- (3) The costs of transportation for a child with disabilities placed in or assigned to a school or program outside the state shall be paid by the LEA placing or assigning the child.
- (4) Reimbursement for transportation costs paid for any one child may not exceed the Department of Transportation allowance per mile unless it is demonstrated by the child or his/her parents that this limitation will work a hardship or is unreasonable. The LEA and the appropriate state agency shall approve this justification.

(b) LEAs shall determine and arrange for the provision of all materials, supplies and equipment essential to the instructional programs for children with special needs.

*History Note: Authority G.S. 115C-141;
Eff. July 1, 1986;
Amended Eff. August 1, 2000; June 1, 1996;*

16 NCAC 06H .0107 SPECIAL EDUCATION ASSESSMENT AND PLACEMENT PROCEDURES

(a) Identification, screening, evaluation and placement.

- (1) LEAs shall be responsible for insuring that all children with special needs within their jurisdiction are identified, located and evaluated, including children in private agencies within their jurisdiction ages birth through 21.
- (2) LEAs and private schools receiving placements pursuant to G.S. 115C-115 shall implement procedures for identification, screening, evaluation and placement of children with special needs. The governing body of each LEA and private school receiving placements pursuant to G.S. 115C-115 shall adopt these procedures and include the procedures described in this Rule.
- (3) LEAs may vary these procedures when sufficient evidence exists to indicate that children can be identified and placed properly within the intent of the procedures.

(b) Upon referral of a child pursuant to G.S. 115C-113(c), the parties shall follow the due process safeguards of Rule .0110 of this Subchapter.

(c) The multi-disciplinary team shall evaluate or reevaluate each child with special needs in accordance with the provisions of 34 CFR 300.530 through 300.536. Evaluations of children suspected of having a specific learning disability shall be subject to the further provisions of 34 CFR 300.540 through 300.543.

(d) Individualized education program.

- (1) Each LEA shall develop and implement an IEP for each child with a disability. The Department of Public Instruction shall monitor the effectiveness of these programs.
- (2) All IEPs shall be developed in accordance with the provisions of 34 CFR 300.340 through 300.350.
- (3) The LEA shall develop an IEP for any child with a disability who is enrolled in a parochial or other private school, but who receives special education or related services from the LEA.
- (4) The LEA shall supply to the parent(s) or guardian during a conference or by mail, in language understandable to the general public and in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so:
 - (A) a copy of the IEP if requested;
 - (B) a description of the rights of the parent(s), including the right to review data, to challenge the data, and to provide additional data that could have some effect on the placement, program, and services of the child;
 - (C) information concerning their right to an independent educational evaluation, at public expense, if they disagree with the evaluation obtained by the LEA and a list of other agencies providing free evaluations; and
 - (D) information concerning the right to appeal the decision and a copy of the appeals procedure.
- (5) The LEA shall prepare Group Education Programs (GEPs) for academically gifted students. The GEP describes a differentiated instructional program for students who share similar academic characteristics and program needs. The LEA may individualize the program to accommodate individual students' needs and any additional needs of a student not already addressed and a description of further necessary modifications.
- (6) The LEA shall prepare and implement a written program to meet the special educational needs of pregnant students.

(e) The LEA shall complete appropriate in-depth evaluations of children with a disability at least every three years in order to determine the appropriateness of the current educational status of students. Parent approval shall not be required prior to reevaluation. The parent(s) shall be notified in writing of the results of the reevaluation and the recommendations based on them, and the notice shall meet the requirements of 34 CFR 300.504. If the parent objects, the due process procedures set forth in Rule .0110 of this Subchapter shall apply.

(f) Each LEA shall make available a continuum of programs, services and placements for each child with a disability in accordance with the provisions of 34 CFR 300.550 through 300.556.

(g) Every private or nonpublic school which provides special education or related services to children with disabilities who have been placed in such school by the LEA is subject to the provisions of 34 CFR 300.400 through 300.402.

(h) Willie M. Children.

- (1) Location and identification of class members.
 - (A) Local school administrative units shall nominate to area mental health centers children that are suspected to be members of the Willie M. class.
 - (B) Local school administrative units shall request informed consent from parents to conduct additional evaluations if needed.
 - (C) Local school administrative units shall notify the Department of Public Instruction regarding the number of children nominated.
 - (D) Local school administrative units shall keep an ongoing register of all identified Willie M. class members.
 - (E) The Department of Public Instruction shall assign staff to the state level certification committee to assist in the certification of members of the Willie M. class.
- (2) Provision of educational services.
 - (A) For certified Willie M. class members local school administrative units shall:
 - (i) provide special education services in compliance with an IEP.
 - (ii) use data received through the evaluations conducted by the area mental health centers and other sources in writing the IEP; and
 - (iii) provide special education or related services to certified class members who are located in group homes or special facilities. Certified class members may receive these special programs in the group home or special facility.
 - (B) The LEA shall decide the location of the program, with advice from the area mental health center.
 - (C) Local school administrative units shall notify the Department of Public Instruction of the special education program being provided, including:

- (i) types of services;
 - (ii) the duration of services; and
 - (iii) any other information the Department deems relevant.
- (D) The Department of Public Instruction shall provide training to personnel who provide educational services to class members.
- (3) Monitoring. The SBE through the Division for Exceptional Children shall monitor local school administrative units or other facilities which provide educational services to class members to determine if the program is appropriate to meet the needs of the child. This Paragraph (3) is not effective unless funds are appropriated for the specific purpose of implementing its provisions.

*History Note: Authority G.S. 115C-141;
Eff. July 1, 1986;
Amended Eff. December 1, 1999; June 1, 1996.*

16 NCAC 06H .0108 SURROGATE PARENTS FOR CHILDREN WITH DISABILITIES

LEAs shall appoint surrogate parents for children with disabilities as provided in 34 C.F.R. 300.515.

*History Note: Authority G.S. 115C-141;
Eff. July 1, 1986;
Amended Eff. December 1, 1999; June 1, 1996.*

16 NCAC 06H .0109 CONFIDENTIALITY: ACCESS TO RECORDS IN SPECIAL EDUCATION

All matters pertaining to the confidentiality of and access to education records are subject to the provisions of 34 CFR 300.560 through 300.577 and 34 CFR Part 99.

*History Note: Authority G.S. 115C-141;
Eff. July 1, 1986;
Amended Eff. December 1, 1999.*

16 NCAC 06H .0110 SPECIAL EDUCATION DUE PROCESS PROCEDURES

- (a) The due process procedures set forth in 34 CFR 300.500 through 300.517 are adopted herein by reference thereto.
- (b) Only review officers who meet the requirements of G.S. 115C-116(i) may review hearings.

*History Note: Authority G.S. 115C-141;
Eff. July 1, 1986;
Amended Eff. December 1, 1999; May 1, 1991.*

16 NCAC 06H .0111 QUALIFIED ZONE ACADEMY BONDS

*History Note: Authority G.S. 115C-489.6; 150B-21.1(a7)(2);
Temporary Adoption Eff. January 1, 2001;
Eff. July 18, 2002;
Expired Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.*

16 NCAC 06H .0112 DISPUTE RESOLUTION PROCESS FOR HOMELESS STUDENTS

- (a) As used in this Rule:
 - (1) The terms "homeless," "homeless child," and "homeless student" shall mean the same as the term "homeless children and youth" as defined by 42 U.S.C. § 11434a(2). These terms shall also be deemed to include the term "unaccompanied youth."
 - (2) The term "unaccompanied youth" shall mean the same as defined by 42 U.S.C. § 11434a(6).
- (b) Each LEA shall appoint a liaison for homeless students. The LEA shall train the LEA liaison to carry out and mediate the dispute resolution process as expeditiously as possible and to ensure that each school and the LEA meets the requirements of the McKinney-Vento Homeless Education Assistance Improvements Act of 2001. The LEA liaison shall also ensure that each unaccompanied youth and any student who meets the definition of "homeless children and youth" as defined by 42 U.S.C. §

11434a(2) is enrolled immediately in the school pending resolution of the dispute. The burden shall be on the school or LEA to show that the student is not a homeless student or unaccompanied youth.

(c) Each LEA shall develop and implement a process for parents, guardians, or unaccompanied youth who have complaints about enrollment to file an appeal to the LEA liaison upon registering, or attempting to register, at the school. Enrollment shall be deemed to include attending classes and participating fully in school activities. The appeal process shall provide that:

- (1) faculty and staff of the school who know about the complaint must refer the child, youth, parent, or guardian to the LEA liaison;
- (2) the LEA liaison shall expeditiously carry out the dispute resolution process;
- (3) pending resolution of any complaint between the school or LEA and the parent, guardian, or unaccompanied youth over school enrollment, the LEA shall enroll the child or youth immediately in the school in which the child or youth seeks enrollment;
- (4) the LEA shall provide the student with all the services for which the student is eligible and shall permit the student to participate fully in school activities while the dispute is being resolved;
- (5) the LEA shall provide the parent, guardian, or unaccompanied youth who makes a complaint to the LEA liaison with a written statement of the rights and procedures, in language the parent, guardian, or unaccompanied youth can understand, that informs them of:
 - (A) contact information including telephone number and address of the LEA liaison and of the State coordinator for homeless education, with a brief description of their roles;
 - (B) the right to initiate the dispute resolution process either orally or in writing;
 - (C) a simple form that parents, guardians, or unaccompanied youth can complete and submit to the LEA liaison to initiate the dispute resolution process;
 - (D) a step-by-step description of how to dispute the school's decision;
 - (E) notice of the right to enroll immediately in the school of choice or remain in the school of origin with transportation provided pending resolution of the dispute;
 - (F) notice that immediate enrollment includes full participation in all school activities; and
 - (G) notice of the right to obtain assistance of advocates or attorneys.
- (6) the LEA shall provide the parent, guardian, or unaccompanied youth with the name and contact information of the State coordinator for homeless education; and
- (7) the LEA shall inform the parent, guardian, or unaccompanied youth about the right to appeal any decision regarding the student's enrollment to the State coordinator.

(d) Each LEA shall include in the dispute resolution process the following components:

- (1) The LEA shall allow the parent, guardian, or unaccompanied youth to initiate the dispute resolution process at the school at which enrollment is sought or at the LEA liaison's office.
- (2) The LEA shall inform the parent, guardian, or unaccompanied youth of the right to provide supporting written or oral documentation.
- (3) The LEA shall inform the parent, guardian, or unaccompanied youth of the right to seek the assistance of advocates or attorneys.
- (4) The LEA shall provide the parent, guardian, or unaccompanied youth with a written statement of the final LEA decision.
- (5) The LEA shall inform the parent, guardian, or unaccompanied youth of the right to appeal the final LEA decision to the State coordinator.

(e) The Superintendent of Public Instruction shall designate a State coordinator for homeless education.

(f) Any parent, guardian, or unaccompanied youth who is not satisfied with the final LEA decision regarding enrollment may appeal the decision to the State coordinator. In addition, any interested person who believes that grounds for an appeal exist may present an oral or written appeal to the State coordinator, including:

- (1) the name, address, and telephone number of the person filing the appeal;
- (2) the relationship or connection of the person to the child in question;
- (3) the name of the school system and the specific school in question;
- (4) the federal requirement alleged to have been violated;
- (5) how the requirement has been violated; and
- (6) the relief the person is seeking.

(g) If the State coordinator receives an appeal that is not complete, the coordinator shall contact the person making the appeal, explain the deficiency, and offer the person the opportunity to complete the appeal.

(h) Upon request of the State coordinator, the LEA liaison shall provide the State coordinator with the record of the complaint and the LEA's actions. If the matter involves more than one LEA, then the LEA liaisons shall cooperate to provide

the State coordinator with a complete record. In either event, the liaison or liaisons shall provide the complete record within five school days following the State coordinator's request.

(i) The LEA shall provide the State coordinator with any information that the State coordinator requests regarding the issues presented in the appeal.

(j) The State coordinator shall provide the LEA and the parent, guardian, or unaccompanied youth with the opportunity to respond to the LEA decision and to provide any additional evidence they deem relevant.

(k) The State Coordinator shall issue a final written decision to the parent, guardian, or unaccompanied youth and the LEA involved within 10 school days following receipt of the complete appeal.

(l) The State coordinator's decision shall include:

- (1) a summary of the issue appealed;
- (2) the federal requirement at issue; and
- (3) a description of the State coordinator's decision in plain language.

(m) Nothing contained in this Rule shall prohibit the State coordinator from investigating whether the parent, guardian, or unaccompanied youth knowingly and voluntarily entered into any agreement affecting their rights under McKinney-Vento Homeless Education Assistance Improvements Act of 2001. If the coordinator determines that the parent, guardian, or unaccompanied youth did not knowingly and voluntarily enter into the agreement, then the coordinator may void the agreement and enter a decision consistent with the applicable facts and law.

History Note: Authority G.S. 115C-366(a2); N.C. Constitution, Article IX, s. 5; 42 U.S.C. § 11432; Eff. February 2, 2007.

16 NCAC 06H .0113 NUTRITION STANDARDS FOR ELEMENTARY SCHOOLS

History Note: Authority G.S. 115C-264.3; N.C. Constitution, Article IX, Sec. 5; Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b); Emergency Adoption Eff. August 20, 2019; Emergency Adoption Expired Eff. November 19, 2020.

16 NCAC 06H .0114 DISPUTE RESOLUTION PROCESS FOR HOMELESS STUDENTS - DEFINITIONS

As used in this Section, the following terms shall have the following definitions:

- (1) "Homeless," "homeless child," and "homeless student" shall mean the same as the term "homeless children and youths" as defined by 42 U.S.C. 11434a(2). These terms shall also be deemed to include the term "unaccompanied youth."
- (8) "Unaccompanied youth" shall mean the same as defined by 42 U.S.C. 11434a(6).
- (3) "Local educational agency" (LEA) includes local school administrative units, charter schools, laboratory schools, regional schools, Innovative School District schools, and Innovation Zone schools.
- (2) "LEA dispute resolution process" shall refer to the LEA's policy on resolving complaints brought by parents, guardians, or unaccompanied youth regarding students experiencing homelessness. The term shall refer to appeals processes within the LEA, prior to any appeal by the parent, guardian, or unaccompanied youth appeals to the State Coordinator.
- (4) "Local liaison" shall refer to the official at each LEA, who ensures the LEA dispute resolution process for homeless children and youth is mediated in accordance with local, State, and federal policy as required by 42 U.S.C. 11432(g)(6)(A)(vii).
- (5) "School business day" means days when students are scheduled to be in attendance at school, according to the academic calendar adopted by the LEA.
- (7) "State Coordinator" shall refer to the Department of Public Instruction staff person who carries out federally mandated duties regarding students experiencing homelessness as required by 42 U.S.C. 11432(d)(3).
- (6) "State appeal process" shall refer to the policies the State Coordinator, LEAs, parents, guardians, and unaccompanied youth must follow when a parent, guardian, or unaccompanied youth seeks to appeal a dispute to the State Coordinator.

History Note: Authority G.S. 115C-12; 115C-366; 42 U.S.C. 11431; 42 U.S.C. 11432; Emergency Adoption Eff. August 20, 2019; Eff. October 1, 2020.

16 NCAC 06H .0115 DISPUTE RESOLUTION PROCESS FOR HOMELESS STUDENTS – LEA DISPUTE RESOLUTION PROCESS

(a) Each LEA shall develop and implement an LEA dispute resolution process for parents, guardians, or unaccompanied youth who have complaints about eligibility, school selection, or enrollment to file an appeal to the local liaison upon registering, or attempting to register, the child or youth at the school where enrollment is sought. For purposes of this process, the phrase "school where enrollment is sought" may be either the school of origin or the school located in the attendance zone of the child or youth's temporary residence. Enrollment shall be deemed to include attending classes and participating fully in all school activities, as required by 42 USC 11434a(1). The LEA shall publish the LEA dispute resolution process on its website or in any school unit publication that sets forth the rules, procedures, and standards for students or parents. The LEA dispute resolution process shall provide that:

- (1) the parent, guardian, or unaccompanied youth may initiate the dispute resolution process with the local liaison at the school where enrollment is sought or at the local liaison's office;
 - (2) faculty and staff of the school who know about the complaint must refer the parent, guardian, or unaccompanied youth to the local liaison;
 - (3) the local liaison shall carry out the LEA dispute resolution process within 15 school business days, or 30 calendar days, whichever is less;
 - (4) the LEA official(s) responsible for making the final LEA decision shall be identified in the local policy;
 - (5) the LEA shall enroll the child or youth immediately as required by 42 USC 11432 in the school where enrollment is sought pending resolution of any complaint between the school or LEA and the parent, guardian, or unaccompanied youth over school enrollment;
 - (6) the LEA shall provide the student with all services for which the student is eligible and shall permit the student to participate in school activities while the dispute is being resolved;
 - (7) the LEA shall, within one school business day, provide the parent, guardian, or unaccompanied youth with a statement of rights and procedures, written in a language, manner, and form they understand, to the extent the LEA deems practicable, that informs them of:
 - (A) contact information including telephone number, e-mail address, and physical address of the local liaison and of the State Coordinator for homeless education, with a description of their roles;
 - (B) the right to notify the local liaison, within two school business days of the school's decision, of the parent's, guardian's, or unaccompanied youth's intent to appeal the decision and the right to receive notice of the appeal procedure, including the timeline and process for making the initial appeal and any subsequent appeals available under LEA policy. This process must allow for requests for appeals to be made orally or in writing and must identify the LEA official(s) who makes the final LEA decision;
 - (C) a form that parents, guardians, or unaccompanied youth can understand, complete, and submit to the local liaison to formally initiate the appeal and any subsequent appeals available under LEA policy;
 - (D) the right to appeal, or request an extension of time to appeal, the final LEA decision to the State Coordinator within three school business days of receipt of the final LEA decision;
 - (E) the right to enroll immediately in the school located in the attendance zone of the child or youth's temporary residence or remain in the school of origin with transportation provided by the LEA pending resolution of the dispute, if such transportation is requested by the parent, guardian, or local liaison on behalf of the youth;
 - (F) notice that the right to enroll includes the right to fully participate in all school activities;
 - (G) the right to obtain assistance of advocates or attorneys; and
 - (H) the right to provide supporting written or oral documentation during the appeals process.
- (b) Each LEA shall appoint a local liaison for identifying homeless students. The local liaison shall:
- (1) ensure that when parents, guardians, or unaccompanied youth initiate the dispute resolution process, all parties comply with the process and that the appellants are provided with the information required by Paragraph (a) of this Rule;
 - (2) ensure that each homeless child or youth who files a dispute about enrollment or whose parent or guardian files such a dispute is enrolled immediately in the school pending resolution of the dispute;
 - (3) communicate the LEA dispute resolution process to parents, guardians, and unaccompanied youth; and

- (4) inform the LEA superintendent, other school officials participating in the LEA dispute resolution process, and the State Coordinator of the dispute no more than two school business days after the parent, guardian, or unaccompanied youth has initiated the dispute resolution process.
- (c) The State Coordinator shall train the local liaisons to carry out and mediate the dispute resolution process and to ensure that each school and the LEA meets the requirements of the McKinney-Vento Act as amended by the Every Student Succeeds Act of 2015, as set forth in 42 U.S.C. 11431 et seq.

History Note: Authority G.S. 115C-12; 115C-366; 42 U.S.C. 11431; 42 U.S.C. 11432; Emergency Adoption Eff. August 20, 2019; Eff. December 1, 2020.

16 NCAC 06H .0116 DISPUTE RESOLUTION PROCESS FOR HOMELESS STUDENTS – STATE APPEALS PROCESS

(a) Any parent, guardian, or unaccompanied youth who is not satisfied with the final LEA decision regarding enrollment may appeal the decision, within three school business days after the final LEA decision or within the period of any extension granted, to the State Coordinator through an oral or written appeal to the State Coordinator, including:

- (1) the name of the person making the appeal and, if available, his or her physical address, e-mail address, and telephone number;
- (2) the relationship or connection of the person to the child in question;
- (3) the name of the school system and the school in question;
- (4) the federal requirement alleged to have been violated;
- (5) how the requirement has been violated; and
- (6) the relief the person is seeking.

(b) If the State Coordinator receives an appeal that is missing information listed in Paragraph (a) of this Rule, the State Coordinator shall contact the person making the appeal and the local liaison, explain the deficiency, and offer the person an opportunity to provide the missing information.

(c) Upon request of the State Coordinator, the local liaison shall provide the State Coordinator with the record of the complaint, the LEA's actions, and other documents. If the matter involves more than one LEA, then the local liaisons shall cooperate to provide the State Coordinator with a complete record. The local liaison or liaisons shall provide the complete record within three school business days following the State Coordinator's request.

(d) The State Coordinator shall provide the LEA and the parent, guardian, or unaccompanied youth with the opportunity to respond to the LEA decision and to provide any additional evidence he or she deems relevant within three school business days.

(e) The State Coordinator shall issue a final written decision to the parent, guardian, or unaccompanied youth and the LEA involved within 10 school business days following receipt of the documents and information described with Paragraphs (a), (b), (c) and (d) of this Rule.

(f) The State Coordinator's decision shall include:

- (1) a summary of the issue appealed;
- (2) the federal requirement at issue; and
- (3) a description of the State Coordinator's decision in a manner and form the parent, guardian, or unaccompanied youth understand, and, to the extent practicable as determined by the State Coordinator, provided in a language that the parent, guardian, or unaccompanied youth can understand, including further steps that the LEA or parent, guardian, or unaccompanied youth are required to take.

(g) Nothing contained in this Rule shall prohibit the State Coordinator from investigating whether the parent, guardian, or unaccompanied youth knowingly and voluntarily entered into any agreement affecting his or her rights under McKinney-Vento Act as amended by the Every Student Succeeds Act of 2015. If the State Coordinator determines that the parent, guardian, or unaccompanied youth did not knowingly and voluntarily enter into the agreement, then the State Coordinator may void the agreement and enter a decision consistent with the applicable facts and State or federal law, as set forth in 42 U.S.C. 11431 et seq.

History Note: Authority G.S. 115C-12; 115C-366; 42 U.S.C. 11431; 42 U.S.C. 11432; Emergency Adoption Eff. August 20, 2019; Eff. December 1, 2020.

16 NCAC 06H .0117 OPERATION OF FEDERAL PROGRAMS

Participants in federal education programs administered by the Department of Public Instruction shall be subject to the enforcement mechanisms authorized under 2 CFR Part 200, which is hereby incorporated by reference, including subsequent editions and amendments. The CFRs may be accessed at no cost at ecfr.gov.

History Note: Authority G.S. 115C-12; 115C-263; 115C-264; 115C-409;
Emergency Adoption Eff. August 20, 2019;
Eff. March 17, 2021.