

Article 29E.

High School Interscholastic Athletic Activities.

Part 1. Definitions.

§ 115C-407.50. Definitions.

The following definitions apply in this Article:

- (1) Administering organization. – A nonprofit organization that has entered into and is in compliance with a memorandum of understanding with the Superintendent of Public Instruction to administer and enforce the adopted rules and requirements of this Article for interscholastic athletic activities at the high school level.
- (1a) Associated entity. – A foundation, association, corporation, limited liability company, partnership, or other nonprofit entity that meets any of the following criteria:
 - a. Was established by the administering organization or officers of the administering organization.
 - b. Is controlled by the administering organization.
 - c. Raises funds in the name of the administering organization.
 - d. Has a primary purpose of providing services or conducting activities in furtherance of the administering organization's mission pursuant to an agreement with the administering organization.
 - e. Has a tax-exempt status that is based on being a support organization for the administering organization.
- (2) through (5) Reserved for future codification purposes.
- (6) Parent. – The parent or legal guardian of a student participating or seeking to participate in interscholastic athletic activities.
- (7) Participating school. – A high school that elects to offer interscholastic athletic activities. (2021-184, s. 1(a); 2023-133, s. 17(a).)

Part 2. Oversight of Interscholastic Athletic Activities.

§ 115C-407.55. Rules for high school interscholastic athletic activities.

The State Board of Education shall adopt rules governing high school interscholastic athletic activities conducted by public school units that include the following:

- (1) Student participation rules. – These rules shall govern student eligibility to participate in interscholastic athletic activities. The adoption of these rules shall not be delegated to an administering organization, and student participation rules shall not be altered or expanded by an administering organization. The rules shall include, at a minimum, the following:
 - a. Academic standards.
 - b. Enrollment and transfer requirements, including the following:
 - 1. A student who is not domiciled in a local school administrative unit but enrolls in that unit pursuant to G.S. 115C-366(d) shall not be eligible to participate in interscholastic athletic activities in that unit if the student's enrollment in that unit is solely for athletic participation purposes. A student determined to be ineligible under this sub-sub-subdivision shall be ineligible to

participate in postseason play for one year following discovery of the violation.

2. A student who receives priority enrollment as the child of a full-time employee of a charter school pursuant to G.S. 115C-218.45(f)(3) shall not be eligible to participate in interscholastic athletics for that charter school if the Office of Charter Schools determines that the parent's employment was a fraudulent basis for the student's priority enrollment. A student determined to be ineligible under this sub-sub-subdivision shall be ineligible to participate in postseason play for one year following discovery of the violation.
 - c. Attendance requirements.
 - d. Medical eligibility requirements.
 - e. Biological participation requirements as required by G.S. 115C-407.59.
 - f. Recruiting limitations.
 - g. Hardship exceptions that may be granted by the independent appeals board established by subdivision (4) of this section.
 - h. Student amateur status requirements, including rules related to use of a student's name, image, and likeness.
- (2) Student health and safety rules. – These rules shall govern requirements to ensure student health and safety during participation in interscholastic athletic activities, including rules related to concussions and emergency action plans as required by G.S. 115C-407.57 and G.S. 115C-407.58. The adoption of these rules shall not be delegated to an administering organization and student health and safety rules shall not be altered or expanded by an administering organization.
- (3) Penalty rules. – These rules shall establish a system of demerits for infractions of student participation rules and gameplay rules which may result in reprimands, probations, suspensions, forfeitures of contests, forfeitures of titles, and disqualifications but shall not result in monetary penalties of any kind. The State Board may by rule delegate the authority to establish all or a portion of the penalty rules to an administering organization.
- (4) Appeals rules. – These rules shall establish an appeals process that provides due process to students, parents, and participating schools for enforcement of rules through hearings held before an independent appeals board. The adoption of these rules may not be delegated to an administering organization and appeals rules shall not be altered or expanded by an administering organization. The rules shall require the following:
 - a. The Superintendent of Public Instruction shall appoint an independent appeals board.
 - b. Notice of the infraction and the appeals process shall be provided to the party that receives the penalty.
 - c. An opportunity to be heard before the independent appeals board shall be given to the entity that receives the penalty.
 - d. A student and that student's parent shall be allowed to appeal a penalty resulting from the application of any rule that restricts an individual

student from participating in a season, game, or series of games, and shall be provided a written copy of the rule that is the basis for the penalty.

- e. The independent appeals board shall have authority to grant hardship exceptions in accordance with rules established under subdivision (1) of this section.
- (5) Administrative rules. – These rules shall govern classifications of schools into divisions and conferences, administration of games, and requirements for coaching, officiating, sportsmanship, and scheduling of seasons. The State Board may by rule delegate the authority to establish all or a portion of the administrative rules to an administering organization.
- (6) Gameplay rules. – These rules shall be adopted in accordance with the requirements of the governing organization for each sport, including the requirements of the National Federation of State High School Associations. The State Board may by rule delegate the authority to establish all or a portion of the gameplay rules to an administering organization.
- (7) Fees. – These rules shall establish the fees and other amounts that may be charged to a participating school for participation in interscholastic athletic activities. The adoption of these rules shall not be delegated to an administering organization and fees shall not be altered or expanded by an administering organization.
- (8) Administering organization rules. – These rules shall require that to be designated as an administering organization, a nonprofit must enter into and remain compliant with a memorandum of understanding with the Superintendent of Public Instruction consistent with the requirements of G.S. 115C-407.61. The adoption of these rules shall not be delegated to an administering organization and administering organization rules shall not be altered or expanded by an administering organization. The rules shall also require the following:
 - a. The State Board may, by majority vote, invalidate any rule or regulation adopted by the administering organization.
 - b. The administering organization be audited annually by a reputable independent auditing firm, engage in open meetings, and provide the State Board access to records of the administering organization, including financial information, annual audit reports, and any matters related to or impacting participating schools, and to any audits of associated entities. An independent auditing firm is a firm which performs no other tasks or functions for the administering organization besides the annual audit.
 - c. The administering organization shall enter into written agreements with each participating school.
 - d. The memorandum of understanding shall incorporate by reference any subsequent changes to rules or statutes made after the parties enter into the memorandum.
- (9) Reporting rules. – These rules shall establish a process for reporting issues or concerns related to the administration of interscholastic athletic activities,

including intimidation or harassment of the participating school or its employees or students by an administering organization. The adoption of these rules may not be delegated to an administering organization and reporting rules shall not be altered or expanded by an administering organization. (2021-184, s. 1(a); 2023-133, s. 17(a).)

§ 115C-407.57. Rules on concussions and head injuries.

(a) For the purpose of this section, a concussion is a traumatic brain injury caused by a direct or indirect impact to the head that results in disruption of normal brain function which may or may not result in loss of consciousness.

(b) With regard to middle schools and high schools, the State Board of Education shall adopt rules that provide for the following:

- (1) All coaches, school nurses, athletic directors, first responders, volunteers, students who participate in interscholastic athletic activities, and the parents of those students shall receive, on an annual basis, a concussion and head injury information sheet. School employees, first responders, volunteers, and students must sign the sheet and return it to the coach before they can participate in interscholastic athletic activities, including tryouts, practices, or competition. Parents must sign the sheet and return it to the coach before their children can participate in any such interscholastic athletic activities. The signed sheets shall be maintained in accordance with subsection (c) of this section.
- (2) If a student participating in an interscholastic athletic activity exhibits signs or symptoms consistent with a concussion, the student shall be removed from the activity at that time and shall not be allowed to return to play or practice that day. The student shall not return to play or practice on a subsequent day until the student is evaluated by and receives written clearance for such participation from one of the following:
 - a. A physician licensed under Article 1 of Chapter 90 of the General Statutes with training in concussion management.
 - b. A neuropsychologist licensed under Article 18A of Chapter 90 of the General Statutes with training in concussion management and working in consultation with a physician licensed under Article 1 of Chapter 90 of the General Statutes.
 - c. An athletic trainer licensed under Article 34 of Chapter 90 of the General Statutes.
 - d. A physician assistant, consistent with the limitations of G.S. 90-18.1.
 - e. A nurse practitioner, consistent with the limitations of G.S. 90-18.2.

(c) Each middle and high school shall maintain complete and accurate records of its compliance with the requirements of this section. (2023-133, s. 18(b).)

§ 115C-407.58. Emergency action plans.

(a) With regard to middle schools and high schools, the State Board of Education shall adopt a rule that requires each school to develop a venue-specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan shall include a delineation of roles, methods of communication, available emergency equipment, and access to and plan for emergency transport.

(b) The rule required by subsection (a) of this section shall require the plan to be at least the following:

- (1) In writing.
- (2) Reviewed by an athletic trainer licensed in North Carolina.
- (3) Approved by the principal of the school.
- (4) Distributed to all appropriate personnel.
- (5) Posted conspicuously at all venues.
- (6) Reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletic activities. (2023-133, s. 18(c).)

§ 115C-407.59. Athletic eligibility.

(a) All teams participating in interscholastic or intramural athletic activities shall comply with the following:

- (1) Each team shall be expressly designated by the biological sex of the team participants as one of the following:
 - a. Males, men, or boys.
 - b. Females, women, or girls.
 - c. Coed or mixed.
- (2) Athletic teams designated for females, women, or girls shall not be open to students of the male sex.
- (3) For purposes of this sub-subdivision, a student's sex shall be recognized based solely on the student's reproductive biology and genetics at birth.

(b) A student who is deprived of an athletic opportunity or suffers or is likely to suffer from any direct or indirect harm as a result of a violation of subsection (a) of this section may assert that violation as a cause of action for remedies provided for in subsection (e) of this section.

(c) A student who is subjected to retaliation or other adverse action by a public school unit, administering organization, or other organization as a result of reporting a violation of subsection (a) of this section to an employee or representative of the public school unit, administering organization, or to any local, State, or federal agency with oversight of the public school unit shall have a cause of action for remedies provided for in subsection (e) of this section.

(d) Any public school unit or its representatives or employees who suffer any direct or indirect harm for complying with subsection (a) of this section shall have a cause of action for remedies provided for in subsection (e) of this section.

(e) Any person who brings a cause of action pursuant to subsection (b), (c), or (d) of this section within two years of the date the harm occurred, may obtain appropriate relief, including the following:

- (1) Injunctive relief, protective order, writ of mandamus or prohibition, or declaratory relief to prevent any violation of subsection (a) of this section.
- (2) Actual damages, including for psychological, emotional, or physical harm, reasonable attorney fees, and costs.

(f) The State Board of Education shall monitor middle and high schools for compliance with subsection (a) of this section. If the Board finds a school in violation, it shall report the identity of the school to the Joint Legislative Education Oversight Committee. (2023-133, s. 18(d).)

Part 3. Memorandum of Understanding.

§ 115C-407.60. Administration and enforcement of high school interscholastic athletic activity rules.

(a) The Superintendent of Public Instruction may enter into a memorandum of understanding for a term of four years with one or more nonprofit organizations to administer and enforce the requirements of this Article and the rules adopted by the State Board for interscholastic athletic activities at the high school level. A memorandum of understanding shall include the requirements of G.S. 115C-407.61 and shall comply with the requirements of this Article. If the State Board by rule delegates the authority to establish certain rules to an administering organization, as provided in G.S. 115C-407.55, the administering organization shall not be required to comply with the requirements of Chapter 150B of the General Statutes in establishing those rules.

(a1) The State Auditor is authorized to conduct audits of any administering organization in the same manner as for State agencies in accordance with Article 5A of Chapter 147 of the General Statutes, if the State Auditor deems an audit necessary.

(b) If the Superintendent is unable to enter into a memorandum of understanding, the State Board shall assign the administration of high school interscholastic athletic activities to the Superintendent of Public Instruction and establish fees sufficient to support the administration of the program.

(c) An administering organization is a public body for the purposes of Article 33C of Chapter 143 of the General Statutes. (2021-184, s. 1(a); 2023-133, s. 17(a).)

§ 115C-407.61. Memorandum of understanding requirements.

(a) If the Superintendent of Public Instruction enters into a memorandum of understanding with a nonprofit organization as provided in G.S. 115C-407.60, the memorandum shall require that organization to do the following in accordance with the requirements of this Article to maintain the authority to administer and enforce the requirements for high school interscholastic athletic activities:

- (1) Apply, enforce, and administer all rules adopted by the State Board without alteration or expansion.
- (2) If delegated by the State Board, adopt, apply, enforce, and administer administrative rules, gameplay rules, and penalty rules. A rule shall not be adopted by an administering organization until the organization has provided for publication of the proposed rule on the organization's website and provided the opportunity to the public for notice and comment on the rule. All adopted rules shall be provided within 15 days to the Superintendent for review. If the Superintendent determines that the rule adopted by an administering organization is unenforceable, the Superintendent shall notify the State Board and the administering organization shall not enforce the rule. Upon notice from the Superintendent, the State Board may either require the administering organization to revise the rule and resubmit it to the Superintendent or may rescind the delegation of authority and adopt a rule by emergency rule.
- (3) Make publicly available at no cost on the administering organization's website the following:
 - a. The organization's handbook for participating schools.
 - b. All student participation rules.
 - c. All gameplay rules.

- d. Information on the appeals process, including specific information on how to make an appeal.
 - e. Fees charged to participating schools for participation in interscholastic activities, including membership in the administering organization and post-season game participation.
- (4) Agree to adopt requirements for membership of the nonprofit board that require equal representation on the board from each educational district established as provided in G.S. 115C-65, and a member appointed by the Superintendent of Public Instruction.
 - (5) Adopt an ethics policy that requires board members to avoid conflicts of interest and the appearance of impropriety.
 - (6) Agree to adopt procedures for its operations that are comparable to those of Chapter 132 of the General Statutes, the Public Records Law, and provide for enforcement by the Superintendent. The procedures may provide for the confidentiality of personnel files comparable to Article 7 of Chapter 126 of the General Statutes.
 - (7) Apply the standards established by the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, to all student records containing personally identifiable information in the possession of the administering organization. The administering organization shall be authorized to display and share student information designated by a participating school as directory information unless the participating school indicates that a parent has opted out of disclosure of that information. Other than directory information, all student records containing personally identifiable information held by the administering organization are not public records and should not be released under procedures adopted in accordance with subdivision (6) of this subsection.
 - (8) Enter into contracts with participating schools as to the monetary requirements for participation, including the payment of reasonable annual fees by participating schools as needed to support the duties of the administering association. Annual fees may vary based on the division to which the school is assigned. All fees shall be in compliance with the State Board's fee rules.
 - (9) Agree to reduce annual fees to participating schools by a minimum of twenty percent (20%) when the total fund balance for the administering organization and any associated entity is two hundred fifty percent (250%) of the administering organization's total expenses from the prior fiscal year. The administering organization may increase annual fees to participating schools, consistent with the State Board's rules on fees, when the total fund balance for the administering organization and any associated entity is one hundred fifty percent (150%) of the organization's total expenses from the prior fiscal year.
 - (10) Agree to retain no more than thirty-three percent (33%) of the net proceeds of any State tournament game.
 - (11) Agree to be audited annually by a reputable independent auditing firm that meets, at a minimum, the standards required by the Local Government Commission for certification to audit local government accounts as provided in G.S. 159-34, and to be audited by the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes, if the State Auditor deems an audit

necessary. An independent auditing firm is a firm which performs no other tasks or functions for the administering organization besides the annual audit.

- (12) Agree to not establish, control, or receive funds from an associated entity unless the associated entity agrees to all of the following:
 - a. An annual audit as provided in subdivision (11) of this subsection that will be made available to the Superintendent of Public Instruction.
 - b. A prohibition on engagement in any of the activities prohibited under subdivision (13) of this subsection.
 - c. A prohibition on receipt of any of the administering organization's funds or proceeds of State tournament games.
- (13) Agree to not engage in any of the following activities:
 - a. Solicit grant funding and sponsorships from third-party organizations, other than for State tournament games.
 - b. Provide grants to schools regulated by the administering organization.
 - c. Provide scholarships to players, except when funded by donor-directed funds.
 - d. Designate the use of specific or preferred vendors or require the use of any single-source or vendor specific contracts.
 - e. Retain a percentage of gate receipts for games other than State tournament games.
 - f. Regulate or control the intellectual property of schools, including team logos, mascots, and audio or video of any game other than the State tournament games.
 - g. Restrict the recording of audio or video at a State tournament game by any parent of a student participating in the game or any employee of the school participating in the game.
 - h. Retain any portion of receipts collected from ticket sales, concessions, or sale of merchandise by a participating school.
 - i. Retaliate against participating schools, or the employees or students of those schools, for reporting to the administering organization, the State Board, or any other government entity on any of the following topics. For the purposes of this sub-subdivision, "retaliate" does not include the application of a penalty rule that is appealable to an independent appeals board.
 - 1. Violations of laws or rules.
 - 2. Fraud.
 - 3. Misappropriation of resources.
 - 4. Substantial and specific danger to student or employee health and safety.
 - 5. Gross mismanagement or abuse of authority.
 - j. Prohibit or restrict a participating school from scheduling a nonconference game during the regular season or take any portion of ticket seasons from those games.
- (15) Report annually by December 1 to the Superintendent of Public Instruction and the State Board of Education on the following:

- a. Activities during the prior school year and recommendations and findings regarding improvement of high school interscholastic athletics.
- b. A copy of both the most recent annual audit conducted by the independent auditing firm and any audit conducted by the State Auditor.
- c. A schedule of current fees charged to participating schools.
- d. The amount of fees and gate receipts collected.
- e. The current fund balance for the administering organization.

(b) The Superintendent may terminate any memorandum of understanding for noncompliance with this Article or the terms of the memorandum of understanding. In the event of termination of a memorandum of understanding, the nonprofit organization shall return to each participating school a pro rata share of the funds paid by that school for the year as provided in the participating school's contract with the organization.

(c) The Superintendent may renew a memorandum of understanding with an administering organization for an additional term of four years. If the Superintendent or administering organization do not intend to renew a memorandum of understanding, that entity shall provide written notice to the other party a minimum of six months prior to the expiration of the memorandum of understanding. (2023-133, s. 17(a).)

Part 4. Public School Unit Conduct of Interscholastic Athletic Activities.

§ 115C-407.65. Conduct of high school interscholastic athletic activities by public school units.

(a) All public school units with participating schools shall conduct high school interscholastic athletic activities in accordance with the rules adopted by the State Board of Education and as administered and enforced by either an administering organization that is in compliance with the memorandum of understanding or the Superintendent of Public Instruction. Public school units shall not be regulated by any other entities for regular and postseason high school interscholastic athletics.

(b) Participating schools shall purchase catastrophic insurance for high school interscholastic athletic activities as provided in Part 2 of Article 31A of Chapter 58 of the General Statutes. (2021-184, s. 1(a); 2023-133, s. 17(a).)

§ 115C-407.70. Middle school interscholastic athletic activities.

(a) The State Board of Education shall adopt rules governing middle school interscholastic athletic activities conducted by public school units consistent with the requirements of G.S. 115C-407.55 for student participation rules, student health and safety rules, penalty rules, appeals rules, administrative rules, gameplay rules, fee rules, and reporting rules.

(b) The rules adopted by the State Board of Education for interscholastic athletic activities at the middle school level shall be administered by the Superintendent of Public Instruction.

(c) All public school units with schools that participate in middle school interscholastic athletics shall conduct middle school interscholastic athletic activities in accordance with the rules adopted by the State Board of Education and as administered and enforced by the Superintendent of Public Instruction. (2023-133, s. 17(a).)

Part 5. Public School Unit Reports.

§ 115C-407.75. Public school units annual interscholastic athletic reports.

(a) Each public school unit with one or more participating schools shall annually report by June 15 the following information to the Superintendent of Public Instruction and the State Board of Education:

- (1) The total dollar amount spent on interscholastic athletic activities, by the following categories:
 - a. Administering association fees.
 - b. Salaries or stipends for coaches and faculties for duties associated solely with interscholastic athletics.
 - c. Capital costs, including new construction, repair and renovation, and maintenance costs for existing athletic facilities.
 - d. Uniform and equipment costs.
 - e. Travel and transportation costs.
 - f. Officiating costs.
 - g. Other identified costs.
- (2) The total dollar amount received from interscholastic athletic activities, including funds held in special funds of individual schools, by the following categories:
 - a. Gate receipts.
 - b. Concession sales.
 - c. Merchandise sales or sales of items directly related to interscholastic athletics, including apparel and audiovisual materials.
 - d. Student fees.
 - e. Monetary and in-kind contributions from third-party organizations.
 - f. State or local funding expended on capital costs for athletic facilities.
 - g. Other identified sources of funds.

(b) The Superintendent of Public Instruction shall provide a summary of the reports by public school units and a copy of each public school unit report to the Joint Legislative Education Oversight Committee no later than October 15 annually. (2023-133, s. 17(a).)