



PUBLIC SCHOOLS OF NORTH CAROLINA
STATE BOARD OF EDUCATION | Eric C. Davis, Chairman
WWW.NCPUBLICSCHOOLS.ORG

MEMORANDUM

submitted via email: govops@ncleg.net

TO: Joint Legislative Commission on Government Operations
FROM: North Carolina State Board of Education Legal Office
DATE: September 9, 2019
RE: Request for Consultation regarding Memorialization of North Carolina
Department of Public Instruction Licensure Fees for Professional Educators

At its regularly scheduled August 2019 meeting, the North Carolina State Board of Education adopted certain emergency rules pursuant to S.L. 2019-154, *An Act to Adopt a Fifteen-Point Scale in the Determination of School Performance Grades, To Require the State Board of Education to Adopt Emergency Rules in Preparation for Permanent Rule Making, and To Direct the State Board of Education to Study the Reporting Methods used for School Accountability Purposes on the North Carolina Annual Report Cards*. See **Attachment A**, Emergency Rule-Making Findings of Need.

Section 27.(b) of SL 2019-154 follows the decision in *North Carolina State Board of Education v. State of North Carolina and North Carolina Rules Review Commission*, No. 110PA16-2 (June 8, 2018), in which a divided North Carolina Supreme Court affirmed the authority of the General Assembly to delegate authority to the Rules Review Commission to review and approve the administrative rules that are proposed by the State Board of Education for codification. In part, the General Assembly passed the Session Law “[t]o ensure that administration of the free public schools shall continue without interruption” and outlined a unique process to facilitate the Board of Education’s rule making efforts. Among other things, the Session Law: (i) confers “interim rule” status on the existing policies of the State Board of Education subject to rule making as provided in Chapter 150B of the General Statutes; (ii) directs the Board to adopt interim rules as emergency rules; and (iii) expects the State Board to submit a notice for publication of text to adopt all emergency rules as permanent rules in the North Carolina Register no later than December 6, 2019. See **Attachment B**, S.L. 2019-154.

Emergency rule *16 NCAC 06 .0322 Licensure Fees* mirrors the Board’s long-standing LICN-008 policy, which outlines certain application fees for professional educator licenses. The emergency rule does not change any application fees for professional educators; rather, it seeks to preserve application fees that have been in place since January 1, 2017. See **Attachment C**, 16 NCAC 06C .0322; **Attachment D**, LICN-008.

STATE BOARD OF EDUCATION-LEGAL OFFICE

Eric A. Snider, General Counsel | eric.snider@dpi.nc.gov
6302 Mail Service Center, Raleigh, North Carolina 27699-6302 | (919) 807-3405 | Fax (919) 807-3198
AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

Statutory authority exists to support this emergency rule and its predecessor, LICN-008. General Statute § 115C-270.10 requires the State Board of Education to establish a schedule of fees for professional educator licenses. See **Attachment E**, N.C. Gen. Stat. § 115C-270.10. Under the law, the fees must not exceed the actual cost of providing the service, may be nonrefundable or nontransferable and any nonrefundable or nontransferable fee must be paid at the time the application is submitted.

Further, the statute explains that the State Board may establish fees for any of the following services:

1. Application for demographic or administrative changes to a license.
2. Application for a duplicate license or for copies of documents in the licensure files.
3. Application for a renewal, extension, addition, upgrade, reinstatement, and variation to a license.
4. Initial application for a new graduate from any recognized educator preparation program.
5. Initial application for an out-of-state applicant.
6. All other applications.

Staff from the North Carolina Department of Public Instruction previously provided a detailed explanation for fees associated with the processing of professional educator licenses in October 2016 when the Chief Financial Officer for NCDPI requested that the State Board raise application fees, effective January 2017. See **Attachment F**, Board Materials.

In summary, in 2016 the CFO provided the following explanation for an increase of licensure fees in 2017:

- The State Board adopted policies implementing licensure fees in 2001; however, in 2016, those fees had not been updated since originally adopted by the Board.
- The licensure division of DPI is receipt funded and receives the majority of its budget directly from licensure application fees.
- Using FY 2016-17 date, NCDPI's Financial and Business Services estimated that licensure operations expenditures would total near \$2.5 million while licensure receipts based on the previous fee structure would bring in only \$1.8 million. In 2016, after using Title II grant funds toward licensure operations, the Licensure Division was still experiencing a funding gap. With the proposed increased licensing fee structure in 2017, NCDPI's Financial and Business Services estimated that licensure receipts would rise to \$2.6 million, which would close the funding gap.

The motion to adopt the new fee structure was brought before the Board at their October 6, 2016 meeting and the State Board of Education voted unanimously to adopt the revised fee schedule.

Here, the State Board of Education merely seeks to memorialize in an administrative rule its previously-enacted policy regarding licensure processing fees. The State Board of Education is not seeking to raise or change the amount of any current fee related to licensing, which is reflected in table below excerpted from the emergency rule and LICN-008:

FEES ESTABLISHED:

Application Types	Fees for Applications Opened Effective January 1, 2017*
Opened by Individual Educators	
In-State Initial Professional License	\$70
Out-of-State Initial Professional License	\$100
Extend Provisional License Area	\$60
Delete License Area	\$60
Change Work Authorization	\$60
Add Area by Program Completion	\$60
Add Experience	\$60
Add Area by Test or 24 Sem. Hrs.	\$60
Add National Board Certification	\$60
Clear Validation	\$60
Upgrade or Clear License Area	\$60
Late Renewal	\$35
Name Change	\$60
Update Contact Information	No fee
Education Record Correction	No fee
Verification of NC License	\$30
Request Copy of Files/Test Scores	\$30
Research Experience	\$30

Opened by Employing School System on Behalf of Educators	
Initial Alternative License	\$100
Validate an Expired Continuing Professional License	\$60
Extend Initial Professional License	\$60
Recommend Initial to Continuing Professional License	\$60
Upgrade or Clear License Area	\$60
Clear Validation	\$60
Convert to LAT	\$60
Convert to CTE	\$60
Add Alternative Area	\$60
Authorize Graduate Pay	\$60
Processed by School System during Renewal Window of 4/15 through 7/31	
Renew License	\$35
Recommend Initial to Continuing Professional License	No fee
Extend Provisional License Area	No fee
Opened by RALC on Behalf of Educators through June 30, 2022	
Upgrade of Clear License Area	\$60
Convert to Initial Professional License	\$60
Convert to Continuing Professional License	\$60