



CHAPTER 115C
ARTICLE 9 - EDUCATION OF CHILDREN WITH DISABILITIES

N.C.G.S. § 115C-109.6.

Impartial due process hearings.

SOURCE General Statutes of North Carolina, as published by the General Assembly	LAST AMENDMENT IN THIS TEXT S.L. 2021-180, s. 7.25(b) — eighteenth act in the lineage	RETRIEVED 21 September 2026, 02:28 UTC	SOURCE FINGERPRINT 389693a19e6e30f6def67bdf - e5ddae5f7dc01698874e4da4 - cd8f1a646a8bc689
--	---	---	--

- § 115C-109.6(a)

Any party may file with the Office of Administrative Hearings a petition to request an impartial hearing with respect to any matter relating to the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education of a child, or a manifestation determination. The party filing the petition must notify the other party and the person designated under G.S. 115C-107.2(b)(9) by simultaneously serving them with a copy of the petition.
- § 115C-109.6(b)

Notwithstanding any other law, the party shall file a petition under subsection (a) of this section that includes the information required under IDEA and that sets forth an alleged violation that occurred not more than one year before the party knew or reasonably should have known about the alleged action that forms the basis of the petition. The issues for review under this section are limited to those set forth in subsection (a) of this section. The party requesting the hearing may not raise issues that were not raised in the petition unless the other party agrees otherwise.
- § 115C-109.6(c)

The one-year restriction in subsection (b) of this section shall not apply to a parent if the parent was prevented from requesting the hearing due to (i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the petition, or (ii) the local educational agency's withholding of information from the parent that was required under State or federal law to be provided to the parent.
- § 115C-109.6(d)

The hearing shall be conducted in the county where the child attends school or is entitled to enroll under G.S. 115C-366, unless the parties mutually agree to a different venue.

§ 115C-109.6(e) The hearing shall be closed to the public unless the parent requests in writing that the hearing be open to the public.

§ 115C-109.6(f) Subject to G.S. 115C-109.7, the decision of the administrative law judge shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education. Following the hearing, the administrative law judge shall issue a written decision regarding the issues set forth in subsection (a) of this section. The decision shall contain findings of fact and conclusions of law. The decision of the administrative law judge becomes final and is not subject to further review unless an aggrieved party brings a civil action under subsection (h2) of this section.

§ 115C-109.6(g) A copy of the administrative law judge's decision shall be served upon each party and a copy shall be furnished to the attorneys of record. The written notice shall contain a statement informing the parties of the right to file a civil action and the 30-day limitation period for filing a civil action under subsection (h2) of this section.

§ 115C-109.6(h) In addition to the petition, the parties shall simultaneously serve a copy of all pleadings, agreements, and motions under this Part with the person designated by the State Board under G.S. 115C-107.2(b)(9). The Office of Administrative Hearings shall simultaneously serve a copy of all orders and decisions under this Part with the person designated by the State Board under G.S. 115C-107.2(b)(9).

§ 115C-109.6(h1) The State Board shall enforce the final decision of the administrative law judge under this section by ordering a local educational agency to comply with one or more of the following:

- (1) To provide a child with appropriate education.
- (2) To place a child in a private school that is approved to provide special education and that can provide the child an appropriate education.

- (3) To reimburse parents for reasonable private school placement costs in accordance with this Article and IDEA when it is determined that the local educational agency did not offer or provide the child with appropriate education and the private school in which the parent placed the child was an approved school and did provide the child an appropriate education.

§ 115C-109.6(h2) Any party who is aggrieved by the findings and decision of a hearing officer under this Part may institute a civil action in State court within 30 days after receipt of the notice of the decision or in federal court as provided in 20 U.S.C. § 1415.

§ 115C-109.6(h3) Except as provided under IDEA, upon the filing of a petition under this section and during the pendency of any proceedings under this Part, the child must remain in the child's then-current educational placement or, if applying for initial admission to a public school, the child must be placed in the public school. Notwithstanding this subsection, the parties may agree in writing to a different educational placement for the child during the pendency of any proceedings under this section.

§ 115C-109.6(i) Nothing in this section shall be construed to preclude a parent from filing a separate due process petition on an issue separate from a petition already filed.

§ 115C-109.6(j) The State Board, through the Exceptional Children Division, and the State Office of Administrative Hearings shall develop and enter into a binding memorandum of understanding to ensure compliance with the statutory and regulatory procedures and timelines applicable under IDEA to due process hearings and to hearing officers' decisions, and to ensure the parties' due process rights to a fair and impartial hearing. This memorandum of understanding shall be amended if subsequent changes to IDEA are made. The procedures and timelines shall be made part of the Board's procedural safeguards that are made available to parents and the public under G.S. 115C-109.1 and G.S. 115C-109.5.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
18 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

| | | | | | | | | |

1973		1997	2021
TICK HEIGHT = ACTS IN THAT YEAR		DASHED = RECODIFICATION, NOT AMENDMENT	
Nº	YEAR	ACT	CHARACTER
01	1973	c. 1293, s. 10	ENACTED
02	1975	c. 151, ss. 1, 2	AMENDED
03	1975	c. 563, ss. 8, 9	AMENDED
04	1975	2nd Sess., c. 983, ss. 79, 80	AMENDED
05	1981	c. 423, s. 1	AMENDED
06	1981	c. 497, ss. 1, 2	AMENDED
07	1983	c. 247, s. 6	AMENDED
08	1985	c. 412, s. 2	AMENDED
09	1987	c. 827, s. 1	AMENDED
10	1987	1987 (Reg. Sess., 1988), c. 1079, s. 1	AMENDED
11	1989	c. 362	AMENDED
12	1989	1989 (Reg. Sess., 1990), c. 1058	AMENDED
13	1991	c. 540, s. 1	AMENDED
14	1991	1991 (Reg. Sess., 1992), c. 1030, s. 27	AMENDED
15	1993	c. 270, s. 1	AMENDED
16	1997	S.L. 1997-115, s. 1	AMENDED
17	2006	S.L. 2006-69, s. 2	AMENDED
18	2021	S.L. 2021-180, s. 7.25(b)	AMENDED

APPARATUS II

5 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 115C-107.2(b)(9)	(a)	"party and the person designated under"
G.S. 115C-366	(d)	"or is entitled to enroll under"
G.S. 115C-109.7	(f)	"Subject to"
G.S. 115C-109.1	(i)	"to parents and the public under"
G.S. 115C-109.5	(i)	"the public under G.S. 115C-109.1 and"

APPARATUS III

Citation

FULL SECTION

N.C. Gen. Stat. § 115C-109.6 (2021).

PINPOINT

N.C. Gen. Stat. § 115C-109.6(a) (2021).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

This document reproduces the text of one section of the General Statutes of North Carolina from a source file whose SHA-256 digest is printed on every page. The digest fixes the bytes this export was made from; if the State's file changes, the digest will not match.

The text of the section is unaltered. Subsection designators have been moved from the run of text into the margin. The amendment history and the table of authorities are derived from the section by mechanical extraction — they add no characterization of the law.

This is not the official text. The official text is published by the General Assembly of North Carolina.

HISTORY PARENTHETICAL, AS PRINTED BY THE STATE

(1973, c. 1293, s. 10; 1975, c. 151, ss. 1, 2; c. 563, ss. 8, 9; 1975, 2nd Sess., c. 983, ss. 79, 80; 1981, c. 423, s. 1; c. 497, ss. 1, 2; 1983, c. 247, s. 6; 1985, c. 412, s. 2; 1987, c. 827, s. 1; 1987 (Reg. Sess., 1988), c. 1079, s. 1; 1989, c. 362; 1989 (Reg. Sess., 1990), c. 1058; 1991, c. 540, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 27; 1993, c. 270, s. 1; 1997-115, s. 1; 2006-69, s. 2; 2021-180, s. 7.25(b).)

SET IN SPECTRAL AND ARCHIVO
NORTH CAROLINA LAW — STATUTE EXPORT, FORMAT V1

