

CHAPTER 15.1-06 SCHOOLS

15.1-06-01. (Effective through June 30, 2010) Schools free and accessible - School ages.

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before September first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before September first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before September first of the year of enrollment.
2. Notwithstanding the provisions of subsection 1, a school district may not enroll in grade one a child who is not six years old before September first, unless the child will be six years old before January first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate special talents or abilities; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before September first unless the child will be five years old before January first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate special talents or abilities.

(Effective after June 30, 2010) Schools free and accessible - School ages.

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.

3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.

15.1-06-02. School holidays.

1. Schools may not be in session on the following holidays:
 - a. Any Sunday.
 - b. New Year's Day, the first day of January.
 - c. Good Friday, the Friday preceding Easter Sunday.
 - d. Memorial Day, the last Monday in May.
 - e. The anniversary of the Declaration of Independence, the fourth day of July.
 - f. Labor Day, the first Monday in September.
 - g. Veteran's Day, the eleventh day of November.
 - h. Thanksgiving Day, the fourth Thursday in November.
 - i. Christmas Day, the twenty-fifth day of December.
 - j. Any day declared to be a public holiday by the President of the United States or the governor.
2. Notwithstanding the provisions of subsection 1, if the first day of January, the fourth day of July, the eleventh day of November, or the twenty-fifth day of December is a Sunday, the school district shall observe the holiday on the following Monday.
3. Notwithstanding the provisions of subsection 1, if the eleventh day of November is a Saturday, the school district shall observe the holiday on the preceding Friday.
4. The board of a school district may direct that classes not be held on the day of a statewide election if the school is used as a polling place on that day.

15.1-06-03. School year - Definition. The school year begins on July first and ends on June thirtieth the following year.

15.1-06-04. School calendar - Length.

1. During the 2009-10 school year, a school district shall provide for a school calendar of at least one hundred eighty days.
 - a. One hundred seventy-three days must be used for instruction;
 - b. Three days must be used for holidays, as selected by the school board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;
 - c. Up to two days must be used for:
 - (1) Parent-teacher conferences; or

- (2) Compensatory time for parent-teacher conferences held outside regular school hours; and
 - d. Two days must be used for professional development.
2. During the 2010-11 school year, a school district shall provide for a school calendar of at least one hundred eighty-one days.
 - a. One hundred seventy-four days must be used for instruction;
 - b. Three days must be used for holidays, as selected by the board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;
 - c. Up to two days must be used for:
 - (1) Parent-teacher conferences; or
 - (2) Compensatory time for parent-teacher conferences held outside of regular school hours; and
 - d. Two days must be used for professional development.
3. Beginning with the 2011-12 school year, a school district shall provide for a school calendar of at least one hundred eighty-two days.
 - a. One hundred seventy-five days must be used for instruction;
 - b. Three days must be used for holidays, as selected by the board in consultation with district teachers from the list provided for in subdivisions b through j of subsection 1 of section 15.1-06-02;
 - c. Up to two days must be used for:
 - (1) Parent-teacher conferences; or
 - (2) Compensatory time for parent-teacher conferences held outside of regular school hours; and
 - d. Two days must be used for professional development.
4. A day for professional development must consist of:
 - a. Six hours of professional development, exclusive of meals and other breaks, conducted within a single day; or
 - b. Two four-hour periods of professional development, exclusive of meals and other breaks, conducted over two days.
5. If a school district offers a four-hour period of professional development, as permitted in subdivision b of subsection 4, the school district may schedule instruction during other available hours on that same day and be credited with providing one-half day of instruction to students. This subsection does not apply unless the one-half day of instruction equals at least one-half of the time required for a full day of instruction, as defined in this section.
6. a. In meeting the requirements for two days of professional development under this section, a school district may require that its teachers attend the North

Dakota education association instructional conference and may pay teachers for attending the conference, provided their attendance is verified.

- b. In meeting the requirements for two days of professional development under this section, a school district may consider attendance at the North Dakota education association instructional conference to be optional, elect not to pay teachers for attending the instructional conference, and instead direct any resulting savings toward providing alternate professional development opportunities.
 - c. A school district may not require the attendance of teachers in school or at any school-sponsored, school-directed, school-sanctioned, or school-related activities and may not schedule classroom instruction time nor alternate professional development activities on any day that conflicts with the North Dakota education association instructional conference.
7. Beginning with the 2010-11 school year, if a school district elects to provide an optional third day of professional development, the school district shall do so by:
 - a. Meeting the requirements for a day of professional development as set forth in subsection 4; or
 - b. Shortening four instructional days, for the purpose of providing for two-hour periods of professional development, provided:
 - (1) Each instructional day on which such professional development occurs includes at least four hours of instruction for kindergarten and elementary students and four and one-half hours for high school students;
 - (2) The instructional time for each course normally scheduled on that day is reduced proportionately or the daily schedule is reconfigured to ensure that the same course is not subject to early dismissal more than one time per school calendar, as a result of this subdivision; and
 - (3) All teachers having a class dismissed as a result of this subdivision are required to be in attendance and participate in the professional development.
8.
 - a. If a school's calendar provides for an extension of each schoolday beyond the statutorily required minimum number of hours, and if the extensions when aggregated over an entire school year amount to more than eighty-four hours of additional classroom instruction during the school year, the school is exempt from having to make up six hours of instruction time lost as a result of weather-related closure. In order to make up lost classroom instruction time beyond the six hours, the school must extend its normal school calendar day by at least thirty minutes.
 - b. A school that does not qualify under the provisions of this subsection must extend its normal schoolday by at least thirty minutes to make up classroom instruction time lost as a result of weather-related closure.
 - c. If because of weather a school must dismiss before completing a full day of instruction, the school is responsible for making up only those hours and portions of an hour between the time of early dismissal and the conclusion of a full day of classroom instruction.
9. For purposes of this section, a full day of instruction consists of:

- a. At least five and one-half hours for kindergarten and elementary students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction; and
- b. At least six hours for high school students, during which time the students are required to be in attendance for the purpose of receiving curricular instruction.

15.1-06-05. Instructional days - Reconfiguration - Application.

1. A school district may apply to the superintendent of public instruction for permission to reconfigure the number of instructional days required by section 15.1-06-04.
2. The superintendent of public instruction may approve an application under subsection 1 only if the reconfiguration of the required number of instructional days:
 - a. Makes available to each of the school district's elementary students at least nine hundred fifty-one and one-half hours of instructional time and makes available to each of the district's high school students at least one thousand thirty-eight hours of instructional time; and
 - b.
 - (1) Encourages innovation;
 - (2) Provides improved educational opportunities or enhanced academic opportunities for the students;
 - (3) Provides for greater flexibility in the use of a school by current students;
 - (4) Provides for greater flexibility in the use of a school by individuals or groups other than current students; or
 - (5) Results in significant cost-savings to the district.
3. A reconfiguration of instructional days approved by the superintendent of public instruction under this section is valid for one school year. A school district may apply to the superintendent for permission to extend the reconfiguration. If granted, the first extension after the initial year is valid for one school year. All extensions thereafter are valid for five school years.
4. If the superintendent of public instruction approves a district's application for reconfiguration of instructional time under this section, the district is eligible to receive the per student payments provided under chapter 15.1-27.
5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications and the monitoring of any school or school district that receives a waiver under this section.
6. A reconfiguration of instructional days approved by the superintendent of public instruction under this section satisfies the requirements for school operation and instructional time required by law.
7. A reconfiguration of instructional days approved by the superintendent of public instruction under this section does not affect the accrual of teachers' benefits provided by law.

15.1-06-06. Approval of public and nonpublic schools. Each public and nonpublic school in this state offering elementary or secondary education to students must be approved by the superintendent of public instruction. Except as otherwise provided by law, the superintendent may not approve a school unless:

1. Each classroom teacher is licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
2. Each classroom teacher is teaching only in those course areas or fields for which the teacher is licensed or for which the teacher has received an exception under section 15.1-09-57;
3. The students are offered all subjects required by law;
4. The school is in compliance with all local and state health, fire, and safety laws; and
5. The school has conducted all criminal history record checks required by section 12-60-24.

15.1-06-07. Nonpublic high schools - Approval criteria. The superintendent of public instruction shall approve any nonpublic high school having an enrollment of fifty students or fewer, provided:

1. The school meets all statutory requirements regarding the subjects to be taught, the length of the school year, and health, fire, and safety standards;
2. If the school uses telecommunications or other electronic means to deliver curricular programs, the programs are prepared by individuals holding at least baccalaureate degrees and delivered in the presence of an individual who holds a North Dakota professional teaching license or who meets or exceeds the average cutoff scores of states that have normed the national teacher's examination;
3. The school employs at least one state-licensed high school teacher to serve in a supervisory capacity for each twenty-five students;
4. The average composite scholastic achievement test scores of students enrolled in the school or the students' scores achieved on comparable standardized tests meet or exceed the national average test scores; and
5. The school and its employees are governed by a board of directors that includes parental representation.

15.1-06-08. Rules for school accreditation - Waiver.

1. A school or school district may apply to the superintendent of public instruction for a waiver of any rule governing the accreditation of schools, provided the waiver:
 - a. Encourages innovation; and
 - b. Has the potential to result in improved educational opportunities or enhanced academic opportunities for the students.
2. The initial waiver must be for a specific period of time, but may not exceed one year. A school or a school district for which a waiver has been approved under this section may apply for one extension of the waiver. The extension may not exceed one year.
3. If the superintendent of public instruction, after receipt and consideration of an application for a waiver of a rule governing the accreditation of schools under this section approves the waiver, the superintendent shall file a report with the legislative council. The report must cite the accreditation rule that was waived, provide a detailed account of the reasons for which the rule was waived, and state the time period for which the rule was waived. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a

notice of denial with the legislative council. If requested, the superintendent shall appear and respond to questions regarding the approval or denial of any application for a waiver.

4. Any waiver granted by the superintendent of public instruction prior to August 1, 2001, is void as of August 1, 2001. Any school or school district operating under a waiver granted by the superintendent prior to August 1, 2001, may apply for a new waiver under this section.

15.1-06-08.1. Statutes - Waiver.

1. The superintendent of public instruction may not waive any statute, in whole or in part, except as provided for in this section.
2. A school or school district may apply to the superintendent of public instruction for a waiver of section 15.1-21-03, provided the waiver:
 - a. Encourages innovation; and
 - b. Has the potential to result in improved educational opportunities or enhanced academic opportunities for the students.
3. The initial waiver must be for a specific period of time but may not exceed one year. The school district may apply for extensions of the waiver. The first extension may not exceed a period of one year. Additional extensions may not exceed periods of two years.
4. If the superintendent of public instruction, after receipt and consideration of an application for a waiver under this section, approves the waiver, the superintendent shall file a report with the legislative council. The report must provide a detailed account of the reasons for which the waiver was granted and the specific time period for the waiver. If the superintendent of public instruction denies an application for a waiver under this section, the superintendent shall file a notice of denial with the legislative council. If requested, the superintendent shall appear and respond to questions regarding the approval or denial of any application for a waiver under this section.
5. The superintendent of public instruction shall adopt rules governing the submission and evaluation of applications and the monitoring of any school or school district that receives a waiver under this section.

15.1-06-09. Inspection of public schools - Submission of inspection report - Correction of deficiencies.

1. The state fire marshal or the state fire marshal's designee shall inspect each public school in this state at least once every three years, prepare an inspection report, and provide copies of the report to the superintendent of the school district and the superintendent of public instruction.
2.
 - a. If a deficiency is noted, the superintendent of the school district shall submit a plan of correction to the state fire marshal or the state fire marshal's designee and shall remedy the deficiency within a time period acceptable to the state fire marshal or the state fire marshal's designee and the school board affected by the deficiency, but not later than the next budget period.
 - b. If the report discloses an imminent fire hazard, the state fire marshal or the state fire marshal's designee shall immediately notify the school board, the school district superintendent, and the superintendent of public instruction. Upon a recommendation of immediate closure by the superintendent of public

instruction, the school board and the school district superintendent may immediately close some or all of the school until the fire hazard is eliminated. In the case of a closure, the school district superintendent shall cooperate with the superintendent of public instruction to make adequate arrangements for the interim education of all affected students.

15.1-06-10. Inspection of nonpublic schools - Submission of inspection report - Correction of deficiencies.

1. The state fire marshal or the state fire marshal's designee shall inspect each nonpublic school in this state at least once every three years, prepare an inspection report, and provide copies of the report to the administrator of the school and the superintendent of public instruction.
2. a. If a deficiency is noted, the administrator of the school shall submit a plan of correction to the state fire marshal or the state fire marshal's designee and shall remedy the deficiency within a time period acceptable to the state fire marshal or the state fire marshal's designee.

b. If the report discloses an imminent fire hazard, the state fire marshal or the state fire marshal's designee shall immediately notify the administrator of the school and the superintendent of public instruction. Upon a recommendation of immediate closure by the superintendent of public instruction, the administrator may immediately close some or all of the school until the fire hazard is eliminated. In the case of a closure, the administrator shall cooperate with the superintendent of public instruction to make adequate arrangements for the interim education of all affected students.

15.1-06-11. Exit doors - Free of obstructions. A school principal shall ensure that, during all hours students are in school, any door or doorway that could be used as an exit in case of fire or other emergency remains free of all obstruction and free of any device or mechanism which may impede immediate egress through the door or doorway. This section does not include doors that provide access solely to private offices, supply rooms, or storage rooms.

15.1-06-12. Emergency and disaster drills - Implementation. Each school district superintendent shall implement fire, tornado, and other emergency or disaster drills.

15.1-06-13. Schools - Compliance with health, safety, and sanitation requirements. The superintendent of each school district shall ensure that the schools in the district comply with all health, safety, and sanitation requirements.

15.1-06-14. Use of schools for purposes other than education. The board of a school district may permit the district's schools and facilities to be used for purposes other than the education of students, provided the usage does not interfere with the education of students. The board may impose restrictions on the usage provided the restrictions are nondiscriminatory and may impose a charge for the usage.

15.1-06-15. Solicitations and sales in schools - Permission required - Accounting for proceeds - Penalty.

1. No person may sell, solicit for sale, or advertise the sale of any merchandise, product, or service on school premises, or organize students for any such purpose, without first obtaining the permission of the school board, the school district superintendent, or the school principal. This section does not apply to a student or school district employee who sells or attempts to sell a single item of personal property or a limited number of personal property items.
2. The proceeds of any sale, by students or student groups, made for school activities must be accounted for to the school board not more than thirty days after the sale.

3. Any person who violates any provision of this section is guilty of an infraction.

15.1-06-16. Disturbance of a public school - Penalty. It is a class B misdemeanor for any person to:

1. Willfully disturb a public school that is in session;
2. Willfully interfere with or interrupt the proper order or management of a public school by an act of violence, boisterous conduct, or threatening language; or
3. Rebuke, insult, or threaten a teacher in the presence of a student.

15.1-06-17. United States flag - Display. The board of a school district shall display a United States flag on the grounds of each school in the district during each schoolday in seasonable weather.

15.1-06-17.1. Religious objects or documents - Display. A religious object or document of cultural, legal, or historical significance which has influenced the legal and governmental systems of the United States and this state may be displayed in a public school building together with other objects or documents of cultural, legal, or historical significance, which have influenced the legal and governmental systems of the United States and this state. The display of a religious object or document under this section must be in the same manner and appearance generally as other objects and documents displayed and may not be presented or displayed in any fashion that results in calling attention to the religious object or document apart from the other displayed objects or documents. A school board shall develop a policy for the proper display of any religious objects or documents.

15.1-06-17.2. National motto - Display in schools. The motto of the United States of America "IN GOD WE TRUST" may be displayed in each public school.

15.1-06-18. School report - Review.

1. Annually, each public school principal shall complete a school report on forms provided by the superintendent of public instruction and submit the report to the school district superintendent.
2. The school district superintendent shall collect the completed reports and forward them to the superintendent of public instruction, who shall submit the reports to the governor.
3. Upon receiving the completed reports, the governor shall convene an ad hoc committee to review the information and to make any necessary changes in the information-gathering format.
4. The governor or a designee of the governor shall serve as the chairman of the ad hoc committee.
5. The membership of the ad hoc committee must include:
 - a. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota council of educational leaders.
 - b. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota education association.
 - c. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota school boards association.

- d. Two individuals selected by the governor from a list of five nominees proposed by the North Dakota parent-teachers association.
- e. Two parents of school-age children selected by the governor.
- f. Two high school students selected by the governor.
- g. The superintendent of public instruction or a designee of the superintendent.

15.1-06-19. Counselor positions - Requirement.

1. Beginning with the 2010-11 school year, each school district must have available one full-time equivalent counselor for every three hundred students in grades seven through twelve.
2. Up to one-third of the full-time equivalency requirement established in subsection 1 may be met by career advisors.
3. For purposes of this section, a "career advisor" means an individual who holds a certificate in career development facilitation issued by the department of career and technical education under section 15-20.1-24 or an individual who is provisionally approved by the department of career and technical education under section 15-20.1-25 to serve as a career advisor.

15.1-06-20. Career advisor - Duties. A career advisor shall provide sequential career development activities, current career information, and related career exploration opportunities to students in grades seven through twelve. A career advisor shall use computer-assisted career guidance systems and work at the direction and under the supervision of the school district counseling staff.