

## **DHHS Directive Number II-36**

**Title:** Delegation of Authority to Director, Office of Education Services  
**Effective Date:** November 3, 2008  
**Revision History:** January 1, 2002  
**Authority:** G.S. 143B-10; G.S. 143B-216.40; G.S. 143B-164.10; G.S. 143B-146.1 through 146.21; G.S.143B-164.11; G.S.115C-105.37; G.S. 115C-105.37(a)(1); G.S.115C-333; G.S. 115C-334; SB 1005 Sec. 29.4(a).

### **Purpose**

The purpose of this directive is to delegate, clarify and specifically confirm the authority of the Secretary of North Carolina Department of Health and Human Services (NC DHHS) to the Director of the Office of Education Services. These authorities are delegated under the supervision of the Assistant Secretary for Long Term Care and Family Services, and the Director shall report to the Secretary through the Assistant Secretary for Long Term Care and Family Services.

### **Delegation of Authority**

As provided in G.S. 143B-10(a), the Secretary of the DHHS delegates the following function functions and responsibilities concerning the management and administration to the Director of the Office of Education Services, subject to state and departmental policy:

1. The functions of management, related to the Office of Education Services, as defined in G.S. 143B-10, G.S. 143B-146.21 which include: planning, organizing, staffing, directing, coordinating reporting and budgeting.
2. The management and rulemaking authority (in coordination with the Office of the General Counsel) to develop and carry out programs, including, but not limited to the provision of comprehensive residential and nonresidential educational program services for persons who are deaf or hard of hearing, deaf-blind, and/or visually impaired aged birth to 21 years of age (G.S. 143B-216.40, G.S. 143-164.10).

3. Providing management and clerical support services to the Board of Directors for the Governor Morehead School [G.S. 143B-164.11(e)].
4. Providing management and clerical support services to the Educational Advisory Council for DHHS.
5. The authority to function as the Superintendent for the Schools for the Deaf and Governor Morehead School and the preschools as provided by statute, including (but not limited to) the following duties:
  - A. Manage the schools and preschool programs;
  - B. Improve student academic and post-secondary outcomes;
  - C. Strengthen collaborative relationships with local education agencies and the State Board of Education;
  - D. Establish fees to support athletic programs;
  - E. Oversee the participation of grade levels within the schools in the ABC program established by the State Board of Education;
  - F. Develop guidelines for participation in the ABC program;
  - G. Recognize schools' successful participation in the ABC program;
  - H. Identify low-performing schools and assign an assistance or assessment team as dictate by statute;
  - I. Enable assistance and assessment teams to make recommendations;
  - J. Develop plans to address the needs of low-performing schools;
  - K. Notify parents of actions taken to improve low-performing schools;
  - L. Review or appoint a designee to review the performance and construct action plans for certified employees at low-performing schools;
  - M. Evaluate school directors;
  - N. Review, approve, amend or suspend the School Improvement Plans written by School Improvement Teams at the schools;
  - O. Review, approve, amend, or suspend Technology Plans written by each school;
  - P. Create a procedure for the resolution of disputes between the schools and parents;
  - Q. Report certain acts to law enforcement;
  - R. Conduct criminal records checks on residential school personnel;
  - S. Consult with the State Board of Education with respect to implementation of educational policies and procedures; and
  - T. Regulate policies and procedures relevant to communication skills.
6. The authority to issue declaratory rulings as to the validity or applicability of any rule which has been adopted or as to the applicability of any statute, rule or order administered by the office to a given set of facts, unless otherwise specified by statute or rule.
7. The authority to appoint a hearing officer, when necessary, to hear appeals of administrative decisions regarding any law, rule or policy enforced by the office,

- under administrative procedures set forth in G.S. Chapter 150B or otherwise required by state or federal law.
8. The authority to issue a final agency decision in contested case hearings. However, if the initial administrative decision, which is the subject matter of the appeal, was rendered by the Director, then the Secretary of DHHS shall make the final agency decision.
  9. The Director shall be responsible for coordinating the division's monitoring functions with other divisions and local partners to ensure compliance with state and federal requirements.
  10. The Director shall be responsible for ensuring that the division is familiar with and adheres to the department's policy and Procedures Manual.

This delegation of authority shall not deprive the Secretary from performing, in lieu of the Director of the Office of Education Services, any of the acts set forth above. This delegation of authority may be amended or withdrawn by the Secretary at any time and without notice. This delegation of authority shall not apply to any actions which by law, state policy, or NC Governor's Executive Order, may only be executed by the Secretary.

APPROVED

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Dempsey Benton, Secretary  
Department of Health and Human Services