



**Via electronic mail only**

October 2, 2023

Darryl Thomas, Principal  
New Bern High School  
4200 Academic Drive  
New Bern, North Carolina 28562

**FINAL DECISION BY NCHSAA**

Dear Principal Thomas:

This letter contains the final decision of the NCHSAA on an infraction of NCHSAA rules by New Bern High School's 2022 Football Program and the resulting penalties.

**Findings of Fact**

On June 1, 2023, Dr. Wendy Miller, Superintendent, Craven County Schools, notified the NCHSAA that a preliminary investigation involving student-athletes was underway in Craven County. Dr. Miller indicated she would inform the NCHSAA of the findings of that investigation.

On September 11, 2023, Dr. Miller informed the NCHSAA of her findings:

“After a thorough investigation, we have determined that student-athletes on the New Bern High School football team during the fall 2022 season received passing grades on their transcripts for multiple courses in the spring semester of 2022 that differed from the grades assigned by their teachers. The grades assigned by their teachers appear to be the accurate representation of the students’ performance in the courses. Had the grades assigned by their teachers remained on their transcripts, these students would have been ineligible to play football in the fall semester of 2022 . . .”

In email correspondence to the NCHSAA, Dr. Miller further confirmed that New Bern High School's “review determined that the students should have been **ineligible** for athletics in the fall semester of 2022.”

Based on the information provided by Dr. Miller, the NCHSAA finds that New Bern High School permitted academically ineligible student-athletes to participate on the football team during the fall 2022 season.

**Applicable Rule(s)/Conclusions of Law**

The NCHSAA Handbook in effect at the time of the fall 2022 season provided that:

1.2.6 Scholastic Requirements – A student must have passed a minimum load of work during the preceding semester to be eligible at any time during the present semester.

The applicable penalty rules are as follows:

3.3.1 Penalty Code - The NCHSAA has the power to penalize the school, officials, the coach, and the individual student-athletes if Association rules and regulations are not followed. Some specific penalties will be found below; however, the NCHSAA may take any action it deems justified as it relates to the infraction involved.

3.3.2 Sanctions - Any prescribed remedy for a violation of Association rules as defined below:

- (a) Remediation – any action(s) required with the intent of correcting individual behavior or athletic program deficiencies (e.g., NFHS coursework, trainings, etc.)
- (b) Reprimand – a formal, written warning outlining a finding of infraction(s) and detailing the prescribed sanctions for such incident. The number of accumulated reprimands for a school or individual will reset to zero on August 1.
- (c) Probation – a sanction placed by the Association in response to a violation or incident in which an individual, team, or school that has been found in violation of Association rules. The period of probation shall not exceed 365 days.
- (d) Forfeiture (Team) – an official action taken when the violation of a rule requires the offending team to receive automatic losses for all contests played during the period indicated.
- (e) Forfeiture (Individual) – an official action taken when the violation of a rule requires the offending individual(s) to lose any individual matches or points earned in all contests played during the period indicated.
- (f) Suspension – a sanction constituting a temporary withholding of the privilege of participation in interscholastic athletic activities (practices or games) and NCHSAA programs for a student-athlete, coach, administrator, official, or school. A suspension may carry over from one academic year to the next.

3.3.4 Maximum Sanction for Infraction Levels - If a school, team, coach, or individual is a repeat offender, already on probation, or is found to have committed violations of a willful nature, the level of an infraction may be increased by the NCHSAA. The Commissioner shall notify the school and the involved parties in writing of the findings and of the level of violations that occurred. Any increase in the level of a violation deemed appropriate by the Commissioner must be noted in the violation notice along with the reasoning for an increase. If the membership entity appeals the final decision of the NCHSAA as set forth in Rule 1.4, the appeal may include a challenge to the level of a violation in cases where the Commissioner deems an increase necessary.

- (a) Level 1 – Reprimand
- (b) Level 2 – Probation
- (c) Level 3 – Forfeiture
- (d) Level 4 – Suspension

NOTE - Any infraction at a given level may include sanctions from the previous level(s).

3.3.5(c)(8) Student-athlete dresses for a contest while ineligible (Level 3 infraction)

3.3.8(c) A team which participates in the playoffs while using an ineligible student-athlete must return its awards to the NCHSAA. The revenue from said playoff games must also be returned to the NCHSAA for distribution to the impacted schools during the playoffs. Its finish in the playoffs shall be vacated, even if the playoffs have concluded.

The NCHSAA concludes that New Bern High School, in connection with the 2022 Football Program, committed a Level 3 Infraction pursuant to NCHSAA Rule 3.3.5(c)(8) by having student-athletes dress for a contest while ineligible; namely, New Bern High School used student-athletes who did not meet academic standards set forth in NCHSAA Rule 1.2.6.

NCHSAA Rule 3.3.4 prescribes forfeiture as the maximum penalty for a Level 3 infraction. In addition, NCHSAA Rule 3.3.4 provides that “[a]ny infraction at a given level may include sanctions from the previous level(s).” The maximum penalty for a Level 2 infraction is probation. Therefore, the penalty for New Bern High School’s Level 3 infraction may include both forfeiture and probation. The NCHSAA found and concluded that forfeiture alone was insufficient to address the infraction based on all the facts and circumstances and levied the additional penalty of probation for the 2023 Football Season.

### **Description of Penalties Imposed**

Therefore, the following penalties shall be imposed on the 2022 Football Program for using ineligible players in violation of NCSHAA Rules 1.2.6: Scholastic Requirements and 3.3.5(c)(8): Student-athlete dresses for a contest while ineligible.

#### **Mandatory forfeiture and probation:**

Upon receipt of this letter, the 2022 Football Program must **forfeit** all contests in which the ineligible student-athletes dressed to participate. Additionally, the Football Program is placed on **probation** for the 2023 season.

#### **Consequences of forfeiture pursuant to NCHSAA Rule 3.3.8(c):**

- Any regular-season awards earned must be returned to the Conference President.
- Any playoff awards, banners, plaques, and medals must be returned to the NCHSAA.
- Playoff revenues earned by New Bern High School, **\$38,662.77**, must be returned to the NCHSAA no later than March 31, 2024. Those funds will be distributed to member schools impacted by the use of ineligible players by New Bern High School during the playoffs and championship game.
- New Bern’s state championship is hereby vacated.

## NOTICE

This document is the final written ruling of the NCHSAA in this matter. **The school is responsible for notifying all impacted persons of this decision.** Any appeal of this ruling must be submitted to the Office of General Counsel for the State Board of Education both via email and the United States Postal Service within five days of the member school's receipt of this written ruling, following the procedures set forth in the NCHSAA Handbook, Rule 1.4.

Thank you for your assistance in preparing and submitting this matter for our review. Please contact our office with any questions or if you need further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Blanton", is written over a vertical line that serves as a separator between the salutation and the signature.

Chris Blanton, President, NCHSAA Board of Directors

cc: Dr. Wendy Miller, Superintendent, Craven County Schools  
Gregory Monroe, System Athletic Director, Craven County Schools  
William Lansche, Athletic Director, New Bern High School  
Que Tucker, Commissioner, NCHSAA