



## Questions and Answers: Follow Up to Webinar on S.L. 2023-106

*This document is being provided as a follow up to the Eastern Area Health Education Center (EAHEC) webinar offered on January 26, 2024, which focused on [S.L. 2023-106](#). Questions in the webinar chat that were not answered during the webinar were collected and then consolidated as rewritten below based on common themes. Additional resources on S.L. 2023-106 are listed at the end of this document. Please contact Kirsten Leloudis ([kirsten@sog.unc.edu](mailto:kirsten@sog.unc.edu)) with questions.*

**Q1:** Is a school health office a “health care facility” under S.L. 2023-106, Part 3?

**A1:** No. The term “health care facility” is defined at the new G.S. 90-21.10A(3) to include health care facilities that are “licensed under Chapter 131E or 122C of the General Statutes, where health care services are provided to patients [...]” School health offices are not licensed under G.S. 131E or G.S. 122C and are therefore not health care facilities for the purpose of S.L. 2023-106, Part 3. However, school health offices may employ health care professionals- including school nurses- who meet the definition of a “health care practitioner” under the new G.S. 90-21.10A(4) and who are subject to the requirements of S.L. 2023-106, Part 3.

**Q2:** Is a person standing *in loco parentis* (PILP) to a minor authorized to consent to mental health services (therapy, psychiatric care, etc.) for that minor?

**A2:** Yes. A PILP is included in the definition of a “parent” under the new G.S. 90-21.10A(6) and is authorized to consent to health services for a minor (including mental health services). For more information about who qualifies as a PILP, please see this UNC School of Government blog post: [“Who is a ‘Person Standing in Loco Parentis’ and When Can They Consent to Health Care for a Minor?”](#)

**Q3:** Can a school teacher be a person standing *in loco parentis* (PILP) for a student who is a minor for the purpose of consenting to health care services for that student?

**A3:** No. A PILP is someone who has “assumed parental responsibilities, including support and maintenance of the minor.” See new G.S. 90-21.10A(6). Although a teacher may be responsible for a child’s education and wellbeing during the school day, a teacher does not assume parental responsibilities for their students. For more information about who qualifies as a PILP, please see this UNC School of Government blog post: [“Who is a ‘Person Standing in Loco Parentis’ and When Can They Consent to Health Care for a Minor?”](#)

**Q4:** Can a foster parent give consent for their foster child to receive health services?

**A4:** No. A foster parent is not a “parent” (which includes biological/adoptive parents, guardians, or PILPs) as defined under the laws that govern consent to health services for minors. When a child is placed in the custody of the Department of Social Services (DSS) and in foster care, a state law—[G.S. 7B-505.1](#)—governs who can consent to care for that child. For more information about who can consent to care for a child in DSS custody, please see this UNC School of Government blog post: [“New Law: Consenting to Medical Treatment for a Child Placed in the Custody of County Department.”](#)



**Q5:** Are vision and hearing screenings that are offered in public schools a type of “treatment” under S.L. 2023-106, Part 3 that require parental consent?

**A5:** No. Health screenings generally do not prevent, diagnose, or treat a disease or illness; rather, they enable early detection of a potential health concern, such as a vision or hearing difference. When a screening identifies a potential concern, children and their families have the option to pursue follow-up services, which may include diagnostic testing or treatment. In some instances, health screenings do not have to be ordered or performed by health care practitioners and can instead be carried out by trained lay staff and volunteers. For example, in North Carolina, children’s vision screenings may be performed by volunteers who are trained and certified by Prevent Blindness North Carolina, and certain hearing screenings can be provided by unlicensed persons who have received appropriate training. For more information about the definition of “treatment” and health screenings in schools, please see this bulletin published by the UNC School of Government: [“Consent to Care for Minor Patients: An Update on the Legal Landscape after S.L. 2023-106, Part III.”](#)

Although health screenings do not constitute “treatment” under the new law, health screenings offered in North Carolina public schools may be subject to S.L. 2023-106, Part 2, Section 2.(a), which amends G.S. Chapter 115C and addresses certain services provided in the public school setting. Under the new G.S. 115C-76.45(a), the governing body of a public school unit must adopt procedures for notifying parents, at the beginning of each school year, of the “means for the parent to consent” to a health service or the use of a health screening form for the parent’s child. This means that public schools must have a procedure for notifying parents of the process for opting in or opting out (as applicable) of any health screenings that may be offered at the school.

**Q6:** Is the potential \$5,000 fine described in S.L. 2023-106, Part 3 assessed once per disciplinary action or multiple times for each instance of failing to obtain the required parental consent?

**A6:** The new G.S. 90-21.10C states that violation of the parental consent requirements in the new G.S. 90-21.10B may result in disciplinary action by the health care practitioner’s licensing board as well as a fine of *up to* \$5,000. The law does not specify whether the fine of up to \$5,000 should be assessed just once per disciplinary action or multiple times for every instance in which the practitioner being disciplined failed to obtain the required parental consent. Health care practitioners with additional questions should consult their licensing board for more information.

**Q7:** S.L. 2023-106, Part 2 includes a requirement that a child’s parent be notified before any changes are made to “the name or pronoun used for a student in school records or by school personnel.” *See* new G.S. 115C-76.45. Does this include a requirement to notify a parent if a student shares that they identify as a member of the LGBTQ+ community? And does this notification requirement apply to health care providers who do not work in schools?

**A7:** Part 2 of S.L. 2023-106 only speaks to situations involving a change in a student’s pronouns or name used in school records or by school personnel. Although a student’s identification as a member of the LGBTQ+ community may be related to a change in the student’s name or pronouns, disclosure of a student’s sexuality or gender identity to school personnel (absent a



change in name or pronouns) does not trigger the law's parental notification requirement. The requirement to notify a parent of a name or pronoun change only applies in the educational setting- therefore, a provider who delivers health care in another context (such as a pediatrician's office or at the local health department's clinic) is not required to comply with the notification requirement in S.L. 2023-106, Part 2 that is related to names and pronouns.

### **Additional Resources**

#### UNC School of Government Bulletins on S.L. 2023-106

- January 2024- "Consent to Care for Minor Parents: An Update on the Legal Landscape after S.L. 2023-106, Part III," <https://www.sog.unc.edu/publications/bulletins/consent-care-minor-patients-update-legal-landscape-after-sl-2023-106-part-iii>

#### UNC School of Government Blog Posts on S.L. 2023-106

- August 2023- "What's the Status of North Carolina's Minor's Consent Law After S.L. 2023-106?," <https://canons.sog.unc.edu/2023/08/sl2023-106-and-minors-consent/>
- September 2023- "S.L. 2023-106: Parents' Rights, Who Is a Parent, and Juvenile Abuse, Neglect, and Dependency Cases," <https://canons.sog.unc.edu/2023/09/s-l-2023-106-parents-rights-who-is-a-parent-and-juvenile-abuse-neglect-and-dependency-cases/>
- October 2023- "What Is (or Isn't) "Treatment" of a Minor Under S.L. 2023-106, Part 3?," [https://canons.sog.unc.edu/2023/10/sl2023-106\\_treatment/](https://canons.sog.unc.edu/2023/10/sl2023-106_treatment/)
- November 2023- "Obtaining Written or Documented Parental Consent for Treatment of a Minor Under S.L. 2023-106, Part 3," [https://canons.sog.unc.edu/2023/11/parental\\_consent\\_treatment/](https://canons.sog.unc.edu/2023/11/parental_consent_treatment/)

#### UNC School of Government Blog Posts on Related Topics

- November 2015- "New Law: Consenting to Medical Treatment for a Child Placed in the Custody of County Department," <https://canons.sog.unc.edu/2015/11/new-law-consenting-to-medical-treatment-for-a-child-placed-in-the-custody-of-county-department/>
- October 2022- "An Update on Minor's Consent: Changes to the Law and Implications for COVID-19, Mpox, and Beyond," <https://canons.sog.unc.edu/2022/10/minors-consent-change-covid19-monkeypox-and-beyond/>
- March 2023- "Who is a "Person Standing In Loco Parentis" and When Can They Consent to Health Care for a Minor?," <https://canons.sog.unc.edu/2023/03/in-loco-parentis-consent-healthcare-minors/>
- May 2023- "COVID-19 Is No Longer "Reportable" in North Carolina: Implications for Minor's Consent," <https://canons.sog.unc.edu/2023/05/covid-19-is-no-longer-reportable-in-north-carolina-minors-consent/>