

Article 14A.

Charter Schools.

Part 1. Governance and Applications for Charter Schools.

**§ 115C-218. Purpose of charter schools; role of State Board of Education; establishment of North Carolina Charter Schools Review Board and North Carolina Office of Charter Schools.**

(a) Purpose of Charter Schools. – The purpose of this Article is to authorize a system of charter schools to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently of existing schools, as a method to accomplish all of the following:

- (1) Improve student learning;
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically gifted;
- (3) Encourage the use of different and innovative teaching methods;
- (4) Create new professional opportunities for teachers, including the opportunities to be responsible for the learning program at the school site;
- (5) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and
- (6) Hold the schools established under this Article accountable for meeting measurable student achievement results, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(a1) State Board of Education. – The State Board of Education shall have the following duties regarding charter schools:

- (1) Rulemaking. – To establish all rules for the operation and approval of charter schools. Any rule adopted by the State Board shall first be recommended by the Charter Schools Review Board.
- (2) Funding. – To allocate funds to charter schools.
- (3) Appeals. – To hear appeals from decisions of the Charter Schools Review Board under G.S. 115C-218.9.
- (4) Accountability. – To ensure accountability from charter schools for school finances and student performance.

(b) North Carolina Charter Schools Review Board. –

- (1) Review Board. – There is created the North Carolina Charter Schools Review Board, hereinafter referred to in this Article as the Review Board. The Review Board shall be located administratively within the Department of Public Instruction and shall report to the State Board of Education.
- (2) Membership. – The State Superintendent of Public Instruction, or the Superintendent's designee, shall be the secretary of the Review Board and a nonvoting member. The Review Board shall consist of the following 11 voting members:
  - a. Repealed by Session Laws 2016-126, 4th Ex. Sess., s. 17, effective January 1, 2017.
  - b. Four members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.

- c. Four members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, in accordance with G.S. 120-121.
  - d. Two members appointed by the State Board of Education who are not current members of the State Board of Education and who are charter school advocates in North Carolina.
  - e. The Lieutenant Governor or the Lieutenant Governor's designee.
- (3) Covered board. – The Review Board shall be treated as a board for purposes of Chapter 138A of the General Statutes.
  - (4) Qualifications of members. – Members appointed to the Review Board shall collectively possess strong experience and expertise in public and nonprofit governance, management and finance, assessment, curriculum and instruction, public charter schools, and public education law. All appointed members of the Review Board shall have demonstrated an understanding of and a commitment to charter schools as a strategy for strengthening public education.
  - (5) Terms of office and vacancy appointments. – Appointed members shall serve four-year terms of office beginning on July 1. No appointed member shall serve more than eight consecutive years. Vacancy appointments shall be made by the appointing authority for the remainder of the term of office.
  - (6) Presiding officers and quorum. – The Review Board shall annually elect a chair and a vice-chair from among its membership. The chair shall preside over the Review Board's meetings. In the absence of the chair, the vice-chair shall preside over the Review Board's meetings. A majority of the Review Board constitutes a quorum.
  - (7) Meetings. – Meetings of the Review Board shall be held upon the call of the chair or the vice-chair with the approval of the chair.
  - (8) Expenses. – Members of the Review Board shall be reimbursed for travel and subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).
  - (9) Removal. – Any appointed member of the Review Board may be removed by a vote of at least two-thirds of the members of the Review Board at any duly held meeting for any cause that renders the member incapable or unfit to discharge the duties of the office.
  - (10) Powers and duties. – The Review Board shall have the following duties:
    - a. To make recommendations to the State Board of Education on the adoption of rules regarding all aspects of charter school operation, including time lines, standards, and criteria for acceptance and approval of applications, monitoring of charter schools, and grounds for revocation of charters.
    - b. To review and approve or deny charter applications, renewals, and revocations.
    - c. To make recommendations to the State Board on actions before the State Board on appeal under G.S. 115C-218.9.
    - d. To undertake any other duties and responsibilities as assigned by the State Board.

- (11) Duties of the chair of the Review Board. – In addition to any other duties prescribed in this Article, the chair of the Review Board, or the chair's designee, shall advocate for the recommendations of the Review Board at meetings of the State Board.
- (c) North Carolina Office of Charter Schools. –
- (1) Establishment of the North Carolina Office of Charter Schools. – There is established the North Carolina Office of Charter Schools, hereinafter referred to in this Article as the Office of Charter Schools. The Office of Charter Schools shall be administratively located in the Department of Public Instruction. The Office of Charter Schools shall consist of an executive director appointed by the Superintendent of Public Instruction and such other professional, administrative, technical, and clerical personnel as may be necessary to assist the Office of Charter Schools in carrying out its powers and duties.
- (2) Executive Director. – The Executive Director shall report to and serve at the pleasure of the Superintendent of Public Instruction at a salary established by the Superintendent within the funds appropriated for this purpose. The duties of the Executive Director shall include presenting the recommendations and decisions of the Review Board at meetings of the State Board.
- (3) Powers and duties. – The Office of Charter Schools shall have the following powers and duties:
- a. Serve as staff to the Review Board and fulfill any task and duties assigned to it by the Review Board.
  - b. Provide technical assistance and guidance to charter schools operating within the State.
  - c. Provide technical assistance and guidance to nonprofit corporations seeking to operate charter schools within the State.
  - d. Provide or arrange for training for charter schools that have received preliminary approval from the Review Board.
  - e. Assist approved charter schools and charter schools seeking approval from the Review Board in coordinating services with the Department of Public Instruction.
  - e1. Assist certain charter schools seeking to participate in the NC prekindergarten program in accordance with G.S. 115C-218.115.
  - f. Other duties as assigned by the State Board.
- (4) Agency cooperation. – All State agencies and departments shall cooperate with the Office of Charter Schools in carrying out its powers and duties as necessary in accordance with this Article. (1995 (Reg. Sess., 1996), c. 731, s. 2; 2013-355, s. 1(a); 2014-101, s. 7; 2015-248, s. 1(a); 2016-126, 4th Ex. Sess., s. 17; 2017-6, s. 3; 2017-173, s. 5(a); 2018-146, ss. 3.1(a), (b), 6.1; 2023-110, s. 1(a); 2023-134, s. 7.26(c).)

**§ 115C-218.1. Eligible applicants; contents of applications; submission of applications for approval.**

(a) Any nonprofit corporation seeking to establish a charter school may apply to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel

currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

(b) The application shall contain at least the following information:

- (1) A description of a program that implements one or more of the purposes in G.S. 115C-218.
- (2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.
- (3) The governance structure of the school including the names of the initial members of the board of directors of the nonprofit, tax-exempt corporation and the process to be followed by the school to ensure parental involvement. A teacher employed by the board of directors to teach in the charter school may serve as a nonvoting member of the board of directors for the charter school.
- (4) The local school administrative unit in which the school will be located.
- (5) Admission policies and procedures.
- (6) A proposed budget for the school and evidence that the financial plan for the school is economically sound.
- (7) Requirements and procedures for program and financial audits.
- (8) A description of how the school will comply with G.S. 115C-218.20, 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50, 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75, 115C-218.80, 115C-218.85, and 115C-218.90.
- (9) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.
- (10) The term of the charter.
- (11) The qualifications required for individuals employed by the school.
- (12) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired.
- (13) The number of students to be served, which number shall be at least 80, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 80 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.
- (14) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.
- (15) The process for conducting a weighted lottery that reflects the mission of the school if the school desires to use a weighted lottery.

(c) The State Board shall establish reasonable fees of no less than five hundred dollars (\$500.00) and no more than one thousand dollars (\$1,000) for initial and renewal charter applications, in accordance with Article 2A of Chapter 150B of the General Statutes. No application fee shall be refunded in the event the application is rejected or the charter is revoked.

(1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 1; 2011-282, s. 8; 2013-355, s. 1(b); 2014-101, ss. 1, 7; 2015-248, ss. 2, 3(a); 2023-134, s. 7.26(c).)

**§ 115C-218.2. Opportunity to correct applications; opportunity to address Review Board.**

(a) The Review Board shall provide timely notification to an applicant of any format issues or incomplete information in the initial application and provide the applicant at least five business days to correct those issues in the initial application. If the applicant submits the corrections within the five business days, equal consideration shall be given to that application.

(b) Before taking action regarding a charter school or charter school applicant, including preliminary or final approval of charter applications, renewals of charters, nonrenewals of charters, and revocations of charters, the Review Board or a committee of the Review Board shall provide an opportunity for the applicant or charter board member to address the Review Board or its committee, if present, at a meeting. (2015-248, s. 4(a); 2023-110, s. 1(b); 2023-134, s. 7.26(c).)

**§ 115C-218.3. Fast-track replication of high-quality charter schools.**

Upon recommendations by the Office of Charter Schools and the Charter Schools Review Board, the State Board of Education shall adopt a process and rules for fast-track replication of high-quality charter schools currently operating in the State. The State Board of Education shall not require a planning year for applicants selected through the fast-track replication process. In addition to the requirements for charter applicants set forth in this Article, the fast-track replication process adopted by the State Board of Education shall, at a minimum, require a board of directors of a charter school to demonstrate one of the following in order to qualify for fast-track replication:

- (1) The board of directors operates charter schools and can demonstrate both of the following:
  - a. The majority of charter schools in this State governed by the board of directors has student academic outcomes from the three prior school years that are equal to or greater than the student academic outcomes in the local school administrative unit in which each charter school is located.
  - b. The board of directors can provide three years of financially sound audits for each school it governs.
- (2) The board of directors agrees to contract with an education management organization or charter management organization that can demonstrate both of the following:
  - a. The majority of the charter schools in this State managed by the organization has student academic outcomes from the three prior school years that are equal to or greater than the student academic outcomes in the local school administrative unit in which each charter school is located.
  - b. The organization can provide three years of financially sound audits for each school it governs.

The State Board of Education shall ensure that the rules for a fast-track replication process provide that decisions by the Review Board on whether to grant a charter through the replication process are completed in less than 120 days from the application submission date. The Review Board shall provide a decision no later than October 15 of the year immediately preceding the year of the proposed school opening, and any appeal of the Review Board's decision shall be heard and

decided no later than December 1 of the same year. (2014-101, s. 6.5; 2016-79, s. 2; 2017-173, s. 2(a); 2021-180, s. 7.33(a); 2023-110, s. 1(c); 2023-134, s. 7.26(c).)

**§ 115C-218.5. Final approval of applications for charter schools.**

- (a) The Review Board may grant final approval of an application if it finds the following:
  - (1) The application meets the requirements set out in this Article and such other requirements as may be adopted by the State Board of Education.
  - (2) The applicant has the ability to operate the school and would be likely to operate the school in an educationally and economically sound manner.
  - (3) Granting the application would achieve one or more of the purposes set out in G.S. 115C-218.

In reviewing applications for the establishment of charter schools within a local school administrative unit, the Review Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified by the applicants as at risk of academic failure. The Review Board shall not consider any alleged impact on the local school administrative unit or units in the area served by a charter school when deciding whether to grant, renew, amend, or terminate a charter.

(b) The Review Board shall make final decisions on the approval or denial of applications by August 15 of a calendar year on all applications it receives prior to a date established by the Office of Charter Schools for receipt of applications in that application cycle. The Review Board may make the final decision for approval contingent upon the successful completion of a planning period prior to enrollment of students.

(c) The Review Board may authorize a school before the applicant has secured its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary for it to raise working capital. The State Board shall not allocate any funds to the school until the school has obtained space.

(d) The Review Board may grant the initial charter for a period not to exceed 10 years.

(e), (f) Repealed by Session Laws 2016-79, s. 1.1, effective June 30, 2016, and applicable beginning with the 2016-2017 school year.

(g) A charter school shall be entitled to automatically extend any deadline to begin operations or commence the term of its charter until the next school year if it notifies the Review Board by June 30 that it is seeking land use or development approvals for its selected site or facilities or if it is challenging the denial of any requested land use or development approvals. The term of the charter issued shall be tolled during the period of any extension or extensions issued under this section. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 3; 2000-67, s. 8.23; 2001-424, s. 28.26; 2003-354, s. 2; 2004-203, s. 45(a); 2011-164, ss. 1, 2(a), 3; 2013-355, s. 1(d); 2013-359, s. 2; 2014-101, ss. 1.5, 2, 2.5(a), 7; 2015-248, s. 5; 2016-79, s. 1.1; 2022-75, s. 2; 2023-107, s. 1(b); 2023-110, s. 1(d); 2023-134, s. 7.26(c).)

**§ 115C-218.6. Review and renewal of charters.**

(a) The Review Board shall review the operations of each charter school at least once prior to the expiration of its charter to ensure that the school is meeting the expected academic, financial, and governance standards.

(b) The Review Board shall renew a charter upon the request of the chartering entity for subsequent periods of 10 years, unless one of the following applies:

- (1) The charter school has not provided financially sound audits for the immediately preceding three years.
- (2) The charter school's student academic outcomes for the immediately preceding three years have not been comparable to the academic outcomes of students in the local school administrative unit in which the charter school is located. For purposes of this section, if a school's charter results in it providing services to certain targeted subgroups, the school's academic performance shall be judged in comparison to the academic outcomes of students in the same subgroups in the local school administrative unit where the school is located.
- (3) The charter school is not, at the time of the request for renewal of the charter, substantially in compliance with State law, federal law, the school's own bylaws, or the provisions set forth in its charter granted by the Review Board.

If one of the conditions set forth in subdivisions (1) through (3) of this subsection applies, then the Review Board may renew the charter for a period of less than 10 years or not renew the charter. (2016-79, s. 1.2; 2023-107, s. 1(c); 2023-110, s. 1(e); 2023-134, s. 7.26(c).)

#### **§ 115C-218.7. Material revisions of charters.**

(a) A material revision of the provisions of a charter shall be made only upon the approval of the Review Board.

(b) If a charter school has been identified as low-performing under G.S. 115C-218.94, then it shall be considered a material revision of the school's charter to increase its maximum authorized enrollment by more than twenty percent (20%) of the previous year's maximum authorized enrollment. For the purposes of this section, maximum authorized enrollment is as defined in G.S. 115C-218.8.

(c) Repealed by Session Laws 2023-107, s. 2(b), effective August 16, 2023.

(d) Repealed by Session Laws 2023-107, s. 2(b), effective August 16, 2023. (2016-79, s. 1.3; 2017-173, s. 3(a), (c); 2023-107, s. 2(b); 2023-110, s. 1(f); 2023-134, s. 7.26(c).)

#### **§ 115C-218.8. Nonmaterial revisions of charters.**

It shall not be considered a material revision of a charter and shall not require prior approval of the Review Board for a charter school to do any of the following:

- (1) Increase its maximum authorized enrollment during the charter school's second year of operation and annually thereafter, provided the school is not identified as low-performing under G.S. 115C-218.94. The maximum authorized enrollment is the target enrollment number identified in a school's charter. The maximum authorized enrollment may only be updated once per year and shall not decrease based on actual enrollment.
- (2) If a school is low-performing under G.S. 115C-105.37A and has planned growth authorized in its charter, increase its maximum authorized enrollment during the charter school's second year of operation and annually thereafter in accordance with planned growth as authorized in its charter.
- (3) Expand to offer one grade higher or lower than the charter school currently offers if the charter school has (i) operated for at least three years, (ii) has not been identified as continually low-performing as provided in G.S. 115C-218.94, and (iii) has been in financial compliance as required by the

rules adopted by the State Board. (2016-79, s. 1.4; 2017-173, s. 3(b); 2023-107, s. 2(c); 2023-110, s. 1(g); 2023-134, s. 7.26(c).)

#### **§ 115C-218.9. Appeals to the State Board of Education.**

(a) An applicant, charter school, or the State Superintendent may appeal a final decision of the Review Board to grant, renew, revoke, or amend a charter by submitting notice to the Chair of the State Board of Education within 10 days of the Review Board's decision. Copies of the notice shall be sent to the Executive Director of the Office of Charter Schools, State Superintendent, the Chair of the Review Board, and the applicant or charter school affected.

(b) The State Board shall review appealed decisions de novo. The party submitting the appeal, and the applicant or charter school affected, may provide any information to the State Board the party believes the Board should consider in reviewing the Review Board's decision.

(c) The State Board shall issue a written decision in any matter appealed under this section within 60 days of the date the notice of appeal was submitted. The State Board of Education has the final decision-making authority on the approval of charter applications, renewals, revocations, and amendments. (2023-110, s. 1(h); 2023-134, s. 7.26(c).)

#### Part 2. Operation of Charter Schools.

#### **§ 115C-218.10. Charter school exemptions.**

Except as provided in this Article and Article 7B of this Chapter, and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 4; 2013-355, s. 1(e); 2014-101, s. 7; 2023-106, s. 2(c); 2023-134, s. 7.26(c).)

#### **§ 115C-218.15. Charter school operation.**

(a) A charter school that is approved in accordance with this Article shall be a public school within the local school administrative unit in which it is located. All charter schools shall be accountable to the State Board and the Review Board for ensuring compliance with applicable laws and the provisions of their charters.

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application. The board of directors of the charter schools shall adopt a conflict of interest and anti-nepotism policy that includes, at a minimum, the following:

- (1) The requirements of Chapter 55A of the General Statutes related to conflicts of interest.
- (2) A requirement that before any immediate family, as defined in G.S. 115C-12.2, of any member of the board of directors or a charter school employee with supervisory authority shall be employed or engaged as an employee, independent contractor, or otherwise by the board of directors in any capacity, such proposed employment or engagement shall be (i) disclosed to the board of directors and (ii) approved by the board of directors in a duly called open-session meeting. The burden of disclosure of such a conflict of interest shall be on the applicable board member or employee with supervisory authority. If the requirements of this subsection are complied with, the charter school may employ immediate family of any member of the board of directors or a charter school employee with supervisory authority.



- (3) A requirement that a person shall not be disqualified from serving as a member of a charter school's board of directors because of the existence of a conflict of interest, so long as the person's actions comply with the school's conflict of interest policy established as provided in this subsection and applicable law.

(c) A charter school shall operate under the written charter signed by the State Superintendent and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the Review Board, or if the approval is granted through an appeal pursuant to G.S. 115C-218.9, any conditions imposed by the State Board of Education. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) The board of directors of the private nonprofit corporation operating the charter school may have members who reside outside of the State. However, the State Board of Education may require by rule that a majority of the board of directors and all officers of the board of directors reside within the State.

(f) Funds received by a charter school as required by G.S. 115C-218.105 may be deposited by the board of directors with the State Treasurer for investment under G.S. 147-69.2(b8), to the extent permitted by the Internal Revenue Code, as amended. The deposit and investment of such funds under this subsection are deemed essential to the provision of public education by the State and the income from such investment shall accrue solely to the charter school for the provision of public education pursuant to this Article. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 4; 2013-355, s. 1(e); 2014-101, s. 7; 2015-248, s. 6(a); 2022-53, s. 9.5(a); 2023-110, s. 1(i); 2023-134, s. 7.26(c).)

#### **§ 115C-218.20. Civil liability and insurance requirements.**

(a) The board of directors of a charter school may sue and be sued. The State Board of Education shall adopt rules to establish reasonable amounts and types of liability insurance that the board of directors shall be required by the charter to obtain. The board of directors shall obtain at least the amount of and types of insurance required by these rules to be included in the charter. Any sovereign immunity of the charter school, of the organization that operates the charter school, or its members, officers, or directors, or of the employees of the charter school or the organization that operates the charter school, is waived to the extent of indemnification by insurance.

(b) No civil liability shall attach to the State Board of Education, the Charter Schools Review Board, the Superintendent of Public Instruction, or to any of their members or employees, individually or collectively, for any acts or omissions of the charter school. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2016-126, 4th Ex. Sess., s. 18; 2023-110, s. 1(j); 2023-134, s. 7.26(c).)

#### **§ 115C-218.25. Open meetings and public records.**

The charter school and board of directors of the private nonprofit corporation that operates the charter school are subject to the Public Records Act, Chapter 132 of the General Statutes, and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. Notwithstanding the requirements of Chapter 132 of the General Statutes, inspection of charter school personnel records for those employees directly employed by the board of directors of the charter school shall be subject to the requirements of Article 21A of this Chapter. The charter school and board of directors of the private nonprofit corporation that operates the charter school shall use the same schedule established by the Department of Natural and Cultural Resources for retention and disposition of records of local school administrative units. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, ss. 5, 7; 2015-241, s. 14.30(s); 2023-134, s. 7.26(c).)

**§ 115C-218.30. Accountability; reporting requirements to State Board of Education.**

(a) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act. The audit requirements shall not include submission to, review of, or approval by, the Local Government Commission for any audit reports, audit contracts, or audit invoices, nor shall they require any other authority, involvement, or oversight by the Local Government Commission with regard to financial reporting, accountability requirements, or procedures.

(b) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(c) The school shall report at least annually to the Review Board and the State Board of Education the information required by rules adopted by the State Board. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2021-58, s. 5; 2023-110, s. 1(k); 2023-134, s. 7.26(c).)

**§ 115C-218.35. Charter school facilities.**

(a) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning authority. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian

organization, the charter school shall not use the name of that organization in the name of the charter school.

(b) At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. For the purposes of this section, a building or land is available if it is closed, vacant, or otherwise unused for classrooms, administrative offices, or extracurricular activities of the schools of the local board of education. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

(c) The local board of education shall make a decision on the charter's request to lease a building or land within 90 days of the request. If the local board of education does not make a decision within 90 days of the request of the charter school, the local board of education shall provide a written explanation of its reasons for not acting on the request within the 90-day time period to the North Carolina Charter Schools Board and the Joint Legislative Education Oversight Committee.

(d) If a charter school has requested to lease available buildings or land and is unable to reach an agreement with the local board of education, the charter school shall have the right to appeal to the board of county commissioners in which the building or land is located. The board of county commissioners shall have the final decision-making authority on the leasing of the available building or land.

(e) Repealed by Session Laws 2023-137, s. 40(a), effective October 10, 2023. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 4; 2013-355, s. 1(e); 2014-101, s. 7; 2016-79, s. 1.8; 2021-180, s. 7.64(b); 2023-110, s. 1(D); 2023-134, s. 7.26(c); 2023-137, s. 40(a).)

#### **§ 115C-218.36. Reservation of water and sewer capacity for proposed charter school facilities.**

Prior to any application for any development approval under Chapter 160D of the General Statutes, the board of directors of a charter school shall inquire, in writing, of the public water system, public sewer system, or public water and sewer system, currently serving the site or closest to the site as to whether that public system has capacity to serve the proposed charter school facility. The public system shall respond to the board of directors within a reasonable time, not to exceed 30 days as to whether that public system has capacity to serve the proposed charter school facility. Unless the public system does not have capacity to serve the proposed charter school facility or is under a moratorium precluding expansion, the public system shall reserve the necessary capacity for the proposed charter school facility for 24 months from the date of the written inquiry from the board of directors. Upon costs associated with water and sewer infrastructure for the proposed charter school facility having been incurred by the board or an agent of the board, neither the public system nor a local government shall deny access to the public system in which capacity is reserved for the proposed charter school facility during the 24-month period. (2023-137, s. 40(b).)

#### **§ 115C-218.37. Public approval for private activity bonds.**

(a) For purposes of this section, the following definitions shall apply:

- (1) Applicable elected representative. – An elected official of a governmental unit having jurisdiction over the area in which a charter school facility is located, as defined in section 147(f)(2) of the Internal Revenue Code (26 U.S.C. § 147(f)(2)).
- (2) Charter school facility. – Real property, personal property, or both that is used or intended for use in connection with the operation of a charter school.

(b) The Superintendent of Public Instruction is hereby designated as an applicable elected representative who may approve the issuance of one or more private activity bonds to finance or refinance a charter school facility, after a public hearing following reasonable public notice, in accordance with section 147(f) of the Internal Revenue Code (26 U.S.C. § 147(f)) and applicable State and federal laws and regulations. Procedures for the public hearing shall be determined by the Superintendent of Public Instruction, and the public hearing shall be conducted by the Superintendent or his or her designee, in the county where the charter school facility is or will be located. (2020-49, s. 7; 2023-134, s. 7.26(c).)

**§ 115C-218.40. Charter school transportation.**

The charter school may provide transportation for students enrolled at the school. The charter school shall develop a transportation plan so that transportation is not a barrier to any student who resides in the local school administrative unit in which the school is located. The charter school is not required to provide transportation to any student who lives within one and one-half miles of the school. At the request of the charter school and if the local board of the local school administrative unit in which the charter school is located operates a school bus system, then that local board may contract with the charter school to provide transportation in accordance with the charter school's transportation plan to students who reside in the local school administrative unit and who reside at least one and one-half miles of the charter school. A local board may charge the charter school a reasonable charge that is sufficient to cover the cost of providing this transportation. Furthermore, a local board may refuse to provide transportation under this section if it demonstrates there is no available space on buses it intends to operate during the term of the contract or it would not be practically feasible to provide this transportation. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2023-134, s. 7.26(c).)

**§ 115C-218.42. Charter School Transportation Grant Program.**

(a) Purpose; Definition. – There is established the Charter School Transportation Grant Program (Program). The purpose of the Program shall be to award grant funds to a charter school that meets the requirements of subsection (b) of this section for the reimbursement of up to sixty-five percent (65%) of the eligible student transportation costs incurred by the school in accordance with the provisions of this section. For purposes of this section, the term "eligible student transportation costs" means costs incurred by the charter school for (i) transportation fuel, (ii) vehicle maintenance, (iii) contracted transportation services, and (iv) transportation personnel salaries.

(b) Program Eligibility. – If a charter school has student enrollment in a semester of the school year of at least fifty percent (50%) of its students residing in households with an income level not in excess of the amount required for a student to qualify for the federal free or reduced-price lunch program, the charter school may apply to the Department for grant funds under the Program for reimbursement of up to sixty-five percent (65%) of the eligible student transportation costs incurred by the school for that semester.

(c) Applications. – By August 1 of each year, the Department shall establish the criteria and guidelines for the grant application process for the upcoming school year, including any documentation required to be submitted with the application. Each school year, the Department shall accept applications until December 31 for eligible student transportation costs incurred during the fall semester of the school year and until May 15 for eligible student transportation costs incurred during the spring semester of the school year.

(d) Award of Funds. – From funds made available for the Program, the Department shall award grant funds to the selected charter schools by February 15 for eligible student transportation costs incurred during the fall semester of the same school year and by June 15 for eligible student transportation costs incurred during the spring semester of the prior school year. The total amount of each grant awarded under the Program shall not exceed one hundred thousand dollars (\$100,000) per charter school per school year.

(e) Reporting. – No later than March 15 of each year in which funds are awarded under the Program, the Department shall report to the Joint Legislative Education Oversight Committee, the Joint Legislative Transportation Oversight Committee, the Senate Appropriations/Base Budget Committee, the House Committee on Appropriations, and the Fiscal Research Division on the administration of the Program, including at least the following information:

- (1) The number of charter schools that received grant funds.
- (2) The amount of grant funds awarded to those charter schools.
- (3) Whether implementing the Program has led to an increase in charter schools offering lunch.
- (4) Whether implementing the Program has led to an increase in student lunch participation at charter schools offering lunch.
- (5) Whether implementing the Program has increased or expanded the offering of student transportation by charter schools.
- (6) The modes of student transportation offered by charter schools that received grant funds. (2021-180, s. 7.69(a); 2023-134, s. 7.26(c).)

#### **§ 115C-218.45. Admission requirements.**

(a) Any child who is qualified under the laws of this State for admission to a public school is qualified for admission to a charter school.

(b) No local board of education shall require any student enrolled in the local school administrative unit to attend a charter school.

(c) Admission to a charter school shall not be determined according to the school attendance area in which a student resides, except that any local school administrative unit in which a public school converts to a charter school shall give admission preference to students who reside within the former attendance area of that school.

(d) Admission to a charter school shall not be determined according to the local school administrative unit in which a student resides.

(d1) A student who is not a domiciliary of the State shall be permitted to register to enroll in a charter school or participate in a lottery for admission to a charter school within the State by remote means, including electronic means, prior to commencement of the student's residency in the State if all of the following apply:

- (1) A parent or legal guardian is on active military duty and is transferred or pending transfer pursuant to an official military order to a military installation or reservation in the State.
- (2) Upon request by the charter school where the student seeks to register to enroll or participate in a lottery for admission, a parent or legal guardian provides a copy of the official military order transferring to a military installation or reservation located in the State.
- (3) A parent or legal guardian completes and submits the charter school's required enrollment forms and documentation, except that proof of residency and documentation related to disciplinary actions pursuant to subsection (i) of this section shall not be required until the student transfers into the State, at which time they shall be required prior to commencing attendance.

A charter school shall make available to a student who registers to enroll or who participates in a lottery pursuant to this subsection the same opportunities available to a student enrolled or participating in a lottery contemporaneously with domicilia in the State, such as registering for courses and applying for programs that require additional request or application. A student enrolled pursuant to this subsection may not attend the charter school until proof of residency is provided in accordance with the requirements of the charter school. Nothing in this subsection shall be construed to curtail a charter school's authority pursuant to subsection (i) of this section.

(e) Except as otherwise provided by law or the mission of the school as set out in the charter, the school shall not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, or disability. A charter school shall not limit admission to students on the basis of race, creed, national origin, religion, or ancestry. A charter school whose mission is single-sex education may limit admission on the basis of sex. Within one year after the charter school begins operation, the charter school shall make efforts for the population of the school to reasonably reflect the racial and ethnic composition of the general population residing within the local school administrative unit in which the school is located or the racial and ethnic composition of the special population that the school seeks to serve residing within the local school administrative unit in which the school is located. The school shall be subject to any court-ordered desegregation plan in effect for the local school administrative unit.

(f) The charter school may give enrollment priority to any of the following:

- (1) Siblings of currently enrolled students who were admitted to the charter school in a previous year. For the purposes of this section, the term "siblings" includes any of the following who reside in the same household: half siblings, stepsiblings, and children residing in a family foster home.
- (1a) Siblings who apply to the charter school for admission beginning in the same school year, such as when a sibling was not initially admitted due to grade level capacity.
- (2) Siblings of students who have completed the highest grade level offered by that school and who were enrolled in at least four grade levels offered by the charter school or, if less than four grades are offered, in the maximum number of grades offered by the charter school.

- (2a) A student who was enrolled in a preschool program operated by the charter school in the prior year.
- (2b) Limited to no more than ten percent (10%) of the school's total enrollment, a student who was enrolled for at least 75 consecutive days in the prior semester in a preschool program operated by an entity other than the charter school and the charter school has a written enrollment articulation agreement with the program operator to give the program's students enrollment priority.
- (3) Limited to no more than fifteen percent (15%) of the school's total enrollment, unless granted a waiver by the Review Board, the following:
  - a. Children or grandchildren of persons (i) employed full time by the charter school or (ii) working full time in the daily operation of the charter school, including children of persons employed by an education management organization or charter management organization for the charter school.
  - b. Children or grandchildren of the charter school's board of directors.
- (4) A student who was enrolled in the charter school within the two previous school years but left the school (i) to participate in an academic study abroad program or a competitive admission residential program or (ii) because of the vocational opportunities of the student's parent.
- (5) A student who was enrolled in another charter school in the State in the previous school year that does not offer the student's next grade level.
- (6) A student who was enrolled in another charter school in the State in the previous school year that does not offer the student's next grade level and both of the charter schools have an enrollment articulation agreement to accept students or are governed by the same board of directors.
- (7) A student who was enrolled in another charter school in the State in the previous school year.
- (8) A student whose parent or legal guardian is on active military duty.
- (g) Lottery procedures for siblings:
  - (1) If siblings apply for admission to a charter school and a lottery is needed under subsection (h) of this section, the charter school may enter one surname into the lottery to represent all of the siblings applying at the same time. If that surname of the siblings is selected, then all of the siblings shall be admitted to the extent that space is available and does not exceed the grade level capacity.
  - (2) If multiple birth siblings apply for admission to a charter school and a lottery is needed under subsection (h) of this section, the charter school shall enter one surname into the lottery to represent all of the multiple birth siblings applying at the same time. If that surname of the multiple birth siblings is selected, then all of the multiple birth siblings shall be admitted.
- (g1) If a procedure for a weighted lottery reflecting the mission of the school has been approved by the Review Board as part of the charter, and a lottery is needed under subsection (h) of this section, the lottery shall be conducted according to the procedure in the charter.
- (h) During each period of enrollment, the charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, students shall be accepted by lot. Once enrolled, students are not required to reapply in subsequent enrollment periods.

(h1) Any charter school that is unable to fill its current enrollment with students qualified under the laws of this State for admission to a public school may enroll out-of-state students who are domiciliaries of other states. The charter school shall charge the out-of-state students a tuition amount of at least fifty percent (50%) of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year but no more than one hundred percent (100%) of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year. The number of out-of-state students who are domiciliaries of other states who are enrolled in a charter school may not exceed ten percent (10%) of the total number of students enrolled in the charter school.

(h2) For the purposes of this subsection, a foreign exchange student is a student who is domiciled in a foreign country and has come to the United States on a valid student or exchange visa pursuant to the Immigration and Nationality Act, 8 U.S.C. § 1101, et seq. A charter school may enroll foreign exchange students as follows:

- (1) No more than two foreign exchange students per high school grades nine through 12 shall be enrolled in any given school year at the charter school.
- (2) The charter school may charge the foreign exchange students a tuition amount of at least fifty percent (50%) of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year but no more than one hundred percent (100%) of the total of the per pupil allocation of the local appropriation for the county in which the charter school is located and the per pupil State appropriation for that school year.
- (3) Foreign exchange students shall not count toward the enrollment capacity or cap for any program, class, building, or grade levels for grades nine through 12 and shall not be subject to any lottery process used by the charter school for enrollment.

(i) Notwithstanding any law to the contrary, a charter school may refuse admission to any student who has been expelled or suspended from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until the period of suspension or expulsion has expired. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, ss. 4, 4.5, 7; 2015-248, s. 3(b), (c); 2016-79, s. 1.5; 2017-173, ss. 4, 5(b); 2018-5, s. 7.18(a); 2020-78, s. 2.3(a); 2022-71, s. 2.3(a); 2023-107, ss. 3(a), 4; 2023-110, s. 1(m); 2023-134, s. 7.26(c).)

#### **§ 115C-218.50. Charter school nonsectarian.**

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations. A charter school shall not be affiliated with a nonpublic sectarian school or a religious institution.

(b) A charter school shall not charge tuition or fees except as follows:

- (1) A charter school may charge any fees that are charged by the local school administrative unit in which the charter school is located.



- (2) A charter school, upon approval by the board of directors of the charter school, may establish fees for extracurricular activities, except those fees shall not exceed the fees for the same extracurricular activities charged by a local school administrative unit in which forty percent (40%) or more of the students enrolled in the charter school reside. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2015-248, s. 7; 2023-134, s. 7.26(c).)

**§ 115C-218.55. Nondiscrimination in charter schools.**

A charter school shall not discriminate against any student on the basis of ethnicity, national origin, gender, or disability. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, ss. 3, 7; 2023-134, s. 7.26(c).)

**§ 115C-218.60. Student discipline.**

The school is subject to and shall comply with Article 27 of Chapter 115C of the General Statutes, except that a charter school may also exclude a student from the charter school and return that student to another school in the local school administrative unit in accordance with the terms of its charter after due process. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2023-134, s. 7.26(c).)

**§ 115C-218.65. North Carolina School Report Cards.**

A charter school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A charter school shall ensure that the overall school performance score and grade earned by the charter school for the current and previous four school years is prominently displayed on the school Web site. If a charter school earned an overall school performance grade of D or F, the charter school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12;

2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2017-57, s. 7.26(h); 2023-134, s. 7.26(c).)

**§ 115C-218.70. Driving eligibility certificates.**

In accordance with rules adopted by the State Board of Education, the designee of the school's board of directors shall do all of the following:

- (1) Sign driving eligibility certificates that meet the conditions established in G.S. 20-11.
- (2) Obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles.
- (3) Notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets its conditions. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2023-134, s. 7.26(c).)

**§ 115C-218.75. General operating requirements.**

(a) Health and Safety Standards. – A charter school shall meet the same health and safety requirements required of a local school administrative unit. The Department of Public Instruction shall ensure that charter schools provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Department of Public Instruction shall also ensure that charter schools provide students in grades seven through 12 with information annually on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

The Department of Public Instruction shall also ensure that charter schools provide students in grades nine through 12 with information annually on the manner in which a parent may lawfully

abandon a newborn baby with a responsible person, in accordance with Article 5A of Chapter 7B of the General Statutes.

The Department of Public Instruction shall also ensure that the guidelines for individual diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are implemented in charter schools in which students with diabetes are enrolled and that charter schools otherwise comply with G.S. 115C-375.3.

The Department of Public Instruction shall ensure that charter schools comply with G.S. 115C-375.2A. The board of directors of a charter school shall provide the school with a supply of emergency epinephrine auto-injectors necessary to meet the requirements of G.S. 115C-375.2A.

(b) Repealed by Session Laws 2023-78, s. 5(b), effective July 7, 2023.

(b1) **(Applicable beginning with the 2024-2025 school year)** Each charter school shall comply with the requirements for public school units in Part 2 of Article 8C of this Chapter.

(c) Policy Against Bullying. – A charter school is encouraged to adopt a policy against bullying or harassing behavior, including cyber bullying, that is consistent with the provisions of Article 29C of this Chapter. If a charter school adopts a policy to prohibit bullying and harassing behavior, the charter school shall, at the beginning of each school year, provide the policy to staff, students, and parents as defined in G.S. 115C-390.1(b)(8).

(d) Repealed by Session Laws 2023-78, s. 5(b), effective July 7, 2023.

(e) Repealed by Session Laws 2023-78, s. 5(b), effective July 7, 2023.

(e1) Repealed by Session Laws 2023-78, s. 5(b), effective July 7, 2023.

(e2) Information About Child Abuse and Neglect. – A charter school shall implement the rule addressing student awareness of child abuse and neglect, including sexual abuse, adopted by the State Board of Education under G.S. 115C-12(47).

(f) Access for Youth Groups. – Charter schools are encouraged to facilitate access for students to participate in activities provided by any youth group listed in Title 36 of the United States Code as a patriotic society, such as the Boy Scouts of America, and its affiliated North Carolina groups and councils, and the Girl Scouts of the United States of America, and its affiliated North Carolina groups and councils. Student participation in any activities offered by these organizations shall not interfere with instructional time during the school day for the purposes of encouraging civic education.

(g) Child Sexual Abuse and Sex Trafficking Training Program. – A charter school shall adopt and implement a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20.

(h) School-Based Mental Health Plan Required. – A charter school shall adopt a school-based mental health plan, including a mental health training program and suicide risk referral protocol, in accordance with G.S. 115C-376.5.

(i) A charter school shall annually report the information required by G.S. 115C-12(48) to the State Board of Education, the Senate Appropriations Committee on Education/Higher Education, and the House Appropriations Committee on Education no later than September 15.

(j) A charter school shall annually update information to the digital learning dashboard, as required by G.S. 115C-102.9.

(k) Cultural Expression at Graduation Ceremonies. – A charter school shall comply with G.S. 115C-407.40 at all graduation ceremonies.

(l) Muscadine Grape Juice. – A charter school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students as a part of the school's nutrition program or through the operation of the school's vending facilities.

(m) Athletic Teams. – A charter school organizing athletic teams for middle or high school students to participate in interscholastic or intramural athletic activities shall do so in accordance with G.S. 115C-12(23).

(n) Unpaid Meal Debt. – If a charter school participates in the school nutrition program, the charter school may not impose administrative penalties on a student for unpaid school meal debt in accordance with G.S. 115C-264(d).

(o) **(Effective beginning with the 2024-2025 school year)** Career Development Plans. – A charter school is encouraged to adopt a policy to require all middle and high school students to complete a career development plan in accordance with G.S. 115C-158.10. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-100, ss. 8.23(b), 8.32(b); 2014-101, s. 7; 2015-241, s. 8.26(h); 2015-249, s. 3; 2018-5, s. 7.26(c); 2019-245, s. 4.4(b); 2020-7, s. 1(c); 2021-88, s. 11; 2021-132, s. 6(c); 2021-180, ss. 7.9(d), 7.61(c); 2023-14, s. 6.2(i); 2023-43, s. 3(a); 2023-63, s. 5(c); 2023-78, s. 5(b), (c); 2023-109, s. 1(b); 2023-134, ss. 7.13(c), 7.26(c), 7.60(b).)

#### **§ 115C-218.80. Display of the United States and North Carolina flags and the recitation of the Pledge of Allegiance.**

A charter school shall (i) display the United States and North Carolina flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2023-134, s. 7.26(c).)

#### **§ 115C-218.85. Course of study requirements.**

(a) Instructional Program. –

- (1) The school shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar months, and may include the use of remote instruction in accordance with G.S. 115C-84.3.
- (2) The school shall design its programs to at least meet the student performance standards adopted by the State Board of Education and the student performance standards contained in the charter.

- (3) A charter school shall conduct the student assessments required by the State Board of Education.
  - (4) The school is subject to and shall comply with Article 9 of Chapter 115C of the General Statutes and The Individuals with Disabilities Education Improvements Act, 20 U.S.C. § 1400, et seq., (2004), as amended.
  - (5) A charter school shall provide financial literacy instruction as required by the State Board of Education pursuant to G.S. 115C-81.65, including required professional development for teachers of the EPF course.
  - (6) A charter school shall provide computer science instruction as required by G.S. 115C-81.90.
  - (7) A charter school may offer a sequence of courses in accordance with G.S. 115C-83.31(c) and shall advise students using this sequence to graduate within three years of entering the ninth grade of the availability of early graduate scholarships under Part 7 of Article 23 of Chapter 116 of the General Statutes.
- (b) Reading Proficiency and Student Promotion. –
- (1) Students in the third grade shall be retained if the student fails to demonstrate reading proficiency by reading at or above the third grade level as demonstrated by the results of the State-approved standardized test of reading comprehension administered to third grade students. The charter school shall provide reading interventions to retained students to remediate reading deficiency, which may include 90 minutes of daily, uninterrupted, evidence-based reading instruction, accelerated reading classes, transition classes containing third and fourth grade students, and summer reading camps.
  - (2) Students may be exempt from mandatory retention in third grade for good cause but shall continue to receive instructional supports and services and reading interventions appropriate for their age and reading level. Good cause exemptions shall be limited to the following:
    - a. Limited English Proficient students with less than two school years of instruction in an English as a Second Language program.
    - b. Students with disabilities, as defined in G.S. 115C-106.3(1), and whose individualized education program indicates (i) the use of the NCEXTEND1 alternate assessment, (ii) at least a two school year delay in educational performance, or (iii) receipt of intensive reading interventions for at least two school years.
    - c. Students who demonstrate reading proficiency appropriate for third grade students on an alternative assessment of reading comprehension. The charter school shall notify the State Board of Education of the alternative assessment used to demonstrate reading proficiency.
    - d. Students who demonstrate, through a student reading portfolio, reading proficiency appropriate for third grade students.
    - e. Students who have (i) received reading intervention and (ii) previously been retained more than once in kindergarten, first, second, or third grades.
  - (3) The charter school shall provide notice to parents and guardians when a student is not reading at grade level. The notice shall state that if the student's reading

deficiency is not remediated by the end of third grade, the student shall be retained unless he or she is exempt from mandatory retention for good cause. Notice shall also be provided to parents and guardians of any student who is to be retained under this subsection of the reason the student is not eligible for a good cause exemption, as well as a description of proposed reading interventions that will be provided to the student to remediate identified areas of reading deficiency.

- (4) The charter school shall annually publish on the charter school's Web site and report in writing to the State Board of Education by September 1 of each year the following information on the prior school year:
    - a. The number and percentage of third grade students demonstrating and not demonstrating reading proficiency on the State-approved standardized test of reading comprehension administered to third grade students.
    - b. The number and percentage of third grade students not demonstrating reading proficiency and who do not return to the charter school for the following school year.
    - c. The number and percentage of third grade students who take and pass an alternative assessment of reading comprehension and the name of each alternative assessment used for this purpose with the number of students who passed it.
    - d. The number and percentage of third grade students retained for not demonstrating reading proficiency.
    - e. The number and percentage of third grade students exempt from mandatory third grade retention by category of exemption as listed in subdivision (2) of this subsection.
  - (5) The charter school shall not use a three-cueing system, as defined in G.S. 115C-83.3(9a), or a curriculum with visual memory as the primary basis for teaching word recognition in any instruction or intervention provided to students in grades kindergarten through three.
- (c) High School Diploma Endorsements. –
- (1) A charter school shall offer students the opportunity to earn a citizenship proficiency high school diploma endorsement consistent with G.S. 115C-83.32(c).
  - (2) If necessary due to practical limitations at the charter school, a student may take the civics test required to earn the endorsement pursuant to G.S. 115C-83.32(c) at the nearest high school to the charter school located within the local school administrative unit in which the charter school is located at the time that the nearest high school within the local school administrative unit is scheduled to offer the exam. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f);

2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-5, s. 9; 2014-101, s. 7; 2018-5, s. 7.24(c); 2019-82, s. 4(a); 2021-130, s. 3(c); 2022-59, s. 1(b); 2022-74, s. 7.13(b); 2023-132, ss. 2.6(d), 3(a); 2023-134, ss. 7.26(c), 7.64(e), 7.72(e), 8A.6(p).)

**§ 115C-218.90. Employment requirements.**

(a) Employees. –

- (1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers or contract with an education management organization or charter management organization to employ and provide teachers to perform the particular service for which they are employed in the school; at least fifty percent (50%) of these teachers shall hold teacher licenses. All teachers who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher licenses to perform duties other than teaching and may contract for other services. The board may discharge teachers and nonlicensed employees.

- (2) No local board of education shall require any employee of the local school administrative unit to be employed in a charter school.
- (3) If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at a charter school, the local school administrative unit shall grant the leave for one year. For the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of a charter school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has received a leave of absence to teach at a charter school may return to a public school in the local school administrative unit at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If a teacher has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at a charter school, the teacher may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the charter school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2).
- (4) The employees of the charter school shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State

Employees' Retirement System and the State Health Plan for Teachers and State Employees. The State Board of Education provides funds to charter schools, has final decision-making authority on the approval of charter applications, renewals, revocations, and amendments, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools are public school employees. Employees of a charter school whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Article require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

- (5) Education employee associations shall have equal access to charter school employees as provided in G.S. 115C-335.9.
  - (6) A board of directors may (i) provide paid parental leave consistent with the requirements of G.S. 126-8.6 or (ii) require, as a condition of a contract with an education management organization or charter management organization to employ and provide teachers, that paid parental leave be provided to those teachers consistent with the requirements of G.S. 126-8.6. If the board provides paid parental leave to its employees or requires paid parental leave be provided by contract, it shall be eligible to receive funds as provided in G.S. 115C-336.1(b). If the board does not provide paid parental leave, it shall provide written notice to individuals upon offering employment. The notice shall state that employment with the charter school will not count toward any minimum period of service established pursuant to G.S. 126-8.6(c1).
- (b) Criminal History Checks. –
- (1) If the local board of education of the local school administrative unit in which a charter school is located has adopted a policy requiring criminal history checks under G.S. 115C-332, then the board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring the local board of education policy that requires an applicant for employment to be checked for a criminal history, as defined in G.S. 115C-332. Each charter school board of directors shall apply its policy uniformly in requiring applicants for employment to be checked for a criminal history before the applicant is given an unconditional job offer. A charter school board of directors may employ an applicant conditionally while the board is checking the person's criminal history and making a decision based on the results of the check. If the local board of education adopts a policy providing for periodic checks of criminal history of employees, then the board of directors of each charter school located in that local school administrative unit shall adopt a policy mirroring that local board of education policy. A board of directors shall indicate, upon inquiry by any other local board of education, charter school, or regional school in the State as to the reason for an employee's resignation or dismissal, if an employee's criminal history was relevant to the employee's resignation or dismissal.



- (2) There shall be no liability for negligence on the part of the State Board of Education, the State Superintendent, the Review Board, or the board of directors of the charter school, or their employees, arising from any act taken or omission by any of them in carrying out the provisions of this subsection. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 5; 1997-443, s. 8.19; 1997-456, s. 55.4; 1998-212, s. 9.14A(a); 1999-243, s. 8; 2001-462, s. 1; 2004-118, s. 3; 2004-203, s. 45(b); 2006-69, s. 3(e); 2006-137, s. 2; 2007-59, s. 2; 2007-126, s. 2; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2009-239, s. 1; 2009-563, s. 2; 2010-10, s. 2(a); 2011-93, s. 2(a); 2011-145, s. 7.29(b); 2011-164, s. 4; 2011-282, s. 9; 2012-142, ss. 7A.1(f), 7A.3(c), 7A.11(b); 2012-145, s. 2.5; 2012-179, s. 1(c); 2013-307, s. 1.1; 2013-355, s. 1(f); 2013-359, s. 1; 2013-360, ss. 8.43(a), 9.7(q); 2014-101, s. 7; 2017-157, s. 2(c), (n); 2017-173, s. 1; 2017-189, s. 4(a); 2023-65, s. 13A.1(d); 2023-110, s. 1(n); 2023-134, ss. 7.26(c), 7.83(b); 2024-42, s. 4(a).)

Part 3. Evaluation of Charter Schools.

**§ 115C-218.94. Identification of low-performing and continually low-performing charter schools.**

(a) Identification of Low-Performing Charter Schools. – The State Board of Education shall identify low-performing charter schools on an annual basis. Low-performing charter schools are those that earn an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" as defined by G.S. 115C-83.15.

(b) Identification of Continually Low-Performing Charter Schools. – The State Board of Education shall identify continually low-performing charter schools on an annual basis. A continually low-performing charter school is a charter school that has been designated by the State Board as low-performing for at least two of three consecutive years. (2016-79, s. 1.7(a); 2017-57, s. 7.26(i); 2023-134, s. 7.26(c).)

**§ 115C-218.95. Causes for nonrenewal or termination; disputes.**

(a) The Review Board may terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board upon any of the following grounds:

- (1) Failure to meet the requirements for student performance contained in the charter;
- (2) Failure to meet generally accepted standards of fiscal management;
- (3) Violations of law;
- (4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
- (5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or

(6) Other good cause identified.

(b) Repealed by Session Laws 2016-79, s. 1.7(b), effective June 30, 2016, and applicable beginning with the 2016-2017 school year.

(b1) If a charter school is continually low-performing, the Review Board is authorized to terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board. However, the Review Board shall not terminate or not renew the charter of a continually low-performing charter school solely for its continually low-performing status if the charter school has met growth in each of the immediately preceding three school years or if the charter school has implemented a strategic improvement plan approved by the Review Board and is making measurable progress toward student performance goals. The State Board shall develop rules on the assumption of a charter by a new entity that includes all aspects of the operations of the charter school, including the status of the employees. Public assets shall transfer to the new entity and shall not revert to the local school administrative unit in which the charter school is located pursuant to G.S. 115C-218.100(b).

(c) The Review Board shall develop and implement a process to address contractual and other grievances between a charter school and the local board of education during the time of its charter.

(d) The Review Board and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the Review Board or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The Review Board and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 6; 2011-164, s. 5; 2013-355, s. 1(g); 2014-100, s. 8.34(c); 2014-101, s. 7; 2016-79, s. 1.7(b); 2023-110, s. 1(o); 2023-134, s. 7.26(c).)

#### **§ 115C-218.100. Dissolution of a charter school.**

(a) Funds Reserved for Closure Proceedings. – A charter school that has elected to participate in the North Carolina Retirement System pursuant to G.S. 135-5.3 shall, for as long as the charter school continues to participate in the North Carolina Retirement System, maintain for the purposes of ensuring payment of expenses related to closure proceedings in the event of a

voluntary or involuntary dissolution of the charter school, one or more of the options set forth in this subsection. The minimum aggregate value of the options chosen by the charter school shall be fifty thousand dollars (\$50,000). The State Board of Education shall not allocate any funds under G.S. 115C-218.105 to a charter school unless the school has provided documentation to the State Board that the charter school has met the requirements of this subsection. Permissible options to satisfy the requirements of this subsection include one or more of the following:

- (1) An escrow account.
- (2) A letter of credit.
- (3) A bond.
- (4) A deed of trust.
- (5) Deposit of funds with the State Treasurer for investment under G.S. 147-69.2(b8), to the extent permitted by the Internal Revenue Code, as amended. The funds deposited with the State Treasurer, and any income earned thereon, are deemed State funds and shall be used solely for the provision of public education pursuant to this Article. The deposit and investment of funds under this subdivision are deemed essential to the provision of public education by the State.

(a1) In the event of a voluntary or involuntary dissolution of the charter school, the funds reserved for closure proceedings in subsection (a) of this section shall be used to pay wages owed to charter school employees, funds owed to the North Carolina Retirement System pursuant to G.S. 135-8, and funds owed to the State Health Plan, in that order. Other expenses shall be paid from the remaining balance in the funds reserved for closure proceedings in subsection (a) of this section.

(b) Distribution of Assets. – Upon dissolution of a charter school, all net assets of the charter school purchased with public funds shall be deemed the property of the local school administrative unit in which the charter school is located, except capital-sourced assets. For purposes of this subsection, capital-sourced assets include (i) capital funds provided to a charter school by one or more counties pursuant to G.S. 115C-218.105(b1) and (ii) net assets purchased or improved with such funds, up to the total amount of the funds provided. Capital-sourced assets shall be deemed the property of the county or counties providing the funding and, if applicable, divided between the counties in proportion to the funds provided. (2014-100, s. 8.34(b); 2014-101, s. 7; 2015-168, s. 4; 2015-248, s. 8(a); 2022-53, s. 9.5(b); 2023-107, s. 6(a); 2023-134, s. 7.26(c).)

#### Part 4. Funding of Charter Schools.

##### **§ 115C-218.105. State and local funds for a charter school.**

- (a) The State Board of Education shall allocate to each charter school:
- (1) An amount equal to the average per pupil allocation for average daily membership from the local school administrative unit allotments in which the charter school is located for each child attending the charter school except for the allocation for children with disabilities and for the allocation for children with limited English proficiency;
  - (2) An additional amount for each child attending the charter school who is a child with disabilities; and
  - (3) An additional amount for children with limited English proficiency attending the charter school, based on a formula adopted by the State Board.

In accordance with G.S. 115C-218.7 and G.S. 115C-218.8, the State Board shall allow for annual adjustments to the amount allocated to a charter school based on its enrollment growth in school years subsequent to the initial year of operation.

In the event a child with disabilities leaves the charter school and enrolls in a public school during the first 60 school days in the school year, the charter school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with disabilities enrolls in a charter school during the first 60 school days in the school year, the State Board shall allocate to the charter school the pro rata amount of additional funds for children with disabilities.

(a1) The State Board shall not withhold or reduce distribution of funds to a charter school for any reason except as provided in subsection (a2) of this section.

(a2) The State Board shall withhold or reduce distribution of funds to a charter school if any of the following applies:

- (1) The change in funding is due to an annual adjustment based on enrollment or is a general adjustment to allocations that is not specific to the charter or actions of that charter school.
- (2) The Review Board notifies the State Board that the charter school has materially violated a term of its charter, has violated a State statute or federal law, or has had its charter terminated or nonrenewed.
- (3) The Superintendent of Public Instruction notifies the State Board that the charter school has failed to meet generally accepted standards of fiscal management or has violated a State or federal requirement for receipt of funds.

(b) Funds allocated by the State Board of Education may be used to enter into operational and financing leases for real property or mobile classroom units for use as school facilities for charter schools and may be used for payments on loans made to charter schools for facilities, equipment, or operations. However, State funds shall not be used to obtain any other interest in real property or mobile classroom units. The school also may own land and buildings it obtains through non-State sources. No indebtedness of any kind incurred or created by the charter school shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the charter school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions. Every contract or lease into which a charter school enters shall include the previous sentence.

(b1) Counties may provide funds to charter schools by direct appropriation as set forth in G.S. 153A-461. These funds shall be used only for the following purposes:

- (1) The acquisition of real property for school purposes, including, but not limited to, school sites, playgrounds, and athletic fields.
- (2) The acquisition, construction, reconstruction, enlargement, renovation, or replacement of buildings and other structures, including, but not limited to, buildings for classrooms and laboratories, physical and vocational educational purposes, libraries, auditoriums, and gymnasiums.
- (3) The acquisition or replacement of furniture and furnishings, instructional apparatus, technology, data processing equipment, business machines, and similar items of furnishings and equipment.

(b2) If a charter school uses funds provided in subsection (b1) of this section to acquire or improve property, the amount provided by the county shall be evidenced by a promissory note and

secured by a deed of trust on the property acquired or improved by the funds. The county may subordinate the deed of trust to other liens to facilitate the acquisition or improvement of the property secured by the deed of trust. In the event that a charter school repays the county in the amount of the capital funds provided, the county shall, for the property acquired or improved by the funds, execute and file a deed of release or other documentation of satisfaction showing the charter school repaid the county in the amount of the capital funds provided.

(c) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil share of the local current expense fund of the local school administrative unit for the fiscal year. The per pupil share of the local current expense fund shall be transferred to the charter school within 30 days of the later of (i) the receipt of monies into the local current expense fund or (ii) the receipt by a local school administrative unit of the enrollment verification and transfer request document as provided under subsections (c2) and (c3) of this section from the charter school. Charter schools shall send the enrollment verification and transfer request document to the local school administrative units on a monthly basis. If the local school administrative unit receives additional monies into the local current expense fund following the initial transfer to the charter school, the local school administrative unit shall transfer the per pupil share of those additional monies to the charter school within 30 days of receipt of those monies.

(c1) If a local school administrative unit receives written notice directed to the superintendent and school finance officer from a charter school that the per pupil share of the local current expense fund has not been transferred as required by subsection (c) of this section, the local school administrative unit shall pay a late fee of three percent (3%) on the amount if the monies are not electronically transferred or, if mailed, not postmarked within 15 days of the notice. Interest on the amount owed to the charter school shall accrue at eight percent (8%) annually until the transfer is made. A local school administrative unit shall not owe late fees and interest on (i) any amounts not owed under subsection (c) of this section or (ii) per pupil amounts owed for any student whose information is ultimately shown to be materially incorrect on the enrollment verification and transfer request document shared with the local school administrative unit. A local school administrative unit shall be given an additional 30 days to make the transfer of the per pupil share of the local current expense fund to a charter school for any month in which the charter school fails to send the enrollment verification and transfer request document with the information required by subsection (c2) of this section.

(c2) The Superintendent of Public Instruction shall, in consultation with charter schools and local school administrative units, create a standardized enrollment verification and transfer request document that each charter school shall use to request the per pupil share of the local current expense fund from the local school administrative units. Charter schools shall only be required to list the name, age, grade, address, date of charter enrollment, date of charter withdrawal, district of residence, and student identification number of each student as provided to the charter school by the student's parent or guardian in the enrollment verification and transfer request document that the charter school submits to the local school administrative units. A charter school, in its discretion, may take further steps to confirm the student's residence in a particular local school administrative unit.

(c3) The Superintendent of Public Instruction shall, in consultation with charter schools and local school administrative units, create a standardized procedure that local school administrative units shall use when transferring the per pupil share of the local current expense fund to charter schools. The standardized procedure for transfer of the per pupil share of the local current expense

fund shall require, to the extent practicable, that the local school administrative units make the transfers by electronic transfer.

(c4) The local school administrative unit and charter school may use the process for mediation of differences between the Review Board and a charter school provided in G.S. 115C-218.95(d) to resolve differences on calculation and transference of the per pupil share of the local current expense fund. In the event the local school administrative unit and the charter school disagree on the amount owed to the charter school, the local school administrative unit may delay transfer of the disputed amount but shall not delay the transfer of the undisputed amount. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides.

(d) The local school administrative unit shall also provide each charter school to which it transfers a per pupil share of its local current expense fund with all of the following information within the 30-day time period provided in subsection (c) of this section:

- (1) The total amount of monies the local school administrative unit has in each of the funds listed in G.S. 115C-426(c).
- (2) The student membership numbers used to calculate the per pupil share of the local current expense fund.
- (3) How the per pupil share of the local current expense fund was calculated.
- (4) Any additional records requested by a charter school from the local school administrative unit in order for the charter school to audit and verify the calculation and transfer of the per pupil share of the local current expense fund.

In addition, the local school administrative unit shall provide to the State Board of Education and the Review Board all of the information required by this subsection for each charter school to which it transfers a per pupil share of its local current expense fund. This information shall be provided to the State Board of Education by November 1 of each year. The State Board shall adopt rules, as recommended by the Review Board, to govern the collection of this information. The State Board shall issue a letter of noncompliance to a local school administrative unit that does not provide the State Board and Review Board with the information required by this subsection.

(e) Prior to commencing an action under subsection (c) of this section, the complaining party shall give the other party 15 days' written notice of the alleged violation. The court shall award the prevailing party reasonable attorneys' fees and costs incurred in an action under subsection (c) of this section. The court shall order any delinquent funds, costs, fees, and interest to be paid in equal monthly installments and shall establish a time for payment in full that shall be no later than one year from the entry of any judgment.

(f) Charter schools may request appropriations directly from cities, as authorized by G.S. 160A-700.

(g) With respect to the receipt, deposit, and disbursement of moneys (i) required by law to be deposited with the State Treasurer or (ii) made available for expenditure by warrants drawn on the State Treasurer, charter schools are subject to Article 6A of Chapter 147 of the General Statutes.

(h) Notwithstanding G.S. 115C-218.15(b) and solely with respect to the North Carolina Medicaid program, a charter school that is approved in accordance with this Article as a public school pursuant to this Article shall be deemed a local government entity that is responsible, or assumes responsibility, either directly or indirectly through an agency or other political subdivision, for the payment of the nonfederal share for reimbursable medical services, if any,

provided by the charter school. The nonfederal share shall consist exclusively of public funds. For purposes of this subsection, "reimbursable medical services" means services, including administrative activities related to those services, that are medically necessary and for which federal payment is available under the North Carolina Medicaid Program established under Part 6 of Article 2 of Chapter 108A of the General Statutes. For the purposes of this subsection, "nonfederal share" means the share of expenditures for the reimbursable medical services that draws down federal financial participation. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 7; 1998-212, s. 9.20(f); 2003-423, s. 3.1; 2006-69, s. 3(f); 2013-355, s. 1(h); 2014-101, ss. 5.2, 5.6, 7; 2016-79, s. 1.6; 2017-173, s. 7; 2018-5, s. 38.8(d); 2021-79, s. 1; 2021-170, s. 4(c); 2021-180, s. 9D.21; 2023-107, s. 6(b); 2023-110, s. 1(p); 2023-134, ss. 7.26(c), 7.84.)

#### Part 5. Reporting on Charter Schools.

##### **§ 115C-218.110. Notice of the charter school process; review of charter schools.**

(a) The Charter Schools Review Board shall distribute information announcing the availability of the charter school process described in this Article to each local school administrative unit and public postsecondary educational institution and, through press releases, to each major newspaper in the State.

(b) The State Board of Education shall review and evaluate the educational effectiveness of the charter schools authorized under this Article and the effect of charter schools on the public schools in the local school administrative unit in which the charter schools are located. The Board shall report annually no later than June 15 to the Joint Legislative Education Oversight Committee on the following:

- (1) The current and projected impact of charter schools on the delivery of services by the public schools.
- (2) Student academic progress in the charter schools as measured, where available, against the academic year immediately preceding the first academic year of the charter schools' operation.
- (3) Best practices resulting from charter school operations.
- (4) Other information the State Board considers appropriate. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-18, s. 15(i); 1997-430, ss. 8, 9; 1999-27, s. 1; 2013-355, s. 1(i); 2014-101, s. 7; 2014-115, s. 85; 2019-165, s. 2.2; 2020-49, s. 6; 2023-110, s. 1(q); 2023-134, s. 7.26(c).)

#### Part 6. Charter Schools Pre-K Programs.

##### **§ 115C-218.115. Operation of NC Pre-K programs.**

(a) A charter school may apply to a local contracting agency to participate in the NC prekindergarten (NC Pre-K) program as a local program site offering families a high-quality prekindergarten experience. A charter school that seeks to operate as a NC Pre-K program site may request administrative and technical assistance from the Office of Charter Schools with its application to the local contracting agency if the charter school meets all of the following:

- (1) The charter school has operated as a charter school for at least three school years.
- (2) The charter school is not currently identified as low-performing.
- (3) The charter school meets generally accepted standards of fiscal management.

- (4) The charter school is substantially in compliance with State law, federal law, the charter school's own bylaws, and the provisions set forth in its charter granted by the State Board.

(b) The Office of Charter Schools, in consultation with the Department of Health and Human Services, Division of Child Development and Early Education, shall assist a charter school under subsection (a) of this section with determining whether the charter school's proposed program meets (i) the building standards set forth in subsection (c) of this section and any other State standards for the charter school to be licensed as a child care facility and (ii) the standards required to be selected as a site under the NC Pre-K program. If the charter school does not meet these standards, the Office of Charter Schools shall provide assistance to the charter school in identifying any obstacles to its participation in the NC Pre-K program.

(c) A charter school that otherwise meets all of the requirements for a child care facility license may use an existing or newly constructed classroom in the charter school for three- and four-year-old preschool students without modifications to the classroom or building if the classroom meets all of the following:

- (1) Has at least one toilet and one sink for hand washing.
- (2) Meets kindergarten standards for overhead light fixtures.
- (3) Meets kindergarten standards for floors, walls, and ceilings.
- (4) Has floors, walls, and ceilings that are free from mold, mildew, and lead hazards. (2017-173, s. 5(c); 2023-134, s. 7.26(c).)

#### Part 7. Remote Charter Academies.

##### **§ 115C-218.120. Remote charter academies.**

(a) As part of an application or modification of a charter, a nonprofit may apply to the Review Board for approval to include a remote charter academy that meets the requirements of this Part as part of the nonprofit's charter. A charter that includes a remote charter academy may do any of the following:

- (1) Provide only remote instruction to enrolled students served by the charter in accordance with this Part.
- (2) Provide remote instruction to students enrolled in the remote charter academy and provide in-person instruction to other students served by the charter.
- (3) Provide enrolled students both remote instruction and in-person instruction. A student who receives more than half of the student's instruction through remote instruction shall be classified as enrolled in the charter's remote charter academy.

(b) As part of the application or modification of a charter, the nonprofit shall designate which of the following enrollment areas the remote charter academy will use to enroll students:

- (1) A statewide remote charter academy that admits students in accordance with G.S. 115C-218.45.
- (2) A regional remote charter academy that, notwithstanding G.S. 115C-218.45(a), admits students only from the county in which the charter school facility is located and the counties of the State geographically contiguous to that county.

(c) A remote charter academy provides instruction primarily online through a combination of synchronous and asynchronous instruction delivered to students in a remote location outside of the charter school facility. A remote charter academy may include any combination of grade levels.



(d) Notwithstanding G.S. 115C-84.3, an approved remote charter academy may satisfy the minimum required number of instructional days or hours for the school calendar through remote instruction. (2023-134, s. 7.26(a).)

**§ 115C-218.121. Remote charter academy enrollment.**

(a) A student shall not be assigned to attend a remote charter academy without parental consent. A board of directors shall require an application to secure parental consent prior to enrollment of a student in a remote charter academy.

(b) A remote charter academy shall identify characteristics for successful remote learning and establish criteria for admittance to a remote charter academy and shall make that information available to parents.

(c) A student may not be denied admission to the remote charter academy solely on the basis that the student is a child with a disability. If a student is admitted to a remote charter academy, that student's IEP team, as defined in G.S. 115C-106.3, or section 504 team, 29 U.S.C. § 794, must plan for a successful student entry and accommodations necessary to provide for a free appropriate public education in the remote charter academy.

(d) A charter that provides in-person instruction may reassign a student to in-person instruction during the school year if the board of directors determines that in-person instruction would better ensure academic success for that student. The board of directors may delegate this authority to the chief administrator. (2023-134, s. 7.26(a).)

**§ 115C-218.122. Remote charter academy requirements.**

(a) Except as provided in this Part, a remote charter academy shall meet the same requirements as for other charter schools established by this Article.

(b) A remote charter academy shall provide all of the following to enrolled students:

- (1) Any hardware and software needed to participate in the remote charter academy. Students may not be charged rental fees but may be charged damage fees for abuse or loss of hardware or software under rules adopted by the State Board of Education.
- (2) Access to a learning management platform that enables monitoring of student performance and school-owned devices, as well as allows video conferencing and supervised text-based chat for synchronous communication.
- (3) Access to the internet that is available during instructional hours, evenings, and weekends.
- (4) Technical support that is available during instructional hours.
- (5) For children with an individualized education program (IEP), as defined in G.S. 115C-106.3, or a section 504 plan, 29 U.S.C. § 794, adaptive or assistive devices, transportation, and in-person services as required by that program or plan.

(c) A remote charter academy may require students to attend in person to fulfill State-mandated student assessments. A remote charter academy may conduct optional in-person meetings between students and instructors or parents and instructors at a charter school facility.

(d) The employees of a remote charter academy shall meet the same licensure and evaluation requirements as required by G.S. 115C-218.90. The remote charter academy shall ensure sufficient digital teaching and learning support staff, including, at a minimum, the following:

- (1) An instructional technology facilitator.
- (2) A school library media coordinator.
- (3) A data manager.
- (4) Sufficient remote technicians to ensure technical support throughout the instructional day for staff and students. (2023-134, s. 7.26(a).)

**§ 115C-218.123. Remote charter academy approval process.**

(a) A nonprofit seeking to provide a remote charter academy shall submit to the Review Board as part of the application for approval or modification of a charter a plan that provides for the following:

- (1) Whether the enrollment area of the remote charter academy will be statewide or regional.
- (2) The range of grades for which the remote charter academy will offer courses.
- (3) The method by which the remote charter academy will monitor calendar compliance, enrollment, daily attendance, course credit accrual, progress toward graduation, and course completion.
- (4) Hardware, software, and learning management platforms that support online learning.
- (5) The measures used to ensure that both synchronous and asynchronous remote instruction time, practice, and application components support learning growth that continues toward mastery of student achievement goals for the charter's educational program.
- (6) The professional development that will be provided to those teaching in the remote charter academy related to the pedagogy of providing remote instruction.
- (7) The identified characteristics for successful remote learning and criteria for admission to the remote charter academy. The board of directors shall identify the means by which information will be communicated to the parents and legal guardians of prospective applicants and current enrollees about the remote charter academy and those characteristics and criteria to allow for informed decisions about enrollment.
- (8) Any school nutrition services or transportation services that will be provided to students.

(b) The Review Board shall review and approve a charter or charter modification for the creation of a remote charter academy that meets the requirements established in this Part for a term of five years. The Review Board shall approve a minimum of two statewide remote charter academies that meet the qualifications of this Part for operation beginning with the 2026-2027 school year and thereafter. (2023-134, s. 7.26(a).)

**§ 115C-218.124. Operation and renewal of remote charter academies.**

(a) Each approved remote charter academy shall adhere to the plan submitted to and approved by the Review Board or the State Board of Education as part of the approved charter unless the board of trustees obtains a charter modification.

(b) Each approved remote charter academy shall receive a school code. A nonprofit that has a school code for in-person instruction in addition to a school code for a remote charter

academy may provide all financial reporting for both school codes jointly in a form directed by the Department of Public Instruction.

(c) A nonprofit may apply for renewal of the remote charter academy for additional terms of five years. The Review Board shall consider compliance with the requirements of this Part and success of the remote charter academy in the prior five years in determining whether to approve a request for renewal of a remote charter academy. (2023-134, s. 7.26(a).)

**§ 115C-218.125. Evaluation.**

The State Board of Education shall evaluate the success of remote charter academies approved under this Part. Success shall be measured by school performance scores and grades, retention rates, attendance rates, and, for grades nine through 12, high school completion and dropout rates. The Board shall report by November 15 of each year to the Joint Legislative Education Oversight Committee on the evaluation of these academies and on any recommended statutory changes. (2023-134, s. 7.26(a).)