

Article 8B.

School-Based Management and Accountability Program.

Part 1. Implementation of Program.

§ 115C-105.20. School-Based Management and Accountability Program.

(a) The General Assembly believes that all children can learn. It is the intent of the General Assembly that the mission of the public school community is to challenge with high expectations each child to learn, to achieve, and to fulfill his or her potential. With that mission as its guide, the State Board of Education shall develop a School-Based Management and Accountability Program. The primary goal of the Program shall be to improve student performance.

(b) In order to support local boards of education and schools in the implementation of this Program, the State Board of Education shall adopt guidelines, including guidelines to:

- (1) Assist local boards and schools in the development and implementation of school-based management under Part 2 of this Article.
- (2) Recognize the schools that meet or exceed their goals.
- (3) Identify low-performing schools under G.S. 115C-105.37, and create assistance teams that the Board may assign to schools identified as low-performing under G.S. 115C-105.37. The assistance teams should consist of currently practicing teachers and staff, representatives of institutions of higher education, school administrators, and others the State Board considers appropriate.
- (4) Enable assistance teams to make appropriate recommendations under G.S. 115C-105.38.
- (5) Establish a process to resolve disputes between local boards and schools in the development and implementation of school improvement plans under G.S. 115C-105.27. This process shall provide for final resolution of the disputes. (1989, c. 778, s. 3; 1991 (Reg. Sess., 1992), c. 900, s. 75.1(a); 1993, c. 321, s. 144.2(a); 1995, c. 272, s. 1; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 2011-145, s. 7.13(f); 2011-391, s. 14(b).)

§ 115C-105.21. Local participation in the Program.

(a) Local school administrative units shall participate in the School-Based Management and Accountability Program.

(b) The School-Based Management and Accountability Program shall provide increased local control of schools with the goal of improving student performance. Local boards of education:

- (1) Are allowed increased flexibility in the expenditure of State funds, in accordance with G.S. 115C-105.25; and
- (2) May be granted waivers of certain State laws, regulations, and policies that inhibit their ability to reach local accountability goals, in accordance with G.S. 115C-105.26.

(c) The School-Based Management and Accountability Program shall be based upon an accountability, recognition, assistance, and intervention process in order to hold each school and the school's personnel accountable for improved student performance in the school. (1989, c. 778, s. 3; 1991, c. 331, s. 1; 1993, c. 263, s. 1; c. 522, s. 3; 1995, c. 272, s. 2; c. 450, s. 12; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3.)

§ 115C-105.22. Reserved for future codification purposes.

§ 115C-105.23. Reserved for future codification purposes.

§ 115C-105.24. Reserved for future codification purposes.

Part 2. School-Based Management.

§ 115C-105.25. Budget flexibility.

(a) Consistent with improving student performance, a local board shall provide maximum flexibility to schools in the use of funds to enable the schools to accomplish their goals.

(b) Subject to the following limitations, local boards of education may transfer and may approve transfers of funds between funding allotment categories:

(1) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.

(1a) Funds for career and technical education and other purposes may be transferred only as permitted by federal law and the conditions of federal grants or as provided through any rules that the State Board of Education adopts to ensure compliance with federal regulations.

(1b) No funds shall be transferred out of the children with disabilities allotment category.

(2), (2a) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.

(3) No funds shall be transferred into the central office administration allotment category.

(3a) No funds shall be transferred out of the teacher assistants allotment category.

(3b) No funds shall be transferred out of the academically or intellectually gifted children allotment category.

(4), (5) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.

(5a) No positions shall be transferred out of the allocation for classroom teachers for kindergarten through twelfth grade, except as provided in this subdivision. Positions allocated for classroom teachers may be converted to dollar equivalents to contract for visiting international exchange teachers through a visiting international exchange teacher program approved by the State. These positions shall be converted at the statewide average salary for classroom teachers, including benefits. The converted funds shall be used only to provide visiting international exchange teachers with salaries commensurate with their experience levels, to provide any State-approved bonuses, and to cover the costs associated with supporting visiting international exchange teachers within the local school administrative unit, including programming and related activities, background checks, medical coverage, and other program administration services in accordance with the federal regulations for the Exchange Visitor Program, 22 C.F.R. Part 62.

(5b) Positions allocated for instructional support personnel may be converted to dollar equivalents for any purpose authorized by the policies of the State Board of Education. These positions shall be converted at the salary on the first step of the "A" Teachers Salary Schedule. Certified position allotments shall not be transferred to dollars to hire the same type of position.

(5c) Funds allocated for school building administration may be converted for any purpose authorized by the policies of the State Board of Education. For funds

related to principal positions, the salary transferred shall be based on the first step of the Base column of the Principal Salary Schedule. For funds related to assistant principal months of employment, the salary transferred shall be based on the first step of the "A" Teachers Salary Schedule at the salary level for assistant principals. Certified position allotments shall not be transferred to dollars to hire the same type of position.

- (5d) No positions shall be transferred out of the allocation for program enhancement teachers for kindergarten through fifth grade except as provided in this subdivision. Positions allocated for program enhancement teachers for kindergarten through fifth grade may be converted into positions allocated for classroom teachers for kindergarten through twelfth grade. For the purposes of this subdivision, the term "program enhancement" is as defined in G.S. 115C-301(c2).
- (6) through (9) Repealed by Session Laws 2013-360, s. 8.14, effective July 1, 2013.
- (10) Funds to carry out the elements of the Excellent Public Schools Act that are contained in Section 7A.1 of S.L. 2012-142 shall not be transferred.
- (10a) No funds shall be transferred out of the limited English proficiency allotment category.
- (11) No funds shall be transferred into or out of the driver education allotment category.
- (12) Funds allotted for textbooks and digital resources may only be used for the purchase of textbooks and digital resources. These funds shall not be transferred out of the allotment for any other purpose.
- (13) No positions shall be transferred out of the allocation for school psychologists except as provided in this subdivision. Positions allocated for school psychologists may be converted to dollar equivalents for contracted services directly related to school psychology. These positions shall be converted at the minimum salary for school psychologists on the "A" Teachers Salary Schedule.

(c) To ensure that parents, educators, and the general public are informed on how State funds have been used to address local educational priorities, each local school administrative unit shall publish information from the prior fiscal year on its Web site by October 15 of each year, as follows:

- (1) A description of each program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds within each program report code.
- (2) A description of each object code within a program report code, written in plain English, and a summary of the prior fiscal year's expenditure of State funds for each object code.
- (3) A description of each allotment transfer that increased or decreased the initial allotment amount by more than five percent (5%), including all of the following information:
 - a. The amount of the transfer.
 - b. The allotment category into which the funds were transferred.
 - c. The purpose code for the funds following the transfer.

- d. A description of any teacher positions fully or partially funded as a result of the transfer, including all subject areas taught by the teacher in the position.
- e. The educational priorities that necessitated the transfer.
- (4) Repealed by Session Laws 2017-57, s. 7.13(b), effective July 1, 2018.
- (5) A chart that clearly reflects how the local school administrative unit spent State funds.

(d) The local school administrative unit shall maintain information published pursuant to subsection (c) of this section on its Web site for at least three years after it is published.

(e) No later than December 1 of each year, the Department of Public Instruction shall collect the information reported by local school administrative units pursuant to subsection (c) of this section and report the aggregated information, including available data from the two previous fiscal years, to the Joint Legislative Education Oversight Committee and the Fiscal Research Division. The report shall also include information on the use of the budget flexibility provided to Advanced Teaching Roles schools pursuant to G.S. 115C-311(j). (1995 (Reg. Sess., 1996), c. 716, s. 3; 1996, 2nd Ex. Sess., c. 18, ss. 18.24(h)-(k); 1998-212, s. 9.20(b); 1999-237, s. 8.25(c); 2001-424, s. 28.22; 2005-276, s. 7.22(a); 2006-69, s. 3(b); 2011-145, s. 7.13(g); 2011-391, s. 14(b); 2013-360, s. 8.14; 2015-241, ss. 8.33, 8.39(c), 8.47(a); 2016-94, ss. 8.5, 8.16; 2017-57, ss. 7.1(b), 7.2(b), 7.12, 7.13(a), (b), 7.23J(a), 8.3(d); 2017-197, s. 2.4; 2018-2, s. 4(a), (b); 2018-5, ss. 7.11(a), 8.2(g); 2019-247, s. 2.3(f); 2020-78, s. 2.6(c); 2021-180, s. 7.6(b).)

§ 115C-105.26. Waivers of State laws or rules.

(a) Except as otherwise provided for in this section, the State Board of Education shall not grant waivers of State laws or rules to local boards of education. If permitted under this section, a request for a waiver by a local board of education shall (i) identify the school or schools making the request, (ii) identify the State law or rule requesting to be waived, (iii) set out with specificity the circumstances under which the waiver may be used, and (iv) explain how the requested waiver will permit the school to improve student performance.

(b) The State Board of Education may grant waivers to local boards of education of State laws and rules pertaining to the following:

- (1) Class size requirements only as provided in G.S. 115C-301(g).
- (2) Repealed by Session Laws 2015-241, s. 8A.6(a), effective July 1, 2015.
- (3) School calendar requirements in order to provide sufficient days to accommodate anticipated makeup days due to school closings only as provided in G.S. 115C-84.2(d).

(c) through (e) Repealed by Session Laws 2015-241, s. 8A.6(a), effective July 1, 2015.

(f) The State Board shall act within 60 days of receipt of all requests for waivers under this section.

(g) The State Board shall, on a regular basis, review all waivers it has granted to determine whether any rules should be repealed or modified or whether the Board should recommend to the General Assembly the repeal or modification of any laws.

(h) By October 15 of each year, the State Board shall report to the Joint Legislative Education Oversight Committee with a list of the specific waivers granted to each local board of education under this section. The State Board may include any legislative recommendations identified under subsection (g) of this section in its report. (1995 (Reg. Sess., 1996), c. 716, s. 3;

1999-237, s. 8.25(b); 2006-153, s. 2; 2011-145, s. 7.13(h); 2011-391, s. 14(b); 2013-360, s. 9.7(a); 2015-241, s. 8A.6(a).)

§ 115C-105.27. Development and approval of school improvement plans.

(a) School Improvement Team. – The principal of each school, representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building, and parents of children enrolled in the school shall constitute a school improvement team. The team shall develop a school improvement plan to improve student performance.

Representatives of the assistant principals, instructional personnel, instructional support personnel, and teacher assistants shall be elected by their respective groups by secret ballot.

Unless the local board of education has adopted an election policy, parents shall be elected by parents of children enrolled in the school in an election conducted by the parent and teacher organization of the school or, if none exists, by the largest organization of parents formed for this purpose. Parents serving on school improvement teams shall reflect the racial and socioeconomic composition of the students enrolled in that school and shall not be members of the building-level staff.

Parental involvement is a critical component of school success and positive student achievement; therefore, it is the intent of the General Assembly that parents, along with teachers, have a substantial role in developing school improvement plans. To this end, school improvement team meetings shall be held at a convenient time to assure substantial parent participation.

(a1) Open Meetings. – School improvement team meetings are subject to the open meetings requirements of Article 33C of Chapter 143 of the General Statutes. Deliberations on the school safety components of the plan shall be in closed session in accordance with G.S. 143-318.11(a)(8). The principal shall ensure that these requirements are met.

(a2) Public Records. – The school improvement plan, except for the school safety components of the plan, is a public record subject to Chapter 132 of the General Statutes and shall be posted on the school Web site. The names of the members of the school improvement team, their positions, and the date of their election to the school improvement team shall also be posted on the Web site.

The school safety components of the plan are not public records subject to Chapter 132 of the General Statutes.

(b) School Improvement Plan. – In order to improve student performance, the school improvement team at each school shall develop a school improvement plan that takes into consideration the annual performance goal for that school that is set by the State Board under G.S. 115C-105.35 and the goals set out in the mission statement for the public schools adopted by the State Board of Education. All school improvement plans shall be, to the greatest extent possible, data-driven. School improvement teams shall use the Education Value-Added Assessment System (EVAAS) or a compatible and comparable system approved by the State Board of Education to (i) analyze student data and identify root causes for problems, (ii) determine actions to address them, and (iii) appropriately place students in courses such as Algebra I. School improvement plans shall contain clear, unambiguous targets, explicit indicators and actual measures, and expeditious time frames for meeting the measurement standards.

The strategies for improving student performance:

- (1) Shall include a plan for the use of staff development funds that may be made available to the school by the local board of education to implement the school

improvement plan. The plan may provide that a portion of these funds is used for mentor training and for release time and substitute teachers while mentors and teachers mentored are meeting;

- (1a) Repealed by Session Laws 2012-142, s. 7A.1(c), effective July 2, 2012.
- (2) Shall include a plan to address school safety and discipline concerns;
- (3) May include a decision to use State funds in accordance with G.S. 115C-105.25;
- (4) Shall include a plan that specifies the effective instructional practices and methods to be used to improve the academic performance of students identified as at risk of academic failure or at risk of dropping out of school;
- (5) May include requests for waivers of State laws, rules, or policies for that school. A request for a waiver shall meet the requirements of G.S. 115C-105.26;
- (6) Shall include a plan to provide a duty-free lunch period for every teacher on a daily basis or as otherwise approved by the school improvement team; and
- (7) Shall include a plan to provide duty-free instructional planning time for every teacher under G.S. 115C-301.1, with the goal of providing an average of at least five hours of planning time per week; [and]
- (8) Shall include a plan to identify and eliminate unnecessary and redundant reporting requirements for teachers and, to the extent practicable, streamline the school's reporting system and procedures, including requiring forms and reports to be in electronic form when possible and incorporating relevant documents into the student accessible components of the Instructional Improvement System.

(c) School Vote on the Plan. – Support among affected staff members is essential to successful implementation of a school improvement plan to address improved student performance at that school. The principal of the school shall present the proposed school improvement plan to all of the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for their review and vote. The vote shall be by secret ballot. The principal shall submit the school improvement plan to the local board of education only if the proposed school improvement plan has the approval of a majority of the staff who voted on the plan.

(c1) Consideration of the School Safety Components of the Plan. – The superintendent shall review the school safety components of the school improvement plans and make written recommendations on them to the local board of education. Prior to a vote to accept a school's improvement plan in accordance with G.S. 115C-105.27(d), the local board of education shall review the school safety components of the plan for that school in closed session. The board shall make findings on the safety components of the plan. Neither the safety components of the plan nor the board's findings on the safety components of the plan shall be set out in the minutes of the board.

(d) Adoption of the Plan. – The local board of education shall accept or reject the school improvement plan. The local board shall not make any substantive changes in any school improvement plan that it accepts. If the local board rejects a school improvement plan, the local board shall state with specificity its reasons for rejecting the plan; the school improvement team may then prepare another plan, present it to the principals, assistant principals, instructional personnel, instructional support personnel, and teacher assistants assigned to the school building for a vote, and submit it to the local board to accept or reject. If no school improvement plan is accepted for a school within 60 days after its initial submission to the local board, the school or the

local board may ask to use the process to resolve disagreements recommended in the guidelines developed by the State Board under G.S. 115C-105.20(b)(5). If this request is made, both the school and local board shall participate in the process to resolve disagreements. If there is no request to use that process, then the local board may develop a school improvement plan for the school. The General Assembly urges the local board to utilize the school's proposed school improvement plan to the maximum extent possible when developing such a plan.

(e) **Effective Period of the Plan.** – A school improvement plan shall remain in effect for no more than two years; however, the school improvement team may amend the plan as often as is necessary or appropriate. If, at any time, any part of a school improvement plan becomes unlawful or the local board finds that a school improvement plan is impeding student performance at a school, the local board may vacate the relevant portion of the plan and may direct the school to revise that portion. The procedures set out in this subsection shall apply to amendments and revisions to school improvement plans.

(f) **Elimination of Other Unnecessary Plans.** – If a local board of education finds that a school improvement plan adequately covers another plan that the local school administrative unit is otherwise required to prepare, the local school administrative unit shall not be required to prepare an additional plan on the matter.

(g) **Compliance With Requirements.** – Any employee, parent, or other interested individual or organization is encouraged to notify the principal of any concerns regarding compliance with this section. In addition, any employee, parent, or other interested individual or organization may submit in writing to the superintendent concerns regarding compliance with this section. The superintendent shall make a good-faith effort to investigate the concern. The superintendent shall upon request provide a written response to the concern. (1989, c. 778, s. 3; 1991 (Reg. Sess., 1992), c. 900, s. 75.1(b); 1993, c. 38, s. 1; c. 263, s. 2; c. 321, s. 144.2(b); 1995, c. 272, s. 3; c. 450, s. 13; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 1997-159, s. 1; 1997-443, s. 8.29(r)(2); 1999-271, s. 1; 1999-397, s. 1; 2000-67, s. 8.1; 2001-424, s. 28.30(c); 2006-153, s. 1; 2009-223, s. 2; 2010-110, s. 1; 2011-145, s. 7.13(i), (x); 2011-379, s. 6(b); 2011-391, s. 14(b); 2012-77, s. 2; 2012-142, s. 7A.1(c); 2013-226, s. 11(a); 2013-360, s. 8.41(a).)

§§ 115C-105.28, 115C-105.29: Repealed by Session Laws 1995 (Regular Session, 1996), c. 716, s. 3.

§ 115C-105.30. Distribution of staff development funds.

Any funds the local board of education makes available to an individual school building to implement the school improvement plan at that school shall be used in accordance with that plan.

Each local board shall distribute seventy-five percent (75%) of the funds in the staff development funding allotment to the schools to be used in accordance with that school's school improvement plan. By October 1 of each year, the principal shall disclose to all affected personnel the total allocation of all funds available to the school for staff development and the superintendent shall disclose to all affected personnel the total allocation of all funds available at the system level for staff development. At the end of the fiscal year, the principal shall make available to all affected personnel a report of all disbursements from the building-level staff development funds, and the superintendent shall make available to all affected personnel a report of all disbursements at the system level of staff development funds. (1993, c. 321, s. 144.2(c); 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 2011-145, s. 7.13(j); 2011-391, s. 14(b).)

§ 115C-105.31: Repealed by Session Laws 2011-266, s. 1.18, effective July 1, 2011.

§ 115C-105.32. Parent involvement programs and conflict resolution programs as part of school improvement plans.

A school is encouraged to include a comprehensive parent involvement program as part of its school improvement plan under G.S. 115C-105.27. The State Board of Education shall develop a list of recommended strategies that it determines to be effective, which building level committees may use to establish parent involvement programs designed to meet the specific needs of their schools. The Board shall make the list available to local school administrative units and school buildings by the beginning of the 1994-95 school year.

A school is encouraged to review its need for a comprehensive conflict resolution program as part of the development of its school improvement plan under G.S. 115C-105.27. If a school determines that this program is needed, it may select from the list developed by the State Board of Education under G.S. 115C-81.15 or may develop its own materials and curricula to be approved by the local board of education. (1993, c. 509, ss. 2, 3; 1995 (Reg. Sess., 1996), c. 716, ss. 2, 3; 2011-145, s. 7.13(l); 2011-391, s. 14(b); 2017-126, s. 13.)

§ 115C-105.33. Safe and orderly schools.

A school improvement team or a parent organization at a school may ask the local board of education to provide assistance in promoting or restoring safety and an orderly learning environment at a school. The school improvement team or parent organization shall file a copy of this request with the State Board. If the local board fails to provide adequate assistance to the school, then the school improvement team or parent organization may ask the State Board to provide an assistance team to the school.

The State Board may provide an assistance team, established under G.S. 115C-105.38, to a school in order to promote or restore safety and an orderly learning environment at that school if one of the following applies:

- (1) The local board of education or superintendent requests that the State Board provide an assistance team to a school and the State Board determines that the school needs assistance.
- (2) The State Board determines within 10 days after its receipt of the request for assistance from a school improvement team or parent organization of a school that the school needs assistance and that the local board has failed to provide adequate assistance to that school.

If an assistance team is assigned to a school under this section, the team shall spend a sufficient amount of time at the school to assess the problems at the school, assist school personnel with resolving those problems, and work with school personnel and others to develop a long-term plan for restoring and maintaining safety and an orderly learning environment at the school. The assistance team also shall make recommendations to the local board of education and the superintendent on actions the board and the superintendent should consider taking to resolve problems at the school. These recommendations shall be in writing and are public records. If an assistance team is assigned to a school under this section, the powers given to the State Board and the assistance team under G.S. 115C-105.38 and G.S. 115C-105.39 shall apply as if the school had been identified as low-performing under this Article. (1997-443, s. 8.29(a)(2); 2011-145, s. 7.13(m); 2011-391, s. 14(b).)

§ 115C-105.34. Reserved for future codification purposes.

Part 3. School-Based Accountability.

§ 115C-105.35. Annual performance goals.

(a) The School-Based Management and Accountability Program shall (i) focus on student performance in the basics of reading, mathematics, and communications skills in elementary and middle schools, (ii) focus on student performance in courses required for graduation and on other measures required by the State Board in the high schools, and (iii) hold schools accountable for the educational growth of their students. To those ends, the State Board shall design and implement an accountability system that sets annual performance standards for each school in the State in order to measure the growth in performance of the students in each individual school.

(b) For purposes of this Article, the State Board shall include a "closing the achievement gap" component in its measurement of educational growth in student performance for each school. The "closing the achievement gap" component shall measure and compare the performance of each subgroup in a school's population to ensure that all subgroups as identified by the State Board are meeting State standards.

(c) Repealed by Session Laws 2015-241, s. 8A.4(a), effective July 1, 2015. (1995 (Reg. Sess., 1996), c. 716, s. 3; 2001-424, s. 28.30(a); 2003-284, s. 7.40(c); 2004-124, s. 7.12(a); 2015-241, ss. 8.25(d), 8A.4(a).)

§ 115C-105.36: Repealed by Session Laws 2015-65, s. 1.2, effective June 11, 2015.

§ 115C-105.37. Identification of low-performing schools.

(a) Identification of Low-Performing Schools. – The State Board of Education shall identify low-performing schools on an annual basis. Low-performing 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.

(a1) Plan for Improvement of Low-Performing Schools. – If a school has been identified as low-performing as provided in this section and the school is not located in a local school administrative unit identified as low-performing under G.S. 115C-105.39A, the following actions shall be taken:

- (1) The superintendent shall proceed under G.S. 115C-105.39.
- (2) Within 30 days of the initial identification of a school as low-performing by the State Board, the superintendent shall submit to the local board of education a preliminary plan for improving both the school performance grade and school growth score, including how the superintendent and other central office administrators will work with the school and monitor the school's progress.
- (3) Within 30 days of its receipt of the preliminary plan, the local board shall vote to approve, modify, or reject this plan. Before the local board votes on the preliminary plan, it shall make the plan available to the public, including the personnel assigned to that school and the parents and guardians of the students who are assigned to the school, and shall allow for written comments.
- (4) The local board shall submit a final plan to the State Board within five days of the local board's approval of the plan. The State Board shall review the plan expeditiously and, if appropriate, may offer recommendations to modify the plan. The local board shall consider any recommendations made by the State

Board and, if necessary, amend the plan and vote on approval of any changes to the final plan.

- (5) The local board of education shall provide access to the final plan on the local school administrative unit's Web site. The State Board of Education shall also provide access to each low-performing school plan on the Department of Public Instruction's Web site.

(b) **Parental Notice of Low-Performing School Status.** – Each school that the State Board identifies as low-performing shall provide written notification to the parents and guardians of students attending that school within 30 days of the identification that includes the following information:

- (1) A statement that the State Board of Education has found that the school has earned an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" and has been identified as a low-performing school as defined by G.S. 115C-105.37. The statement shall include an explanation of the school performance grades and growth scores.
- (2) The school performance grade and growth score earned.
- (3) Information about the preliminary plan developed under subsection (a1) of this section and the availability of the final plan on the local school administrative unit's Web site.
- (4) The meeting date for when the preliminary plan will be considered by the local board of education.
- (5) A description of any additional steps the school is taking to improve student performance. (1995 (Reg. Sess., 1996), c. 716, s. 3; 1997-221, s. 20(b); 1997-443, s. 8.45; 1998-59, s. 1; 2001-424, s. 29.4(a); 2015-241, s. 8A.4(b); 2017-57, s. 7.26(f).)

§ 115C-105.37A. Continually low-performing schools; definition; assistance and intervention; reassignment of students.

(a) **Definition of Continually Low-Performing Schools.** – A continually low-performing school is a school that has received State-mandated assistance and has been designated by the State Board as low performing for at least two of three consecutive years. If the State Board identifies a school as continually low performing:

- (1) The school improvement team at that school shall review its school improvement plan to ensure consistency with the plan adopted pursuant to G.S. 115C-105.38(b)(3), and
- (2) The plan must be reviewed and approved by the State Board of Education.

(b) **Assistance to Schools That Are Low Performing for Two Years.** – If a school that has received State-mandated assistance is designated by the State Board as low performing for two consecutive years or for two of three consecutive years, the State Board shall provide a series of progressive assistance and intervention strategies to that school. These strategies shall be designed to improve student achievement and to maintain student achievement at appropriate levels and may include, to the extent that funds are available for this purpose, assistance such as reductions in class size, extension of teacher and assistant principal contracts, extension of the instructional year, and grant-based assistance.

(c) **Intervention in Schools That Are Low Performing for Three or More Years.** – The State Board of Education shall develop and implement a series of actions for providing assistance and intervention to schools that have previously received State- mandated assistance and have been designated by the State Board as low performing for three or more consecutive years or for at least three out of four years. These actions shall be the least intrusive actions that are consistent with the need to improve student achievement at each such school and shall be adapted to the unique characteristics of each such school and the effectiveness of other actions developed or implemented to improve student achievement at each such school.

(d) **(Repealed effective June 30, 2023)** The State Board of Education shall report annually to the Superintendent of the North Carolina Innovative School District on any schools identified under this section as qualifying schools as defined in G.S. 115C-75.5 for consideration to be selected as innovative schools in accordance with Article 7A of this Chapter. (2001-424, s. 29.3; 2009-223, s. 3; 2011-145, s. 7.13(n); 2011-391, s. 14(b); 2016-110, s. 2; 2017-57, s. 7.26E(b), (f); 2018-145, s. 27(b); 2021-180, s. 7.14(i).)

§ 115C-105.37B. Reform of continually low-performing schools.

(a) Notwithstanding any other provision of this Article, the State Board of Education is authorized to approve a local board of education's request to reform any school in its administrative unit which the State Board of Education has identified as one of the continually low-performing schools in North Carolina.

If the State Board of Education approves a local board of education's request to reform a school, the State Board of Education may authorize the local board of education to adopt one of the following models in accordance with State Board of Education requirements:

- (1) Transformation model, which would address the following four specific areas critical to transforming a continually low-performing school:
 - a. Developing and increasing teacher and school leader effectiveness.
 - b. Comprehensive instructional reform strategies.
 - c. Increasing learning time and creating community-oriented schools.
 - d. Providing operational flexibility and sustained support.
- (2) Restart model, in which the State Board of Education would authorize the local board of education to operate the school with the same exemptions from statutes and rules as a charter school authorized under Article 14A of this Chapter, or under the management of an educational management organization that has been selected through a rigorous review process. A school operated under this subdivision remains under the control of the local board of education, and employees assigned to the school are employees of the local school administrative unit with the protections provided by Part 3 of Article 22 of this Chapter.
- (3) Turnaround model, which would involve, among other actions, replacing the principal, if the principal has been in that position for at least three years, and rehiring no more than fifty percent (50%) of the school's staff, adopting a new governance structure at the school consistent with this Article, and implementing an instructional program aligned with the Standard Course of Study.
- (4) School closure model, in which a local school administrative unit would close the school consistent with G.S. 115C-72 and enroll the students who attended

the school in other, higher-achieving schools in the local school administrative unit consistent with Article 25 of this Chapter.

(b) The State Board of Education shall adopt rules to develop requirements for the models for school reform established in subsection (a) of this section.

(c) The State Board shall establish a procedure to implement this section. This procedure shall include annual reporting requirements from local boards that are authorized to use one of the models under this section and shall include a procedure for removing or continuing the authorization.

(d) Nothing in this section shall be construed to limit the authority of a local board of education as otherwise provided in this Chapter. (2010-1, s. 1; 2011-164, s. 2(b); 2013-360, s. 9.7(b); 2014-101, s. 7.)

§ 115C-105.38. Assistance teams; review by State Board.

(a) The State Board of Education may assign an assistance team to any school identified as low-performing under this Article or to any other school that requests an assistance team and that the State Board determines would benefit from an assistance team. The State Board shall give priority to low-performing schools in which the educational performance of the students is declining. The Department of Public Instruction shall, with the approval of the State Board, provide staff as needed and requested by an assistance team.

(b) When assigned to an identified low-performing school, an assistance team shall:

- (1) Review and investigate all facets of school operations and assist in developing recommendations for improving student performance at that school.
- (2) Evaluate at least semiannually the personnel assigned to the school and make findings and recommendations concerning their performance.
- (3) Collaborate with school staff, central offices, and local boards of education in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to alleviate problems and improve student performance at that school.
- (4) Make recommendations as the school develops and implements this plan.
- (5) Review the school's progress.
- (6) Report, as appropriate, to the local board of education, the community, and the State Board on the school's progress. If an assistance team determines that an accepted school improvement plan developed under G.S. 115C-105.27 is impeding student performance at a school, the team may recommend to the local board that it vacate the relevant portions of that plan and direct the school to revise those portions.

(b1) Report to the State Board of Education if a school and its local board of education are not responsive to the team's recommendations. A copy of that report shall be made available to the local board, and the local board shall have an opportunity to respond. Notwithstanding G.S. 115C-36 and other provisions of this Chapter, if the State Board confirms that the school and local board have failed to take appropriate steps to improve student performance at that school, the State Board shall assume all powers and duties previously conferred upon that local board and that school and shall have general control and supervision of all matters pertaining to that school until student performance at the school meets or exceeds the standards set for the school. The State Board may, as it considers appropriate, delegate any powers and duties to that local board or school before the school meets or exceeds those standards.

(c) If a school fails to improve student performance after assistance is provided under this section, the assistance team may recommend that the assistance continues or that the State Board take further action under G.S. 115C-105.39.

(d) The State Board shall annually review the progress made in identified low-performing schools. (1995 (Reg. Sess., 1996), c. 716, s. 3; 2002-178, s. 7; 2011-145, s. 7.13(o); 2011-391, s. 14(b).)

§ 115C-105.38A. Teacher competency assurance.

(a) General Knowledge Test. –

(1) Each assistance team assigned to a low-performing school during the 1997-98 school year shall review the team's evaluations of certified staff members to determine which staff members have been designated by the team as Category 3 teachers. The assistance team shall then determine whether lack of general knowledge contributed to the Category 3 designation. If the assistance team determines that a certified staff member's lack of general knowledge contributed to that staff member being designated as a Category 3 teacher, the assistance team shall submit the staff member's name to the State Board. Upon receipt of the notification, the State Board shall require that the certified staff members identified by the assistance teams demonstrate their general knowledge by acquiring a passing score on a test designated by the State Board. The State Board shall administer the general knowledge test required under this subdivision at the end of the 1997-98 school year.

(2) During the 1998-99 school year and thereafter, either the principal assigned to a low-performing school or the assistance team assigned to a low-performing school may recommend to the State Board that a certified staff member take a general knowledge test. A principal or an assistance team may make this recommendation if the principal or the assistance team determines that the certified staff member's performance is impaired by the staff member's lack of general knowledge. After receipt of the notification, but prior to the end of the fiscal year, the State Board shall require that all certified staff members identified under this subdivision demonstrate their general knowledge by acquiring a passing score on a test designated by the State Board.

(b) Repealed by Session Laws 1998-5, s. 1, effective June 9, 1998.

(c) Remediation. – Certified staff members who do not acquire a passing score on the test required under subsection (a) of this section shall engage in a remediation plan based upon the deficiencies identified by the test, or an assistance team, or a principal. The remediation plan for deficiencies of individual certified staff members shall consist of up to a semester of university or community college training or coursework or other similar activity to correct the deficiency. The remediation shall be developed by the State Board of Education in consultation with the Board of Governors of The University of North Carolina. The State Board shall reimburse the institution providing the remediation any tuition and fees incurred under this section. If the remediation plan requires that the staff member engage in a full-time course of study or training, the staff member shall be considered on leave with pay.

(d) Retesting; Dismissal. – Upon completion of the remediation plan required under subsection (c) of this section, the licensed staff member shall take the general knowledge test a

second time. If the licensed staff member fails to acquire a passing score on the second test, the State Board shall begin a dismissal proceeding under G.S. 115C-325(q)(2a) or G.S. 115C-325.13.

(e) Repealed by Session Laws 1998-5, s. 1, effective June 9, 1998.

(f) Other Actions Not Precluded. – Nothing in this section shall be construed to restrict or postpone the following actions:

(1) The dismissal of a principal under G.S. 115C-325.12.

(2) The dismissal of a teacher, assistant principal, director, or supervisor under G.S. 115C-325(q)(2) or G.S. 115C-325.13.

(3) The dismissal or demotion of an employee for any of the grounds listed under G.S. 115C-325(e) or G.S. 115C-325.4.

(4) The nonrenewal of a school administrator's or teacher's contract of employment.

(5) Repealed by Session Laws 2013-360, s. 9.7(c), effective July 1, 2014.

(g) Repealed by Session Laws 1998-5, s. 1, effective June 9, 1998. (1997-221, s. 3(a); 1998-5, s. 1; 2013-360, ss. 9.7(c), (o); 2017-157, s. 2(n).)

§ 115C-105.39. Dismissal or removal of personnel; appointment of interim superintendent.

(a) Within 30 days of the initial identification of a school as low-performing by the State Board under G.S. 115C-105.37(a), the superintendent shall take one of the following actions concerning the school's principal: (i) recommend to the local board that the principal be retained in the same position, (ii) recommend to the local board that the principal be retained in the same position and a plan of remediation should be developed, (iii) recommend to the local board that the principal be transferred, or (iv) proceed under G.S. 115C-325.4 to dismiss or demote the principal. The superintendent may only recommend a principal be retained in the same position without a plan for remediation if the principal has been at the school for less than two years or, in the case of a principal having been at the school for two years or more, if the school has both met student growth and has improved student achievement scores under G.S. 115C-83.15 for the prior school year. The principal shall not be transferred to another principal position unless (i) it is in a school classification in which the principal previously demonstrated at least 2 years of success, (ii) there is a plan to evaluate and provide remediation to the principal for at least one year following the transfer to assure the principal does not impede student performance at the school to which the principal is being transferred; and (iii) the parents of the students at the school to which the principal is being transferred are notified. The principal shall not be transferred to another low-performing school in the local school administrative unit. If the superintendent intends to recommend demotion or dismissal, the superintendent shall notify the local board. Within 15 days of (i) receiving notification that the superintendent intends to proceed under G.S. 115C-325.4 or (ii) its decision concerning the superintendent's recommendation, but no later than September 30, the local board shall submit to the State Board a written notice of the action taken and the basis for that action. If the State Board does not assign an assistance team to that school or if the State Board assigns an assistance team to that school and the superintendent proceeds under G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall take no further action. If the State Board assigns an assistance team to the school and the superintendent is not proceeding under G.S. 115C-325.4 to dismiss or demote the principal, then the State Board shall vote to accept, reject, or modify the local board's recommendations. The State Board shall notify the local board of its action within five days. If the State Board rejects or modifies the local board's recommendations and does not recommend dismissal of the principal, the State Board's notification shall include

recommended action concerning the principal's assignment or terms of employment. Upon receipt of the State Board's notification, the local board shall implement the State Board's recommended action concerning the principal's assignment or terms of employment unless the local board asks the State Board to reconsider that recommendation. The State Board shall provide an opportunity for the local board to be heard before the State Board acts on the local board's request for a reconsideration. The State Board shall vote to affirm or modify its original recommended action and shall notify the local board of its action within five days. Upon receipt of the State Board's notification, the local board shall implement the State Board's final recommended action concerning the principal's assignment or terms of employment. If the State Board rejects or modifies the local board's action and recommends dismissal of the principal, the State Board shall proceed under G.S. 115C-325.12.

(b) The State Board shall proceed under G.S. 115C-325(q)(2) or G.S. 115C-325.13 for the dismissal of teachers, assistant principals, directors, and supervisors assigned to a school identified as low-performing in accordance with G.S. 115C-325(q)(2) or G.S. 115C-325.13.

(c) The State Board may appoint an interim superintendent in a local school administrative unit:

- (1) Upon the identification of more than half the schools in that unit as low-performing under G.S. 115C-105.37; or
- (2) Upon the recommendation from an assistance team assigned to a school located in that unit that has been identified as low-performing under G.S. 115C-105.37. This recommendation shall be based upon a finding that the superintendent has failed to cooperate with the assistance team or has otherwise hindered that school's ability to improve.

The State Board may assign any of the powers and duties of the local superintendent and the local finance officer to the interim superintendent that the Board considers are necessary or appropriate to improve student performance in the local school administrative unit. The interim superintendent shall perform all of these assigned powers and duties. The State Board of Education may terminate the contract of any local superintendent entered into on or after July 1, 1996, when it appoints an interim superintendent. The Administrative Procedure Act shall apply to that decision. Neither party to that contract is entitled to damages.

(d) In the event the State Board has appointed an interim superintendent and the State Board determines that the local board of education has failed to cooperate with the interim superintendent or has otherwise hindered the ability to improve student performance in that local school administrative unit or in a school in that unit, the State Board may suspend any of the powers and duties of the local board of education that the State Board considers are necessary or appropriate to improve student performance in the local school administrative unit. The State Board shall perform all of these assigned powers and duties for a period of time to be specified by the State Board.

(e) If the State Board suspends any of the powers and duties of the local board of education under subsection (d) of this section and subsequently determines it is necessary to change the governance of the local school administrative unit in order to improve student performance, the State Board may recommend this change to the General Assembly, which shall consider, at its next session, the future governance of the identified local school administrative unit. (1995 (Reg. Sess., 1996), c. 716, s. 3; 1998-59, s. 2; 2013-360, ss. 9.7(d), (p); 2016-94, s. 8.31(a); 2017-157, s. 2(n).)

§ 115C-105.39A. Identification of low-performing local school administrative units.

(a) Identification of Low-Performing Local School Administrative Units. – The State Board of Education shall identify low-performing local school administrative units on an annual basis. A low-performing local school administrative unit is a unit in which the majority of the schools in that unit that earned an overall school performance grade and school growth score as provided in G.S. 115C-83.15 have been identified as low-performing schools, as provided in G.S. 115C-105.37.

(b) Plan for Improvement of Low-Performing Local School Administrative Units. – Once a local school administrative unit has been identified as low-performing under this section, the following actions shall be taken:

- (1) The superintendent shall proceed under G.S. 115C-105.39.
- (2) Within 30 days of the identification of a local school administrative unit as low-performing by the State Board, the superintendent shall submit to the local board of education a preliminary plan for improving both the school performance grade and school growth score of each low-performing school in the unit, including how the superintendent and other central office administrators will work with each low-performing school and monitor the low-performing school's progress and how current local school administrative unit policy should be changed to improve student achievement throughout the local school administrative unit. The plan shall also include specific strategies to improve early childhood learning along with measurable goals.
- (3) Within 30 days of its receipt of the preliminary plan, the local board shall vote to approve, modify, or reject this plan. Before the local board votes on the plan, it shall make the plan available to the public, including the personnel assigned to each low-performing school and the parents and guardians of the students who are assigned to each low-performing school, and shall allow for written comments.
- (4) The local board shall submit a final plan to the State Board within five days of the local board's approval of the plan. The State Board shall review the plan expeditiously and, if appropriate, may offer recommendations to modify the plan. The local board shall consider any recommendations made by the State Board and, if necessary, amend the plan and vote on approval of any changes to the final plan.
- (5) The local board of education shall provide access to the final plan on the local school administrative unit's Web site. The State Board of Education shall also provide access to each low-performing local school administrative unit plan on the Department of Public Instruction's Web site.

(c) Parental Notice of Low-Performing Local School Administrative Unit Status. – Each local school administrative unit that the State Board identifies as low-performing shall provide written notification to the parents and guardians of all students attending any school in the local school administrative unit within 30 days of the identification that includes the following information:

- (1) A statement that the State Board of Education has found that a majority of the schools in the local school administrative unit have earned an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" and have been identified as low-performing schools as defined by G.S. 115C-105.37. The statement shall

also include an explanation of the school performance grades and school growth scores.

- (2) The percentage of schools identified as low-performing.
- (3) Information about the preliminary plan developed under subsection (b) of this section and the availability of the final plan on the local school administrative unit's Web site.
- (4) The meeting date for when the preliminary plan will be considered by the local board of education.
- (5) A description of any additional steps the local school administrative unit and schools are taking to improve student performance.
- (6) For notifications sent to parents and guardians of students attending a school that is identified as low-performing under G.S. 115C-105.37, a statement that the State Board of Education has found that the school has earned an overall school performance grade of D or F and a school growth score of "met expected growth" or "not met expected growth" and has been identified as a low-performing school as defined by G.S. 115C-105.37. This notification also shall include the overall school performance grade and school growth score the school earned and an explanation of the school performance grades and school growth scores. (2015-241, s. 8A.4(c); 2017-57, s. 7.26(g); 2020-55, s. 1.)

§ 115C-105.40. Student academic performance standards.

The State Board of Education shall develop a plan to create rigorous student academic performance standards for kindergarten through eighth grade and student academic performance standards for courses in grades 9-12. The performance standards shall align, whenever possible, with the student academic performance standards developed for the National Assessment of Educational Progress (NAEP). The plan also shall include clear and understandable methods of reporting individual student academic performance to parents. (1997-221, s. 3(e).)

§ 115C-105.41. Students who have been placed at risk of academic failure and transition plans.

(a) In order to implement Part 1A of Article 8 of this Chapter, local school administrative units shall identify students who are at risk for academic failure and who are not successfully progressing toward grade promotion and graduation, beginning in kindergarten. Identification shall occur as early as can reasonably be done and can be based on grades, observations, diagnostic and formative assessments, State assessments, and other factors, including reading on grade level, that impact student performance that teachers and administrators consider appropriate, without having to await the results of end-of-grade or end-of-course tests.

(b) Local boards of education shall adopt policies that direct school improvement teams to develop plans to include successful transition between elementary and middle school years and between the middle school and high school years for students at risk, as defined by the State Board of Education. (2001-424, s. 28.17(e); 2009-542, s. 1; 2010-162, s. 1; 2011-145, s. 7.13(ee); 2011-391, s. 14(a); 2012-77, s. 4; 2012-142, s. 7A.1(d); 2013-226, s. 2; 2015-46, s. 1.)

§ 115C-105.42. Reserved for future codification purposes.

§ 115C-105.43. Reserved for future codification purposes.

§ 115C-105.44. Reserved for future codification purposes.