

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

S

3

**SENATE BILL 654
Education/Higher Education Committee Substitute Adopted 4/28/21
Third Edition Engrossed 5/4/21**

Short Title: K-12 COVID-19 Provisions.

(Public)

Sponsors:

Referred to:

April 7, 2021

A BILL TO BE ENTITLED
AN ACT TO PROVIDE RELIEF TO PUBLIC SCHOOLS IN RESPONSE TO THE
CORONAVIRUS DISEASE 2019 (COVID-19) PANDEMIC.

The General Assembly of North Carolina enacts:

PART I. SCHOOL PERFORMANCE GRADES/ANNUAL REPORT CARDS

SECTION 1.1. Display of School Performance Grades. – Notwithstanding G.S. 115C-12(9)c1. and G.S. 115C-83.15, the State Board of Education shall not calculate achievement, growth, and performance scores nor display performance scores, growth designations, and letter grades for schools for the 2021-2022 school year, based on data from the 2020-2021 school year, but shall display a brief explanation that achievement, growth, and performance scores and letter grades were not calculated and assigned for the 2021-2022 school year because assessment data was heavily impacted by COVID-19 during the 2020-2021 school year.

SECTION 1.2.(a) Annual Report Cards. – Notwithstanding G.S. 115C-12(9)c1. and Part 1B of Article 8 of Chapter 115C of the General Statutes, the State Board of Education shall issue an annual report card for public school units for the 2021-2022 school year, based on data from the 2020-2021 school year, that only meets the minimum accountability, school identification, and related reporting requirements of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, required under the federal waiver granted by the United States Department of Education to the State of North Carolina for the 2020-2021 school year, dated March 26, 2021.

SECTION 1.2.(b) Notwithstanding G.S. 115C-47(58), 115C-75.8(d)(7), 115C-218.65, 115C-238.66(11), 116-239.8(b)(14), and sub-subdivision 6(d)(2) of S.L. 2018-32, for the 2021-2022 school year, based on data from the 2020-2021 school year, public school units shall only be required to display the annual report card information issued by the State Board of Education pursuant to this Part.

PART II. LOW-PERFORMING SCHOOLS

SECTION 2.1. Low-Performing Schools. – Notwithstanding G.S. 115C-105.37 and G.S. 115C-218.94(a), for the 2021-2022 school year, the following apply:

- (1) The State Board shall not identify additional low-performing schools based on data from the 2020-2021 school year.
- (2) Schools previously identified as low-performing based on data from the 2018-2019 school year shall continue to be identified as low-performing.



- 1 (3) Previously identified low-performing schools shall continue to carry out the
2 final plan approved by the local board of education pursuant to
3 G.S. 115C-105.37(a1).
4 (4) The State Board and the local board of education shall continue to provide
5 online access to each low-performing school's plan in accordance with
6 G.S. 115C-105.37(a1)(5).
7 (5) The written parental notice required by G.S. 115C-105.37(b) is not required
8 to be provided again, but local boards of education of low-performing schools
9 shall include with their online final plans a brief explanation that
10 low-performing identification continues pending assessment data from the
11 2021-2022 school year.

12 **SECTION 2.2.** Continually Low-Performing Schools. – Notwithstanding
13 G.S. 115C-105.37A and G.S. 115C-218.94(b), for the 2021-2022 school year, the following
14 apply:

- 15 (1) The State Board shall not identify additional continually low-performing
16 schools based on data from the 2020-2021 school year.
17 (2) Schools previously identified as continually low-performing based on data
18 from the 2018-2019 school year shall continue to be identified as continually
19 low-performing.
20 (3) Previously identified continually low-performing schools shall continue to
21 carry out the plan approved by the State Board pursuant to
22 G.S. 115C-105.37A(a).
23 (4) Assistance and intervention levels provided for the 2019-2020 school year
24 based on designation as low-performing for two years under
25 G.S. 115C-105.37A(b) or low-performing for three years under
26 G.S. 115C-105.37A(c) shall continue.
27 (5) Local boards of education may request to reform a continually
28 low-performing school in accordance with G.S. 115C-105.37B.

29 **SECTION 2.3.** Low-Performing Local School Administrative Units. –
30 Notwithstanding G.S. 115C-105.39A, for the 2021-2022 school year, the following apply:

- 31 (1) The State Board shall not identify additional low-performing local school
32 administrative units based on data from the 2020-2021 school year.
33 (2) Local school administrative units previously identified as low-performing
34 based on data from the 2018-2019 school year shall continue to be identified
35 as low-performing.
36 (3) Previously identified low-performing local school administrative units shall
37 continue to carry out the final plan approved by the local board of education
38 pursuant to G.S. 115C-105.39A(b).
39 (4) The State Board and the local board of education shall continue to provide
40 online access to each low-performing local school administrative unit's plan
41 in accordance with G.S. 115C-105.39A(b)(5).
42 (5) The written parental notice required by G.S. 115C-105.39A(c) is not required
43 to be provided again, but the local board of education shall include with its
44 online final plan a brief explanation that low-performing identification
45 continues pending assessment data from the 2021-2022 school year.
46 (6) The provisions of G.S. 115C-105.39(c) through (e) shall not apply.
47

48 **PART III. PUBLIC SCHOOL UNIT CALENDARS FOR THE 2021-2022 SCHOOL**
49 **YEAR**

50 **SECTION 3.(a)** Part 2 of Article 8 of Chapter 115C of the General Statutes is
51 amended by adding a new section to read:

1 **"§ 115C-84.3. Remote instruction.**

2 (a) Remote instruction means instruction delivered to students in a remote location
3 outside of the school facility, whether synchronously or asynchronously. Instructional days or
4 hours provided through any of the following shall not be considered remote instruction:

5 (1) North Carolina Virtual Public School courses.

6 (2) E-learning courses that meet the requirements of G.S. 115C-238.85.

7 (3) Institution of higher education courses, as provided in Article 16 of this
8 Chapter or G.S. 115D-20(4).

9 (4) Homebound instruction required for a student by an individualized education
10 program, as defined in G.S. 115C-106.3(8), or a section 504 (29 U.S.C. § 794)
11 plan.

12 (5) Instruction provided to a student during a short- or long-term suspension.

13 (b) A public school unit in a county that has received a good cause waiver, as provided
14 in G.S. 115C-84.2(d), for the school year may use up to 15 remote instruction days or 90 remote
15 instruction hours when schools are unable to open due to severe weather conditions, energy
16 shortages, power failures, or other emergency situations, and may use that time towards the
17 required instructional days or hours for the school calendar. All other public school units may
18 use up to five remote instruction days or 30 remote instruction hours when schools are unable to
19 open due to severe weather conditions, energy shortages, power failures, or other emergency
20 situations, and may use that time towards the required instructional days or hours for the school
21 calendar.

22 (c) Except as provided in subsection (b) of this section, a public school unit shall not use
23 remote instruction to satisfy the minimum required number of instructional days or hours for the
24 school calendar.

25 (d) A governing board that chooses to use remote instruction as provided in subsection
26 (b) of this section shall submit to the State Board, by July 1 annually, a remote instruction plan
27 that provides a detailed framework for delivering quality remote instruction to students for the
28 upcoming school year and information on the number of remote instruction days or hours used
29 in the prior school year to satisfy instructional requirements, when applicable. At a minimum,
30 the plans submitted by governing boards shall include the following:

31 (1) Identification of the resources that will be used to facilitate remote instruction.

32 (2) Communication with and training opportunities for teachers, administrators,
33 instructional support staff, parents, and students on how to access and
34 effectively use remote instruction resources, including regular opportunities
35 for students to use those resources during nonremote instructional days to
36 ensure student success during remote instruction.

37 (3) Establishment of methods for tracking and reporting attendance during remote
38 instruction, including protocols for determining attendance, the reporting
39 system to be used, and how attendance procedures will be communicated to
40 parents before remote instruction begins.

41 (4) Establishment of staff roles and expectations for remote instruction days,
42 including teacher workdays, teacher accessibility, and noncertified staff
43 workdays and responsibilities.

44 (5) Communication of learning targets to students on each remote instruction day
45 and development of measures to ensure that remote instruction time, practice,
46 and application components support learning growth that continues towards
47 mastery of the standard course of study.

48 (6) Development of remote instruction options appropriate for teachers and
49 students with limited connectivity capability, including the opportunity for
50 students to download remote instruction materials in advance when
51 practicable.

(7) Provision of remote instruction for students with disabilities in a manner consistent with each student's individualized education program (IEP), as defined in G.S. 115C-106.3, or section 504 (29 U.S.C. § 794) plan. Remote instruction supports shall be considered and included, as appropriate for the student, when an IEP or 504 plan is initially developed or at any subsequent review or revision of an IEP or 504 plan.

(e) The State Board of Education shall report by September 15 annually to the Joint Legislative Education Oversight Committee on the following information related to remote instruction:

(1) A copy of each governing board's remote instruction plan.

(2) A summary document of the following:

a. The number of remote instruction days or hours used by each public school unit in the prior school year.

b. Strengths, challenges, and trends noted by the State Board in its review of how governing boards implement remote instruction.

c. Any other data deemed by the State Board to be useful to the Joint Legislative Education Oversight Committee in evaluating the use and delivery of remote instruction in emergency circumstances."

SECTION 3.(b) G.S. 115C-84.2(a) reads as rewritten:

"(a) School Calendar. – Each local board of education shall adopt a school calendar consisting of 215 days all of which shall fall within the fiscal year. A school calendar shall include the following:

(1) A minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months. The local board shall designate when the instructional days shall occur. The number of instructional hours in an instructional day may vary according to local board policy and does not have to be uniform among the schools in the administrative unit. Local boards may approve school improvement plans that include days with varying amounts of instructional time. If school is closed early due to inclement weather, the day and the scheduled amount of instructional hours may count towards the required minimum to the extent allowed by State Board policy. The school calendar shall include a plan for making up days and instructional hours missed when schools are not opened due to inclement ~~weather~~ weather, and may include the use of remote instruction in accordance with G.S. 115C-84.3.

...."

SECTION 3.(c) G.S. 115C-218.85(a)(1) reads as rewritten:

"(1) The school shall provide instruction each year for at least 185 days or 1,025 hours over nine calendar ~~months~~ months, and may include the use of remote instruction in accordance with G.S. 115C-84.3."

SECTION 3.(d) G.S. 115C-238.53(d) reads as rewritten:

"(d) A cooperative innovative high school approved under this Part shall do the following:

(1) ~~provide~~ Provide instruction each school year for at least 185 days or 1,025 instructional hours during nine calendar months, and may include the use of remote instruction in accordance with G.S. 115C-84.3. The requirements of G.S. 115C-84.2 shall not apply to the school calendar of a program approved under this Part.

(2) ~~shall comply~~ Comply with laws and policies relating to the education of students with ~~disabilities~~, disabilities.

(3) ~~and shall comply~~ Comply with Article 27 of this Chapter. ~~The requirements of G.S. 115C-84.2 shall not apply to the school calendar of a program approved under this Part."~~

1 **SECTION 3.(e)** G.S. 115C-238.66(1)d. reads as rewritten:

2 "d. The board of directors shall adopt a school calendar consisting of a
3 minimum of 185 days or 1,025 hours of instruction covering at least
4 nine calendar ~~months~~-months, and may include the use of remote
5 instruction in accordance with G.S. 115C-84.3."

6 **SECTION 3.(f)** G.S. 116-239.8(b)(2)c. reads as rewritten:

7 "c. The chancellor shall adopt a school calendar consisting of a minimum
8 of 185 days or 1,025 hours of instruction covering at least nine
9 calendar ~~months~~-months, and may include the use of remote
10 instruction in accordance with G.S. 115C-84.3."

11 **SECTION 3.(g)** Subdivision 6(e)(1) of S.L. 2018-32 reads as rewritten:

12 "(1) Provide instruction each year for at least 185 days or 1,025 hours over nine
13 calendar ~~months~~-months, and may include the use of remote instruction in
14 accordance with G.S. 115C-84.3."

15 **SECTION 3.(h)** Section 6(d) of S.L. 2018-32 is amended by adding a new
16 subdivision to read:

17 "(5a) G.S. 115C-84.3, Remote instruction."

18 **SECTION 3.(i)** This section is effective when it becomes law and applies to the
19 2021-2022 school year. This section is repealed June 30, 2022.

20 21 **PART IIIA. REMOTE INSTRUCTION FOR COVID-19 EMERGENCIES.**

22 **SECTION 3A.** Notwithstanding G.S. 115C-84.3, as enacted by this act, a public
23 school unit shall have the authority to make day-to-day decisions for the 2021-2022 school year
24 concerning whether shifting individual schools or individual classrooms that are providing
25 in-person instruction to temporary remote instruction is necessary due to COVID-19 exposures
26 that result in insufficient school personnel or required student quarantines. A public school unit
27 shall report any shift by a school or classroom from in-person to temporary remote instruction as
28 provided in this subsection to the Department of Public Instruction within 72 hours of the shift
29 and shall return to in-person instruction as soon as personnel are available or the required
30 quarantines are complete.

31 32 **PART IIIB. PLANNED VIRTUAL INSTRUCTION.**

33 **SECTION 3B.** Notwithstanding G.S. 115C-84.3, as enacted by this act, public
34 school units shall be authorized to provide virtual instruction during the 2021-2022 school year
35 to a student with the consent of that student's parent or legal guardian in accordance with a virtual
36 instruction plan providing the information required by this subsection, if submitted by the
37 governing board to the Department of Public Instruction by June 1, 2021. The Department of
38 Public Instruction shall make available a copy of each governing board's remote instruction plan
39 to the Joint Legislative Education Oversight Committee and the Working Group on Virtual
40 Academies, as enacted by Section 3C of this act, by July 1, 2021. The virtual instruction plan
41 shall include the following:

- 42 (1) The range of grades for which virtual instruction will be offered. The plan
43 should note throughout the differences in delivery of virtual instruction for
44 elementary, middle and high school students.
- 45 (2) The types of virtual instruction that will be made available, including whether
46 virtual instruction will be full-time or blended instruction.
- 47 (3) Whether the virtual instruction will be offered through a (i) school whose
48 primary means of instruction is virtual instruction, (ii) school within a school,
49 or (iii) customized offering unique to specific students.
- 50 (4) The estimated numbers of students to be served with virtual instruction.

- 1 (5) A means for identifying students participating in remote instruction that will
2 allow assessment of that subgroup's performance and EVAAS scores for
3 students receiving virtual instruction in a school that does not exclusively
4 provide virtual instruction.
- 5 (6) Participation requirements, including student eligibility and agreements for
6 participation from students and parents.
- 7 (7) The methods by which enrollment, daily attendance, course credit accrual,
8 progress toward graduation, and course completion will be monitored for
9 students receiving virtual instruction.
- 10 (8) Identification of the resources that will be used to facilitate virtual instruction.
- 11 (9) The methods for communication with and training opportunities for teachers,
12 administrators, instructional support staff, parents, and students engaged in
13 virtual instruction.
- 14 (10) Establishment of staff roles and expectations when providing virtual
15 instruction, including teacher accessibility.
- 16 (11) The measures used to ensure that both synchronous and asynchronous virtual
17 instruction time, practice, and application components support learning
18 growth that continues towards mastery of the standard course of study.
- 19 (12) Any unique infrastructure necessary to support virtual instruction.
- 20 (13) The methods for ensuring that virtual instruction for students with disabilities
21 is delivered in a manner consistent with each student's individualized
22 education program (IEP), as defined in G.S. 115C-106.3, or section 504 (29
23 U.S.C. § 794) plan. Remote instruction supports shall be considered and
24 included, as appropriate for the student, when an IEP or 504 plan is initially
25 developed or at any subsequent review or revision of an IEP or 504 plan.
26

27 **PART IIIC. VIRTUAL ACADEMIES STUDY**

28 **SECTION 3C.** The Superintendent of Public Instruction shall establish a Working
29 Group on Virtual Academies that includes interested stakeholders from, at a minimum, public
30 school units, parents, and the State Board of Education to make recommendations related to
31 virtual academies. The Working Group shall be chaired by the Superintendent or
32 Superintendent's designee, and shall review in its deliberations data and information gained from
33 the 2020-2021 school year and from the virtual instruction plans submitted by public school units
34 for the 2021-2022 school year. The Working Group shall report on the following to the Joint
35 Legislative Education Oversight Committee no later than January 15, 2022:

- 36 (1) Definitions of virtual instruction and virtual academies.
- 37 (2) Requirements for authorization of virtual academies.
- 38 (3) Additional requirements for virtual academies, including, but not limited to:
 - 39 a. Infrastructure requirements, if any, such as access to internet
40 connectivity, equipment, hardware, software, and technical support.
 - 41 b. Instructional requirements, including student monitoring, attendance
42 and testing requirements, measures for completion of instructional
43 days and hours requirements, synchronous instruction minimums, and
44 measures of course credit accrual, progress toward graduation, and
45 course completion.
 - 46 c. Personnel requirements, including professional development.
 - 47 d. Participation requirements, including student eligibility and
48 agreements for participation from students and parents.
 - 49 e. Special education requirements.
 - 50 f. Term of years for approval for a virtual academy and criteria for initial
51 approval and renewal.

- 1 g. Funding formula for virtual academies that reflects both the costs
2 associated with virtual instruction and the items provided in a
3 traditional setting for which funding is not needed in a virtual
4 academy.
5 h. Distinctions in requirements for different types of public school units.
6

7 **PART IV. PRINCIPAL RECRUITMENT SUPPLEMENT**

8 **SECTION 4.** Notwithstanding G.S. 115C-285.1, for purposes of administering the
9 principal recruitment supplement in the 2021-2022 fiscal year, a school identified as an eligible
10 school in the 2019-2020 and 2020-2021 school years pursuant to G.S. 115C-285.1(a)(2) and
11 Section 2.13(a) of S.L. 2020-3, respectively, shall continue to be an eligible school in the
12 2021-2022 school year.
13

14 **PART V. NOTIFICATION REQUIREMENT FOR TEACHER PERFORMANCE DATA**

15 **SECTION 5.** Notwithstanding G.S. 115C-333.2, for the 2021-2022 school year, to
16 the extent the Education Value-Added Assessment System (EVAAS) data regarding a teacher's
17 performance includes data from more than one school year, when a principal notifies a teacher
18 that the teacher's EVAAS data has been updated, the principal shall provide the teacher with
19 additional context regarding the years on which the data is based and the extent to which the
20 students on which the data is based were taught by another teacher.
21

22 **PART VI. TEACHER EFFECTIVENESS REPORTING REQUIREMENTS**

23 **SECTION 6.** Notwithstanding G.S. 115C-299.5, for the 2021-2022 school year, to
24 the extent teacher effectiveness data reported pursuant to G.S. 115C-299.5 is based on more than
25 one school year, local school administrative units and the State Board of Education shall
26 contextualize that data by specifying the years on which it is based and the extent to which it is
27 not reflective of teacher performance because the students on which the data is based were taught
28 by more than one teacher.
29

30 **PART VII. TEMPORARILY EXTEND CPR GRADUATION REQUIREMENT** 31 **CHANGES**

32 **SECTION 7.** Notwithstanding G.S. 115C-12(9d)a., for the 2020-2021 school year,
33 any student in grade 12 who has not satisfied the requirement for completion of instruction in
34 cardiopulmonary resuscitation shall be eligible to graduate if both of the following apply:

- 35 (1) Instruction in cardiopulmonary resuscitation cannot be completed due to the
36 COVID-19 emergency.
37 (2) The student is eligible to graduate in all respects other than the statutory
38 requirement described in this section, as determined by the principal of the
39 school to which the student is assigned.
40

41 **PART VIII. TEACHER LICENSURE REQUIREMENTS**

42 **SECTION 8.** Notwithstanding G.S. 115C-270.15 and G.S. 115C-270.20, applicants
43 for a continuing professional license holding a current initial professional license, residency
44 license, lateral entry license, or limited license expiring June 30, 2021, who have not met the
45 examination requirements established by the State Board as of June 30, 2021, shall be provided
46 an extension until September 30, 2021.
47

48 **PART IX. CLARIFY THE DEFINITION OF YEAR-ROUND SCHOOL**

49 **SECTION 9.(a)** G.S. 115C-84.2(f)(5) reads as rewritten:

- 50 "(5) Year-round school. – A school with a single- or multi-track instructional
51 calendar to provide instructional days throughout the entire school calendar

- 1 year, beginning July 1 and ending June 30, by utilizing at least one of the
- 2 following plans:
- 3 a. A plan dividing students into four groups and requiring each group to
- 4 be in school for assigned and staggered quarters each school calendar
- 5 year.
- 6 b. A plan providing students be scheduled to attend 45 instructional days
- 7 followed by 15 days of vacation, repeated throughout the school
- 8 calendar year.
- 9 c. A plan dividing the school calendar year into five nine-week sessions
- 10 of classes and requiring each student to attend four assigned and
- 11 staggered sessions out of the five nine-week sessions to complete the
- 12 student's instructional year.
- 13 d. In a local school administrative unit with both single- and multi-track
- 14 instructional calendars, a plan for a single-track instructional calendar
- 15 that is identical to at least one track of a multi-track instructional
- 16 calendar adopted by the local board that meets the requirements of
- 17 either sub-subdivision a. or sub-subdivision c. of this subdivision."

18 **SECTION 9.(b)** This section is effective when it becomes law and applies beginning
19 with the 2021-2022 school year.

20 **PART X. EFFECTIVE DATE**

21 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
22 law.
23
24