

Article 14A.

Charter Schools.

**§ 115C-218. Purpose of charter schools; establishment of North Carolina Charter Schools Advisory 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.

(b) North Carolina Charter Schools Advisory Board. –

- (1) Advisory Board. – There is created the North Carolina Charter Schools Advisory Board, hereinafter referred to in this Article as the Advisory Board. The Advisory 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 Advisory Board and a nonvoting member. The Advisory 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  - a. Repealed by Session Laws 2016-126, 4th Ex.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 Advisory Board shall be treated as a board for purposes of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes.
- (4) Qualifications of members. – Members appointed to the Advisory 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 Advisory 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 Advisory Board shall annually elect a chair and a vice-chair from among its membership. The chair shall preside over the Advisory Board's meetings. In the absence of the chair, the vice-chair shall preside over the Advisory Board's meetings. A majority of the Advisory Board constitutes a quorum.
  - (7) Presiding officers and quorum. – Meetings. – Meetings of the Advisory 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 Advisory 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 Advisory Board may be removed by a vote of at least two-thirds of the members of the Advisory 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 Advisory 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 applications and make recommendations to the State Board for final approval of charter applications.
    - c. To make recommendations to the State Board on actions regarding a charter school, including renewals of charters, nonrenewals of charters, and revocations of charters.
    - d. To undertake any other duties and responsibilities as assigned by the State Board.
  - (11) Duties of the chair of the Advisory Board. – In addition to any other duties prescribed in this Article, the chair of the Advisory Board, or the chair's designee, shall advocate for the recommendations of the Advisory Board at meetings of the State Board upon the request 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 of the Advisory Board at meetings of the State Board upon the request 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 Advisory Board and fulfill any task and duties assigned to it by the Advisory 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 State Board.
    - e. Assist approved charter schools and charter schools seeking approval from the State 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).)

**§ 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).)

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

(a) The State Board of Education and the Advisory 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 recommendations on preliminary or final approval of charter applications, renewals of charters,

nonrenewals of charters, and revocations of charters, the Advisory Board or a committee of the Advisory Board shall provide an opportunity for the applicant or charter board member to address the Advisory Board or its committee, if present, at a meeting. (2015-248, s. 4(a).)

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

Upon recommendations by the Office of Charter Schools and the Charter Schools Advisory 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) A charter school in this State governed by the board of directors has student academic outcomes that are comparable to the academic outcomes of students in the local school administrative unit in which the charter school is located and can provide three years of financially sound audits.
- (2) The board of directors agrees to contract with an education management organization or charter management organization that can demonstrate that it can replicate high-quality charter schools in the State that have proven student academic success and financial soundness.

The State Board of Education shall ensure that the rules for a fast-track replication process provide that decisions by the State Board of Education on whether to grant a charter through the replication process are completed in less than 120 days from the application submission date. The State Board shall provide a decision no later than October 15 of the year immediately preceding the year of the proposed school opening. (2014-101, s. 6.5; 2016-79, s. 2; 2017-173, s. 2(a).)

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

- (a) The State 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 State 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.

(b) The State 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 State Board may make the final decision for approval contingent upon the successful completion of a planning period prior to enrollment of students.

(c) The State Board of Education 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 State Board of Education 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. (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.)

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

(a) The State Board of Education 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 State Board of Education 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.
- (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 State Board of Education.

If one of the conditions set forth in subdivisions (1) through (3) of this subsection applies, then the State Board may renew the charter for a period of less than 10 years or not renew the charter. (2016-79, s. 1.2.)

#### **§ 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 State Board of Education.

(b) Enrollment growth of greater than twenty percent (20%) shall be considered a material revision of the charter if the charter is currently identified as low-performing. The State Board shall not approve a material revision for enrollment growth of greater than twenty percent (20%) for a charter that is currently identified as low-performing. Enrollment growth of greater than thirty percent (30%) shall be considered a material revision of the charter for any charter school that is not identified as low-performing. The State Board may approve such additional enrollment growth of greater than thirty percent (30%) only if it finds all of the following:

- (1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment.
- (2) The charter school has commitments for ninety percent (90%) of the requested maximum growth.
- (3) The charter school is not currently identified as low-performing.
- (4) The charter school meets generally accepted standards of fiscal management.

- (5) The charter school is, at the time of the request for the enrollment increase, 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.

(c) For the purposes of calculating actual enrollment and maximum authorized enrollment under subdivision (1) of subsection (b) of this section, if a charter school is pursuing a material revision of enrollment growth based on a proposed capital expansion of the charter school, but fails to meet the requirements of subdivision (1) of subsection (b) of this section, the State Board shall have the discretion to investigate and determine whether subdivision (1) of subsection (b) of this section may be waived to grant the school's material revision request to allow the capital expansion to move forward. In making such a determination, the charter school shall provide the State Board with documentation to show evidence that demonstrates sufficiently in the State Board's discretion all of the following:

- (1) The requested increase in enrollment growth is within a reasonable margin of the threshold necessary to support the requested material revision.
- (2) The charter school has secured financing for its proposed capital expansion conditioned on its obtaining the requested material revision of enrollment growth.

(d) If a charter school presents evidence of a proposed capital expansion as part of a request for a material revision of enrollment growth under this section that is granted by the State Board, and the charter school is not able to realize that capital expansion within two years of the grant of the material revision, the charter shall reflect the maximum authorized enrollment immediately preceding that material revision. (2016-79, s. 1.3; 2017-173, ss. 3(a), (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 State Board for a charter school to do any of the following:

- (1) Increase its enrollment during the charter school's second year of operation and annually thereafter in accordance with G.S. 115C-218.7(b).
- (2) Increase its 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 State Board. (2016-79, s. 1.4; 2017-173, s. 3(b).)

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

Except as provided in this Article 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.)

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

(a) A charter school that is approved by the State 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 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 Board 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 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 policy that a majority of the board of directors and all officers of the board of directors reside within the State. (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).)

#### **§ 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 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.)

#### **§ 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).)

#### **§ 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.

(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 State Board of Education the information required 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.)

#### **§ 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 Advisory 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. (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.)

#### **§ 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.)

**§ 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.
  - (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.
  - (3) Limited to no more than fifteen percent (15%) of the school's total enrollment, unless granted a waiver by the State Board of Education, the following:
    - a. Children of the school's full-time employees.
    - b. Children 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.
- (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 State 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.

(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, ss. 3(b), (c); 2016-79, s. 1.5; 2017-173, ss. 4, 5(b); 2018-5, s. 7.18(a).)

#### **§ 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.)

#### **§ 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.)

#### **§ 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.)

#### **§ 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).)

#### **§ 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.)

#### **§ 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 G.S. 7B-500.

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 the provisions of 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 carry out the provisions of G.S. 115C-375.2A.

(b) School Risk Management Plan. – Each charter school, in coordination with local law enforcement and emergency management agencies, is encouraged to adopt a School Risk Management Plan (SRMP) relating to incidents of school violence. In constructing and maintaining these plans, charter schools may utilize the School Risk and Response Management System (SRRMS) established pursuant to G.S. 115C-105.49A. These plans are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.

Charter schools are encouraged to provide schematic diagrams and keys to the main entrance of school facilities to local law enforcement agencies, in addition to implementing the provisions in G.S. 115C-105.52.

(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) School Safety Exercises. – At least once a year, a charter school is encouraged to hold a full school-wide lockdown exercise with local law enforcement and emergency management agencies that are part of the charter school's SRMP.

(e) School Safety Information Provided to Division of Emergency Management. – A charter school is encouraged to provide the following: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency response information requested by the Division for the SRMP. The schematic diagrams and emergency response information are not considered public records as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.

(e1) **(Effective July 1, 2019)** Anonymous Tip Line. – A charter school shall develop and operate an anonymous tip line in accordance with G.S. 115C-105.51.

(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. (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).)

#### **§ 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.)

#### **§ 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.



- (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.
- (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. (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).)

**§ 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, approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, 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.
- (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 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, ss. 2(c), (n); 2017-173, s. 1; 2017-189, s. 4(a).)

**§ 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).)

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

(a) The State Board of Education 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 State 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 State 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 State 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 State Board of Education 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 State 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 State 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 State 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).)

**§ 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.

(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. (2014-100, s. 8.34(b); 2014-101, s. 7; 2015-168, s. 4; 2015-248, s. 8(a).)

**§ 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.

(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.

(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 receipt of monies into the local current expense fund. The local school administrative unit and charter school may use the process for mediation of differences between the State 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. 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 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 a policy 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 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. (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).)

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

(a) The State Board of Education 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 January 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.)

#### **§ 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).)