

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017**

**SESSION LAW 2017-9
HOUSE BILL 13**

AN ACT TO PHASE IN CLASS SIZE REQUIREMENTS OVER TWO YEARS; REQUIRE
TIMELY AND ACCURATE REPORTING OF STUDENT ASSIGNMENTS; AND
ENSURE COMPLIANCE WITH CLASS SIZE REQUIREMENTS.

The General Assembly of North Carolina enacts:

PART I. CLASS SIZE REQUIREMENT PHASE IN

SECTION 1.(a) Section 8.33(b) of S.L. 2016-94 is repealed.

SECTION 1.(b) Notwithstanding G.S. 115C-301, as amended by this act and any other provision of law, for the 2017-2018 school year, the average class size for kindergarten through third grade in a local school administrative unit shall not exceed 20 students. At the end of the second school month and for the remainder of the school year, the size of an individual class in kindergarten through third grade shall not exceed 23 students. The class size requirements set forth in G.S. 115C-301, as amended by this act, shall apply beginning with the 2018-2019 school year.

PART II. REPORTING REQUIREMENTS AND ACCOUNTABILITY MEASURES

SECTION 2.(a) G.S. 115C-47(10) reads as rewritten:

"(10) To Assure Appropriate Class Size. – It shall be the responsibility of local boards of education to assure that the class size requirements set forth in G.S. 115C-301 for kindergarten through third grade are met. Any teacher who believes that the requirements of G.S. 115C-301 have not been met shall make a report to the principal and superintendent, and the superintendent shall immediately determine whether the requirements have in fact not been met. If the superintendent determines the requirements have not been met, he or she shall make a report to the next local board of education meeting. The local board of education shall take action to meet the requirements of the statute. If the local board cannot organizationally correct the exception, it shall immediately apply to the State Board of Education for additional personnel or a waiver of the class size requirements, as provided in G.S. 115C-301(g).

Upon notification from the State Board of Education that the reported exception does not qualify for an allotment adjustment or a waiver under provisions of G.S. 115C-301, the local board, within 30 days, shall take action necessary to correct the ~~exception~~exception, as required in G.S. 115C-301(g).

At the end of ~~the second month of September and end of February of~~ each school year, the local board of education, through the superintendent, shall file a report with the ~~State Board of Education, Superintendent of Public Instruction,~~ State Board of Education, Superintendent of Public Instruction, in a format prescribed by the ~~State Board of Education, Superintendent of Public Instruction,~~ State Board of Education, Superintendent of Public Instruction, describing the organization of each school, ~~the duties of each teacher, and the size of each class for each school~~



~~in the local school administrative unit, as required by G.S. 115C-301(f). As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size maximums that exist at that time.~~

In addition to assuring that the requirements of G.S. 115C-301 are met, each local board of education shall also have the duty to provide an adequate number of classrooms to meet the requirements of that statute."

SECTION 2.(b) G.S. 115C-301 reads as rewritten:

"§ 115C-301. Allocation of teachers; class size.

(a) Request for Funds. – The State Board of Education, based upon the reports of local boards of education and such other information as the State Board may require from local boards, shall determine for each local school administrative unit the number of teachers and other instructional personnel to be included in the State budget request.

(b) Allocation of Positions. – The State Board of Education is authorized to adopt rules to allot instructional personnel and teachers, within funds appropriated.

(c) Maximum Class Size for Kindergarten Through Third Grade. – The average class size for kindergarten through third grade in a local school administrative unit shall at no time exceed the funded allotment ratio of teachers to students in kindergarten through third grade. At the end of the second school month and for the remainder of the school year, the size of an individual class in kindergarten through third grade shall not exceed the allotment ratio by more than three students. The funded class size allotment ratio for kindergarten through third grade shall be as follows:

- (1) For kindergarten, one teacher per 18 students.
- (2) For first grade, one teacher per 16 students.
- (3) For second grade, one teacher per 17 students.
- (4) For third grade, one teacher per 17 students.

In grades four through 12, local school administrative units shall have the maximum flexibility to use allotted teacher positions to maximize student achievement.

(d), (e) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

(f) ~~Second Month~~Biannual Reports. – At the end of ~~the second month~~September and end of February of each school year, each local board of education, through the superintendent, shall file a ~~report~~report, based on information provided by the principal, for each school within the local school administrative unit with the ~~State Board of Education~~Superintendent of Public Instruction. The report shall be filed in a format prescribed by the ~~State Board of Education~~Superintendent of Public Instruction and shall include the organization for each ~~school,~~school in the local school administrative unit, including the following information:

- (1) For each class in each grade level at each school, the following:
 - a. The duties of the teacher.
 - b. The source of funds used to pay for the teacher.
 - c. The number of students assigned to the class, including all exceptions to individual class size maximums in kindergarten through third grade that exist at that time.
- (2) For each school, the following:
 - a. The number of program enhancement teachers. For the purposes of this subdivision, program enhancement teachers are teachers who teach any of the following:
 1. Arts disciplines, including dance, music, theater, and the visual arts.
 2. Physical education and health programs.
 3. World languages.
 - b. The source of funds used to pay each program enhancement teacher.

(3) The average class size for each grade from kindergarten through third grade in the local school administrative unit.

(4) Any other information the Superintendent of Public Instruction may require, the duties of each teacher, the size of each class, and such other information as the State Board may require. As of February 1 each year, local boards of education, through the superintendent, shall report all exceptions to individual class size maximums in kindergarten through third grade that occur at that time. The Superintendent of Public Instruction shall conduct periodic audits of the information reported by the local superintendent under this subsection to confirm the accuracy of reporting at the local school administrative unit and school level of the average and individual class size for students in kindergarten through third grade. If the Superintendent of Public Instruction finds that a local board of education is exceeding class size requirements without application to the State Board for an allotment adjustment or a waiver of those class size requirements, the State Board may impose the penalty set forth in subsection (j) of this section until such time the local board of education receives a waiver or the schools in the unit meet the class size requirements for kindergarten through third grade.

(g) Waivers and Allotment Adjustments. – Local boards of education shall report exceptions to the class size requirements set out for kindergarten through third grade and significant increases in class size at other grade levels to the State Board and shall request allotment adjustments at any grade level, waivers from the requirements for kindergarten through third grade, or both. Within 45 days of receipt of reports, the State Board of Education, within funds available, may allot additional positions at any grade level. The State Board shall not grant waivers for excess class size in kindergarten through third grade, except under the following circumstances:

(1)(i) ~~emergencies~~–Emergencies or acts of God that impact the availability of classroom space or ~~facilities~~;facilities.

(2)(ii) ~~an~~–An unanticipated increase in student population of an individual school in excess of two percent (2%) of the average daily membership of that ~~school~~;school.

(3)(iii) ~~organizational~~–Organizational problems in geographically isolated local school administrative units in which the average daily membership is less than one and one-half per square ~~mile~~;mile.

(4)(iv) ~~classes~~–Classes organized for a solitary curricular ~~area~~;or area.

(5)(v) ~~a~~–A charter school closure.

The State Board shall report on all waivers to the Joint Legislative Commission on Governmental Operations within 30 days of the grant of the waiver. The report shall include the local school administrative unit, school, and class or classes for which the waiver was granted, the statutory grounds for the waiver, and the terms of the waiver. A waiver for excess class size in kindergarten through third grade shall not become effective until the State Board submits the report to the Joint Legislative Commission on Governmental Operations.

Upon notification from the State Board that the reported exception does not qualify for an allotment adjustment or a waiver, the local board of education shall take action to correct the exception within 30 days. Within 60 days of notification by the State Board, the Superintendent of Public Instruction shall request an updated report from the local board of education on the size of each class in kindergarten through third grade for each school within the local school administrative unit. If the Superintendent of Public Instruction finds that a local board of education is continuing to exceed class size requirements, the State Board may impose the penalty set forth in subsection (j) of this section until such time the schools in the unit meet the class size requirements for kindergarten through third grade.

(h) State Board Rules. – The State Board of Education shall adopt rules necessary for the implementation of this section.

(i) Repealed by Session Laws 2013-363, s. 3.3(a), effective July 1, 2013.

(j) Penalty for Noncompliance. – A local superintendent shall complete a sworn affidavit attesting that the superintendent has complied with the requirements of subsections (c) through (g) of this section and include that affidavit with the biannual reports on individual class size required by subsection (f) of this section. If the State Board of Education determines that a local superintendent has willfully failed to comply with the requirements of this section, no State funds shall be allocated to pay the superintendent's salary for the period of time the superintendent is in noncompliance. The local board of education shall continue to be responsible for complying with the terms of the superintendent's employment contract."

PART III. EFFECTIVE DATE

SECTION 3. Except as otherwise provided, this act is effective when it becomes law and applies beginning with the 2017-2018 school year.

In the General Assembly read three times and ratified this the 27th day of April, 2017.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 4:55 p.m. this 27th day of April, 2017