

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2017-173  
HOUSE BILL 800**

AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS AFFECTING CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

**PART I. ALLOW EMPLOYEES OF EDUCATION OR CHARTER MANAGEMENT ORGANIZATIONS TO SERVE AS TEACHERS**

**SECTION 1.** G.S. 115C-218.90(a)(1) reads as rewritten:

"(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."

**PART II. MODIFY THE DECISION TIME LINE FOR THE CHARTER SCHOOL FAST-TRACK REPLICATION APPLICATION PROCESS**

**SECTION 2.(a)** Section 6.5 of S.L. 2014-101, as amended by Section 2 of S.L. 2016-79, reads as rewritten:

"**SECTION 6.5.** 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 Part 6A of Article 16 of Chapter 115C of the General Statutes, 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. The State Board of Education shall adopt rules and procedures required by this section within 90 days of the effective date of this act, and report to the Joint Legislative Education Oversight Committee within 120 days of the effective date of this act."

**SECTION 2.(b)** This section is effective the date this act becomes law and applies beginning with applications submitted for fast-track replication of schools opening in the 2018-2019 school year.

### **PART III. EXPANSION OF GROWTH EXCEPTION FOR MATERIAL REVISIONS OF CHARTERS**

**SECTION 3.(a)** G.S. 115C-218.7(b) reads as rewritten:

"(b) Enrollment growth of greater than twenty percent (20%) shall be considered a material revision of the ~~charter~~-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 twenty-five percent (25%) 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 ~~twenty percent (20%)~~ twenty-five percent (25%) 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."

**SECTION 3.(b)** G.S. 115C-218.8 reads as rewritten:

#### **"§ 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 ~~by up to twenty percent (20%) of the school's previous year's enrollment~~ 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."

**SECTION 3.(c)** G.S. 115C-218.7(b), as amended by Section 3(a) of this act, reads as rewritten:

"(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 ~~twenty five percent (25%)~~ 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 ~~twenty five percent (25%)~~ 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."

**SECTION 3.(d)** Subsections (a), (b), and (d) of this section are effective when this act becomes law and applies to approvals for material changes on or after that date. Subsection (c) of this section is effective July 1, 2018, and applies to approvals for material changes on or after that date.

#### **PART IV. ENROLLMENT PRIORITIES FOR STUDENTS PREVIOUSLY ENROLLED IN CHARTERS**

**SECTION 4.** G.S. 115C-218.45(f) reads as rewritten:

- "(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.
  - (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."

**PART V. CHARTER SCHOOLS AND NC PRE-K**

**SECTION 5.(a)** G.S. 115C-218(c)(3) reads as rewritten:

- "(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."

**SECTION 5.(b)** G.S. 115C-218.45(f), as amended by Section 4 of this act, reads as

rewritten:

- "(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."

**SECTION 5.(c)** Article 14A of Chapter 115C of the General Statutes is amended by adding a new section to read:

**"§ 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."

**PART VI. NORTH CAROLINA VIRTUAL PUBLIC SCHOOL**

**SECTION 6.(a)** Section 7.22(h) of S.L. 2011-145, as amended by Section 88 of S.L. 2014-115, reads as rewritten:

**"SECTION 7.22.(h)** Beginning in 2011, the Director of NCVPS shall submit an annual report on NCVPS to the State Board of Education no later than December 15 of each year. The report shall use data from the previous fiscal year and shall include statistics on actual versus projected costs to local school administrative units and charter schools, student enrollment, virtual teacher salaries, and measures of academic achievement.

The Director of NCVPS shall continue to ensure the following:

- (1) Course quality standards are established and ~~met~~ met for courses developed by NCVPS.
- (2) ~~All e-learning opportunities other than virtual charter schools offered by State-funded entities to public school students are consolidated under the NCVPS program, eliminating course duplication.~~
- (3) All courses offered through NCVPS are aligned to the North Carolina Standard Course of Study."

**SECTION 6.(b)** Notwithstanding any other provision of law, local school administrative units may partner with eligible providers other than the North Carolina Virtual Public School for e-learning opportunities. Eligible providers shall meet all of the following:

- (1) Be accredited by a regional accrediting agency such as, but not limited to, AdvancEd or the Southern Association of Colleges and Schools (SACS).
- (2) Employ teachers who hold teaching licenses from states that participate in the NASDTEC Educator Identification Clearinghouse.
- (3) Ensure that courses offered to North Carolina students are aligned to the North Carolina Standard Course of Study.

**SECTION 6.(c)** This section is effective when it becomes law.

## **PART VII. REORGANIZE STATUTE ON STATE AND LOCAL FUNDS**

**SECTION 7.** G.S. 115C-218.105(b) reads as rewritten:

"(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. ~~The school also may own land and buildings it obtains through non-State sources.~~"

## **PART VIII. EFFECTIVE DATE**

**SECTION 8.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 29<sup>th</sup> day of June, 2017.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 11:47 a.m. this 21<sup>st</sup> day of July, 2017