

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 458

Short Title: Charter School Amendments/AB.

(Public)

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Sponsors: Representative Barbee.

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Referred to: Education.

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March 10, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CHARTER SCHOOL ACT OF 1996 TO ELIMINATE  
2 THE REQUIREMENT THAT CHARTER SCHOOLS BE OPERATED BY  
3 PRIVATE NONPROFIT CORPORATIONS AND TO MAKE SUCH OPERATION  
4 OPTIONAL.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 115C-238.29B reads as rewritten:

8 "**§ 115C-238.29B. Eligible applicants; contents of applications; submission of**  
9 **applications for approval.**

10 (a) Any person, group of persons, or nonprofit corporation seeking to establish a  
11 charter school within a local school administrative unit may apply to establish a charter  
12 ~~school on behalf of a private nonprofit corporation.~~ school. If the applicant seeks to convert a  
13 public school to a charter school, the application shall include a statement signed by a  
14 majority of the teachers and instructional support personnel currently employed at the  
15 school indicating that they favor the conversion and evidence that a significant number of  
16 parents of children enrolled in the school favor conversion.

17 (b) The application shall contain at least the following information:

18 (1) A description of a program that implements one or more of the purposes  
19 in G.S. 115C-238.29A.

- 1 (2) A description of student achievement goals for the school's educational  
2 program and the method of demonstrating that students have attained  
3 the skills and knowledge specified for those student achievement goals.
- 4 (3) The governance structure of the school including the process to be  
5 followed by the school to ensure parental involvement.
- 6 (4) Admission policies and procedures.
- 7 (5) A proposed budget for the school and evidence that the plan for the  
8 school is economically sound.
- 9 (6) Requirements and procedures for program and financial audits.
- 10 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 11 (8) Types and amounts of insurance coverage, including bonding insurance  
12 for the principal officers of the school, to be obtained by the charter  
13 school.
- 14 (9) The term of the contract.
- 15 (10) The qualifications required for individuals employed by the school.
- 16 (11) The procedures by which students can be excluded from the charter  
17 school and returned to a public school. Notwithstanding any law to the  
18 contrary, any local board may refuse to admit any student who is  
19 suspended or expelled from a charter school due to actions that would  
20 lead to suspension or expulsion from a public school under G.S. 115C-  
21 391 until the period of suspension or expulsion has expired.
- 22 (12) The number of students to be served, which number shall be at least 65,  
23 and the minimum number of teachers to be employed at the school,  
24 which number shall be at least three. However, the charter school may  
25 serve fewer than 65 students or employ fewer than three teachers if the  
26 application contains a compelling reason, such as the school would  
27 serve a geographically remote and small student population.
- 28 (13) Information regarding the facilities to be used by the school and the  
29 manner in which administrative services of the school are to be  
30 provided.
- 31 (14) A description of whether the school will ~~operate~~ be operated by a private  
32 nonprofit corporation independently of the local board of education or  
33 whether it ~~agrees to be subject to some supervision and control of its~~  
34 ~~administrative operations by the local board of education.~~ will be operated  
35 by a board of directors, the membership of which shall be approved by  
36 the local board of education. In the event the charter school elects to  
37 operate independently of the local board of education, the application  
38 must specify which employee benefits will be offered to its employees  
39 and how the benefits will be funded.
- 40 (c) An applicant shall submit the application to a chartering entity for preliminary  
41 approval. A chartering entity may be:
- 42 (1) The local board of education of the local school administrative unit in  
43 which the charter school will be located;

1 (2) The board of trustees of a constituent institution of The University of  
2 North Carolina, so long as the constituent institution is involved in the  
3 planning, operation, or evaluation of the charter school; or

4 (3) The State Board of Education.

5 Regardless of which chartering entity receives the application for preliminary  
6 approval, the State Board of Education shall have final approval of the charter school."

7 Section 2. G.S. 115C-238.29E(b) reads as rewritten:

8 "(b) A charter school shall be operated either (i) by a private nonprofit corporation  
9 that shall have received federal tax-exempt status no later than 24 months following final  
10 approval of the application, or (ii) by a board of directors, the membership of  
11 which shall be approved by the local board of education."

12 Section 3. G.S. 115C-238.29F reads as rewritten:

13 "**§ 115C-238.29F. General requirements.**

14 (a) Health and Safety Standards. – A charter school shall meet the same health and  
15 safety requirements required of a local school administrative unit.

16 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,  
17 admission policies, employment practices, and all other operations and shall not charge  
18 tuition. A charter school shall not be affiliated with a nonpublic sectarian school or a  
19 religious institution.

20 (c) Civil Liability and Insurance. –

21 (1) The board of directors of a charter school may sue and be sued. The  
22 board of directors shall obtain at least the amount of and types of  
23 insurance required by the contract.

24 (2) No civil liability shall attach to any chartering entity, to the State Board  
25 of Education, or to any of their members or employees, individually or  
26 collectively, for any acts or omissions of the charter school. In the event  
27 a charter school ~~has not elected total independence from the local board of~~  
28 ~~education under subsection (e) of this section,~~ is operated by a board of  
29 directors approved by the local board of education, the immunity  
30 established by this subsection shall be deemed to have been waived to  
31 the extent of indemnification by insurance, indemnification under  
32 Articles 31A and 31B of Chapter 143 of the General Statutes, and to the  
33 extent sovereign immunity is waived under the Tort Claims Act, as set  
34 forth in Article 31 of Chapter 143 of the General Statutes.

35 (d) Instructional Program. –

36 (1) The school shall provide instruction each year for at least 180 days.

37 (2) The school shall design its programs to at least meet the student  
38 performance standards adopted by the State Board of Education and the  
39 student performance standards contained in the contract with the local  
40 board of education.

41 (3) A charter school shall conduct the student assessments required for  
42 charter schools by the State Board of Education.

- 1           (4)    The school shall comply with policies adopted by the State Board of  
2           Education for charter schools relating to the education of children with  
3           special needs.
- 4           (5)    The school is subject to and shall comply with Article 27 of Chapter  
5           115C of the General Statutes; except that a charter school may also  
6           exclude a student from the charter school and return that student to  
7           another school in the local school administrative unit in accordance with  
8           the terms of its contract.
- 9       (e)    Employees. –
- 10          (1)    An employee of a charter school is not an employee of the local school  
11          administrative unit in which the charter school is located. The charter  
12          school's board of directors shall employ and contract with necessary  
13          teachers to perform the particular service for which they are employed  
14          in the school; at least seventy-five percent (75%) of these teachers in  
15          grades kindergarten through five, at least fifty percent (50%) of these  
16          teachers in grades six through eight, and at least fifty percent (50%) of  
17          these teachers in grades nine through 12 shall hold teacher certificates.  
18          The board also may employ necessary employees who are not required  
19          to hold teacher certificates to perform duties other than teaching and  
20          may contract for other services. The board may discharge teachers and  
21          noncertificated employees. In the event a charter school is operated by a  
22          board of directors approved by the local board of education, all  
23          employment decisions, including hiring and firing of employees of the  
24          charter school, shall be approved by the local board of education upon  
25          the recommendation of the board of directors.
- 26          (2)    No local board of education shall require any employee of the local  
27          school administrative unit to be employed in a charter school.
- 28          (3)    If a teacher employed by a local school administrative unit makes a  
29          written request for an extended leave of absence to teach at a charter  
30          school, the local school administrative unit shall grant the leave. The  
31          local school administrative unit shall grant a leave for any number of  
32          years requested by the teacher, shall extend the leave for any number of  
33          years requested by the teacher, and shall extend the leave at the teacher's  
34          request. The local school administrative unit may require that the  
35          request for a leave or extension of leave be made up to 90 days before  
36          the teacher would otherwise have to report for duty. A teacher who has  
37          career status under G.S. 115C-325 prior to receiving an extended leave  
38          of absence to teach at a charter school may return to a public school in  
39          the local school administrative unit with career status at the end of the  
40          leave of absence or upon the end of employment at the charter school if  
41          an appropriate position is available. If an appropriate position is  
42          unavailable, the teacher's name shall be placed on a list of available

1 teachers and that teacher shall have priority on all positions for which  
2 that teacher is qualified in accordance with G.S. 115C-325(e)(2).

- 3 (4) ~~In the event a charter school, in its application, elects total independence~~  
4 ~~from the local board of education, school is operated by a private nonprofit~~  
5 ~~corporation, its employees shall not be deemed to be employees of the~~  
6 ~~local school administrative unit and shall not be entitled to any State-~~  
7 ~~funded employee benefits, including membership in the North Carolina~~  
8 ~~Teachers' and State Employees' Retirement System or the Teachers' and~~  
9 ~~State Employees' Comprehensive Major Medical Plan. In the event a~~  
10 ~~charter school, in its application, agrees to be subject to some supervision and~~  
11 ~~control of its administrative operations by the local board of education,~~  
12 ~~school is operated by a board of directors approved by the local board of~~  
13 ~~education, the employees of the charter school will be deemed~~  
14 ~~employees of the local school administrative unit for purposes of~~  
15 ~~providing certain State-funded employee benefits, including~~  
16 ~~membership in the Teachers' and State Employees' Retirement System~~  
17 ~~and the Teachers' and State Employees' Comprehensive Major Medical~~  
18 ~~Plan. The Board of Trustees of the Teachers' and State Employees'~~  
19 ~~Retirement System, in consultation with the State Board of Education, shall~~  
20 ~~determine the degree of supervision and control necessary to qualify the~~  
21 ~~employees of the applicant for membership in the Retirement System. In no~~  
22 ~~event shall anything contained in this Part require the North Carolina~~  
23 ~~Teachers' and State Employees' Retirement System to accept employees~~  
24 ~~of a private employer as members or participants of the System.~~

25 (f) Accountability. –

- 26 (1) The school is subject to the financial audits, the audit procedures, and  
27 the audit requirements adopted by the State Board of Education for  
28 charter schools.  
29 (2) The school shall comply with the reporting requirements established by  
30 the State Board of Education in the Uniform Education Reporting  
31 System.  
32 (3) The school shall report at least annually to the chartering entity and the  
33 State Board of Education the information required by the chartering  
34 entity or the State Board.

35 (g) Admission Requirements. –

- 36 (1) Any child who is qualified under the laws of this State for admission to  
37 a public school is qualified for admission to a charter school.  
38 (2) No local board of education shall require any student enrolled in the  
39 local school administrative unit to attend a charter school.  
40 (3) Admission to a charter school shall not be determined according to the  
41 school attendance area in which a student resides, except that any local  
42 school administrative unit in which a public school converts to a charter

- 1 school shall give admission preference to students who reside within the  
2 former attendance area of that school.
- 3 (4) Admission to a charter school shall not be determined according to the  
4 local school administrative unit in which a student resides, except that  
5 the provisions of G.S. 115C-366(d) shall apply to a student who wishes  
6 to attend a charter school in a county other than the county in which the  
7 student resides.
- 8 (5) A charter school shall not discriminate against any student on the basis  
9 of ethnicity, national origin, gender, or disability. Except as otherwise  
10 provided by law or the mission of the school as set out in the contract,  
11 the school shall not limit admission to students on the basis of  
12 intellectual ability, measures of achievement or aptitude, athletic ability,  
13 disability, race, creed, gender, national origin, religion, or ancestry.  
14 Within one year after the charter school begins operation, the population  
15 of the school shall reasonably reflect the racial and ethnic composition  
16 of the general population residing within the local school administrative  
17 unit in which the school is located or the racial and ethnic composition  
18 of the special population that the school seeks to serve residing within  
19 the local school administrative unit in which the school is located. The  
20 school shall be subject to any court-ordered desegregation plan in effect  
21 for the local school administrative unit.
- 22 (6) The school shall enroll an eligible student who submits a timely  
23 application, unless the number of applications exceeds the capacity of a  
24 program, class, grade level, or building. In this case, students shall be  
25 accepted by lot.
- 26 (7) Notwithstanding any law to the contrary, a charter school may refuse  
27 admission to any student who has been expelled or suspended from a  
28 public school under G.S. 115C-391 until the period of suspension or  
29 expulsion has expired.
- 30 (h) Transportation. – The charter school shall provide transportation for students  
31 enrolled at the school who reside in the local school administrative unit in which the  
32 school is located. The charter school may provide transportation for students enrolled at  
33 the school who reside in different local school administrative units.
- 34 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the  
35 charter, all assets of the charter school shall be deemed the property of the local school  
36 administrative unit in which the charter school is located."
- 37 Section 4. This act is effective when it becomes law.