

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

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**HOUSE BILL 779**

Short Title: Charter School Changes. (Public)

Sponsors: Representatives Brody and Williams (Primary Sponsors).

*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Education - K-12, if favorable, Appropriations

April 13, 2017

A BILL TO BE ENTITLED  
AN ACT TO MAKE VARIOUS CHANGES TO THE CHARTER SCHOOL LAWS.  
The General Assembly of North Carolina enacts:

**PART I. EXPANSION OF GROWTH EXCEPTION FOR MATERIAL REVISIONS OF CHARTERS**

**SECTION 1.(a)** G.S. 115C-218.7(b) reads as rewritten:

"(b) Enrollment growth of greater than ~~twenty percent (20%)~~ forty percent (40%) shall be considered a material revision of the charter. The State Board may approve such additional enrollment growth of greater than ~~twenty percent (20%)~~ forty percent (40%) 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 1.(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%)~~ forty percent (40%) of the school's previous year's enrollment.
- (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



1 G.S. 115C-218.94, and (iii) has been in financial compliance as required by  
2 the State Board."

3 **SECTION 1.(c)** This section is effective when it becomes law and applies to  
4 approvals for material changes on or after that date.

5

6 **PART II. ENROLLMENT PRIORITIES FOR STUDENTS PREVIOUSLY ENROLLED**  
7 **IN CHARTERS**

8 **SECTION 2.** G.S. 115C-218.45(f) reads as rewritten:

9 "(f) The charter school may give enrollment priority to any of the following:

- 10 (1) Siblings of currently enrolled students who were admitted to the charter  
11 school in a previous year. For the purposes of this section, the term  
12 "siblings" includes any of the following who reside in the same household:  
13 half siblings, stepsiblings, and children residing in a family foster home.
- 14 (2) Siblings of students who have completed the highest grade level offered by  
15 that school and who were enrolled in at least four grade levels offered by the  
16 charter school or, if less than four grades are offered, in the maximum  
17 number of grades offered by the charter school.
- 18 (3) Limited to no more than fifteen percent (15%) of the school's total  
19 enrollment, unless granted a waiver by the State Board of Education, the  
20 following:  
21 a. Children of the school's full-time employees.  
22 b. Children of the charter school's board of directors.
- 23 (4) A student who was enrolled in the charter school within the two previous  
24 school years but left the school (i) to participate in an academic study abroad  
25 program or a competitive admission residential program or (ii) because of  
26 the vocational opportunities of the student's parent.
- 27 (5) A student who was enrolled in another charter school in the State in the  
28 previous school year that does not offer the student's next grade level.
- 29 (6) A student who was enrolled in another charter school in the State in the  
30 previous school year that does not offer the student's next grade level and  
31 both of the charter schools have an enrollment articulation agreement to  
32 accept students or are governed by the same board of directors.
- 33 (7) A student who was enrolled in another charter school in the State in the  
34 previous school year."  
35

36 **PART III. DISAGGREGATION OF STUDENT PERFORMANCE DATA**

37 **SECTION 3.(a)** G.S. 115C-218.110(b) reads as rewritten:

38 "(b) The State Board of Education shall review and evaluate the educational  
39 effectiveness of the charter schools authorized under this Article and the effect of charter  
40 schools on the public schools in the local school administrative unit in which the charter  
41 schools are located. The Board shall report annually no later than January 15 to the Joint  
42 Legislative Education Oversight Committee on the following:

- 43 (1) The current and projected impact of charter schools on the delivery of  
44 services by the public schools.
- 45 (2) Student academic progress in the charter schools as measured, where  
46 available, against the academic year immediately preceding the first  
47 academic year of the charter schools' operation.
- 48 (2a) The student performance data based on the Education Value-Added  
49 Assessment System (EVAAS) for charter school students disaggregated by  
50 years of student enrollment on the basis of race, sex, grade level, ethnicity,

1 free or reduced lunch status, and disability status in the charter school for the  
2 following categories:

3 a. Charter schools.

4 b. Virtual charter schools.

5 c. Dropout prevention and recovery program charter schools.

6 (3) Best practices resulting from charter school operations.

7 (4) Other information the State Board considers appropriate.

8 Notwithstanding the requirements for disaggregated data, the report shall not include any  
9 personally identifiable student data, as defined in G.S. 115C-402.5."

10 **SECTION 3.(b)** This section is effective when it becomes law and applies to  
11 reports submitted on or after January 1, 2018.

#### 13 **PART IV. LOTTERY FUNDING FOR SCHOOL CONSTRUCTION PROJECTS**

14 **SECTION 4.(a)** G.S. 115C-218.100(b) reads as rewritten:

15 "(b) Distribution of Assets. – Upon dissolution of a charter school, ~~all~~the following shall  
16 occur:

17 (1) All net assets of the charter school purchased with public funds, other  
18 than capital, shall be deemed the property of the local school administrative  
19 unit in which the charter school is located.

20 (2) Capital funds provided to a charter school by one or more counties pursuant  
21 to G.S. 115C-218.105(b1) and all net assets purchased or improved with the  
22 capital funds, up to the total amount of the funds provided, shall be deemed  
23 the property of the county or counties providing the funding and, if  
24 applicable, divided between the counties in proportion to the funds  
25 provided."

26 **SECTION 4.(b)** G.S. 115C-218.105 reads as rewritten:

27 **"§ 115C-218.105. State and local funds for a charter school.**

28 ...

29 (b) Funds allocated by the State Board of Education may be used to enter into  
30 operational and financing leases for real property or mobile classroom units for use as school  
31 facilities for charter schools and may be used for payments on loans made to charter schools for  
32 facilities, equipment, or operations. However, State funds shall not be used to obtain any other  
33 interest in real property or mobile classroom ~~units~~units, except in accordance with subsection  
34 (b1) of this section and G.S. 115C-546.2(d). No indebtedness of any kind incurred or created  
35 by the charter school shall constitute an indebtedness of the State or its political subdivisions,  
36 and no indebtedness of the charter school shall involve or be secured by the faith, credit, or  
37 taxing power of the State or its political subdivisions. Every contract or lease into which a  
38 charter school enters shall include the previous sentence. The school also may own land and  
39 buildings it obtains through non-State sources.

40 (b1) Counties may provide funds from the Public School Building Capital Fund to  
41 charter schools by direct appropriation as set forth in G.S. 115C-546.2(d). These funds shall be  
42 used only for the following purposes:

43 (1) The acquisition of real property for school purposes, including, but not  
44 limited to, school sites, playgrounds, and athletic fields.

45 (2) The acquisition, construction, reconstruction, enlargement, renovation, or  
46 replacement of buildings and other structures, including, but not limited to,  
47 buildings for classrooms and laboratories, physical and vocational education  
48 purposes, libraries, auditoriums, and gymnasiums.

49 (b2) If a charter school uses funds provided in subsection (b1) of this section to acquire  
50 or improve property, the amount provided by the county shall be evidenced by a promissory  
51 note and secured by a deed of trust on the property acquired or improved by the funds. The

1 county may subordinate the deed of trust to other liens to facilitate the acquisition or  
 2 improvement of the property secured by the deed of trust. In the event that a charter school  
 3 repays the county in the amount of the capital funds provided, the county shall, for the property  
 4 acquired or improved by the funds, execute and file a deed of release or other documentation of  
 5 satisfaction showing the charter school repaid the county in the amount of the capital funds  
 6 provided. Upon dissolution of a charter school that has not yet repaid the county, capital funds  
 7 and all net assets purchased or improved with the capital funds shall be distributed in  
 8 accordance with G.S. 115C-218.100(b)(2).

9 ...."

10 **SECTION 4.(c)** G.S. 115C-546.2(d) reads as rewritten:

11 "(d) If funds are appropriated from the Education Lottery Fund to the Public School  
 12 Building Capital Fund, such funds shall be allocated for school capital construction projects on  
 13 a per average daily membership basis according to the average daily membership for the budget  
 14 year as determined and certified by the State Board of Education.

15 (1), (2) Repealed by Session Laws 2013-360, s. 6.11(b), effective July 1, 2013.

16 (3) No county shall have to provide matching funds required under subsection  
 17 (c) of this section.

18 (4) A county may use monies in this Fund to pay for school construction  
 19 projects in local school administrative units and to retire indebtedness  
 20 incurred for school construction projects.

21 (4a) A county may use monies in this Fund to make direct appropriations to  
 22 charter schools as provided in G.S. 115C-218.105(b1).

23 (5) A county may not use monies in this Fund to pay for school technology  
 24 needs."

25 **SECTION 4.(d)** This section is effective when it becomes law.

## 27 **PART V. LOW-WEALTH FUNDING FOLLOWS STUDENT**

28 **SECTION 5.(a)** G.S. 115C-218.105(c) reads as rewritten:

29 "(c) If a student attends a charter school, the local school administrative unit in which  
 30 the ~~child~~ student resides shall transfer to the charter school ~~an~~ all of the following:

31 (1) An amount equal to the per pupil share of the local current expense fund of  
 32 the local school administrative unit for the fiscal year. The per pupil share of  
 33 the local current expense fund shall be transferred to the charter school  
 34 within 30 days of the receipt of monies into the local current expense fund.

35 (2) If the student attends a charter school that is not located within a low-wealth  
 36 county, an amount equal to the per pupil share of any low-wealth  
 37 supplemental funding provided to the local school administrative unit for the  
 38 fiscal year. The per pupil share of any low-wealth supplemental funding  
 39 provided to the local school administrative unit shall be transferred to the  
 40 charter school within 30 days of receipt of those monies by the local school  
 41 administrative unit.

42 The local school administrative unit and charter school may use the process for mediation  
 43 of differences between the State Board and a charter school provided in G.S. 115C-218.95(d) to  
 44 resolve differences on calculation and transference of the per pupil share of the local current  
 45 expense fund ~~fund~~ or the per pupil share of any low-wealth supplemental funding provided to  
 46 the local school administrative unit. The amount transferred under this subsection that consists  
 47 of revenue derived from supplemental taxes shall be transferred only to a charter school located  
 48 in the tax district for which these taxes are levied and in which the student resides."

49 **SECTION 5.(b)** G.S. 115C-218.105(d) reads as rewritten:

50 "(d) The local school administrative unit shall also provide each charter school to which  
 51 it transfers a per pupil share of its local current expense fund or a per pupil share of any

1 low-wealth supplemental funding provided to the local school administrative unit with all of  
 2 the following information within the 30-day time period provided in subsection (c) of this  
 3 section:

- 4 (1) The total amount of monies the local school administrative unit has in each  
 5 of the funds listed in G.S. 115C-426(c).
- 6 (2) The student membership numbers used to calculate the per pupil share of the  
 7 local current expense ~~fund-fund~~ or any low-wealth supplemental funding.
- 8 (3) How the per pupil share of the local current expense fund or any low-wealth  
 9 supplemental funding was calculated.
- 10 (4) Any additional records requested by a charter school from the local school  
 11 administrative unit in order for the charter school to audit and verify the  
 12 calculation and transfer of the per pupil share of the local current expense  
 13 ~~fund-fund~~ or any low-wealth supplemental funding.

14 In addition, the local school administrative unit shall provide to the State Board of  
 15 Education all of the information required by this subsection for each charter school to which it  
 16 transfers a per pupil share of its local current expense ~~fund-fund~~ or a per pupil share of any  
 17 low-wealth supplemental funding provided to the local school administrative unit. This  
 18 information shall be provided to the State Board of Education by November 1 of each year. The  
 19 State Board shall adopt a policy to govern the collection of this information. The State Board  
 20 shall issue a letter of noncompliance to a local school administrative unit that does not provide  
 21 the State Board with the information required by this subsection."  
 22

## 23 **PART VI. CHARTER SCHOOLS AND NC PRE-K**

24 **SECTION 6.(a)** G.S. 115C-218(c)(3) reads as rewritten:

- 25 "(3) Powers and duties. – The Office of Charter Schools shall have the following  
 26 powers and duties:
- 27 a. Serve as staff to the Advisory Board and fulfill any task and duties  
 28 assigned to it by the Advisory Board.
  - 29 b. Provide technical assistance and guidance to charter schools  
 30 operating within the State.
  - 31 c. Provide technical assistance and guidance to nonprofit corporations  
 32 seeking to operate charter schools within the State.
  - 33 d. Provide or arrange for training for charter schools that have received  
 34 preliminary approval from the State Board.
  - 35 e. Assist approved charter schools and charter schools seeking approval  
 36 from the State Board in coordinating services with the Department of  
 37 Public Instruction.
  - 38 e1. Assist certain charter schools seeking to participate in the NC  
 39 prekindergarten program in accordance with G.S. 115C-218.115.
  - 40 f. Other duties as assigned by the State Board."

41 **SECTION 6.(b)** G.S. 115C-218.45(f), as amended by Section 2 of this act, reads as  
 42 rewritten:

- 43 "(f) The charter school may give enrollment priority to any of the following:
- 44 (1) Siblings of currently enrolled students who were admitted to the charter  
 45 school in a previous year. For the purposes of this section, the term  
 46 "siblings" includes any of the following who reside in the same household:  
 47 half siblings, stepsiblings, and children residing in a family foster home.
  - 48 (2) Siblings of students who have completed the highest grade level offered by  
 49 that school and who were enrolled in at least four grade levels offered by the  
 50 charter school or, if less than four grades are offered, in the maximum  
 51 number of grades offered by the charter school.

- 1           (2a) A student who was enrolled in a preschool program operated by the charter  
2           school in the prior year.
- 3           (3) Limited to no more than fifteen percent (15%) of the school's total  
4           enrollment, unless granted a waiver by the State Board of Education, the  
5           following:  
6           a. Children of the school's full-time employees.  
7           b. Children of the charter school's board of directors.
- 8           (4) A student who was enrolled in the charter school within the two previous  
9           school years but left the school (i) to participate in an academic study abroad  
10          program or a competitive admission residential program or (ii) because of  
11          the vocational opportunities of the student's parent.
- 12          (5) A student who was enrolled in another charter school in the State in the  
13          previous school year that does not offer the student's next grade level.
- 14          (6) A student who was enrolled in another charter school in the State in the  
15          previous school year that does not offer the student's next grade level and  
16          both of the charter schools have an enrollment articulation agreement to  
17          accept students or are governed by the same board of directors.
- 18          (7) A student who was enrolled in another charter school in the State in the  
19          previous school year."

20           **SECTION 6.(c)** Article 14A of Chapter 115C of the General Statutes is amended  
21 by adding a new section to read:

22 **"§ 115C-218.115. Operation of NC Pre-K programs.**

23           (a) A charter school may apply to a local contracting agency to participate in the NC  
24 prekindergarten (NC Pre-K) program as a local program site offering families a high-quality  
25 prekindergarten experience. A charter school that seeks to operate as a NC Pre-K program site  
26 may request administrative and technical assistance from the Office of Charter Schools with its  
27 application to the local contracting agency if the charter school meets all of the following:

- 28           (1) The charter school has operated as a charter school for at least three school  
29           years.
- 30           (2) The charter school is not currently identified as low-performing.
- 31           (3) The charter school meets generally accepted standards of fiscal management.
- 32           (4) The charter school is substantially in compliance with State law, federal law,  
33 the charter school's own bylaws, and the provisions set forth in its charter  
34 granted by the State Board.

35           (b) The Office of Charter Schools, in consultation with the Department of Health and  
36 Human Services, Division of Child Development and Early Education, shall assist a charter  
37 school under subsection (a) of this section, with determining whether the charter school's  
38 proposed program meets (i) the building standards set forth in subsection (c) of this section and  
39 any other State standards for the charter school to be licensed as a child care facility and (ii) the  
40 standards required to be selected as a site under the NC Pre-K program. If the charter school  
41 does not meet these standards, the Office of Charter Schools shall provide assistance to the  
42 charter school in identifying any obstacles to its participation in the NC Pre-K program.

43           (c) A charter school that otherwise meets all of the requirements for a child care facility  
44 license may use an existing or newly constructed classroom in the charter school for three- and  
45 four-year-old preschool students without modifications to the classroom or building if the  
46 classroom meets all of the following:

- 47           (1) Has at least one toilet and one sink for hand washing.
- 48           (2) Meets kindergarten standards for overhead light fixtures.
- 49           (3) Meets kindergarten standards for floors, walls, and ceilings.
- 50           (4) Has floors, walls, and ceilings that are free from mold, mildew, and lead  
51 hazards."

**PART VII. DETAILED SOURCE OF FUNDS IN ANNUAL AUDIT****SECTION 7.(a)** G.S. 115C-426(c) reads as rewritten:

(c) The uniform budget format shall require the following funds:

- (1) The State Public School Fund.
- (2) The local current expense fund.
- (3) The capital outlay fund.

In addition, other funds may be used to account for reimbursements, including indirect costs, fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, trust funds, federal appropriations made directly to local school administrative units, and funds received for prekindergarten programs. In addition, the appropriation or use of fund balance or interest income by a local school administrative unit shall not be construed as a local current expense appropriation included as a part of the local current expense fund. Each of the other funds not accounted for by the funds described in subdivision (1), (2), or (3) of this subsection shall have each source and amount identified in the annual audit required by G.S. 115C-447(a). If the source is a gift or grant restricted as to use, the restriction as to use imposed by the donor or grantor shall also be stated in the audit.

Each local school administrative unit shall maintain those funds shown in the uniform budget format that are applicable to its operations."

**SECTION 7.(b)** This act is effective when it becomes law and applies to audits conducted after July 1, 2017.**PART VIII. PERSONAL PROPERTY TAX EXEMPTION FOR CHARTER SCHOOLS****SECTION 8.(a)** G.S. 105-275 is amended by adding a new subdivision to read:

"(49) Personal property that is owned or leased by a charter school and is wholly and exclusively used for educational purposes as defined in G.S. 105-278.4(f) regardless of the ownership of the property."

**SECTION 8.(b)** This section becomes effective July 1, 2017.**PART IX. EFFECTIVE DATE****SECTION 9.** Except as otherwise provided, this act is effective when it becomes law.