

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 219  
Committee Substitute Favorable 5/2/23  
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Senate Education/Higher Education Committee Substitute Adopted 6/27/23  
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Short Title: Charter School Omnibus.

(Public)

Sponsors:

Referred to:

March 1, 2023

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

**PART I. CLARIFY REQUIREMENTS OF CHARTER APPLICATION AND RENEWAL**

**SECTION 1.(a)** If House Bill 618, 2023 Regular Session, does not become law, G.S. 115C-218.5(a) reads as rewritten:

"(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. The Board shall not consider any alleged impact on the local school administrative unit or units in the area served by a charter school when deciding whether to grant, renew, amend, or terminate a charter."

**SECTION 1.(b)** If House Bill 618, 2023 Regular Session, becomes law, G.S. 115C-218.5(a), as amended by House Bill 618, 2023 Regular Session, reads as rewritten:

"(a) The Review 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 Review Board is encouraged to give preference to applications that demonstrate the capability to provide comprehensive learning experiences to students identified



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1 by the applicants as at risk of academic failure. The Review Board shall not consider any alleged  
2 impact on the local school administrative unit or units in the area served by a charter school when  
3 deciding whether to grant, renew, amend, or terminate a charter."

4 **SECTION 1.(c)** G.S. 115C-218.6(b)(2) reads as rewritten:

5 "(2) The charter school's student academic outcomes for the immediately  
6 preceding three years have not been comparable to the academic outcomes of  
7 students in the local school administrative unit in which the charter school is  
8 located. For purposes of this section, if a school's charter results in it providing  
9 services to certain targeted subgroups, the school's academic performance  
10 shall be judged in comparison to the academic outcomes of students in the  
11 same subgroups in the local school administrative unit where the school is  
12 located."

## 13 **PART II. LIMIT ENROLLMENT CAPS TO LOW-PERFORMING SCHOOLS**

14 **SECTION 2.(a)** If House Bill 618, 2023 Regular Session, does not become law,  
15 G.S. 115C-218.7 reads as rewritten:

16 **"§ 115C-218.7. Material revisions of charters.**

17 (a) A material revision of the provisions of a charter shall be made only upon the approval  
18 of the State Board of Education.

19 (b) ~~Enrollment growth of greater than twenty percent (20%) shall be considered a~~  
20 ~~material revision of the charter if the charter is currently identified as low performing. The State~~  
21 ~~Board shall not approve a material revision for enrollment growth of greater than twenty percent~~  
22 ~~(20%) for a charter that is currently identified as low performing. Enrollment growth of greater~~  
23 ~~than thirty percent (30%) shall be considered a material revision of the charter for any charter~~  
24 ~~school that is not identified as low performing. The State Board may approve such additional~~  
25 ~~enrollment growth of greater than thirty percent (30%) only if it finds all of the following: If a~~  
26 ~~charter school has been identified as low-performing under G.S. 115C-218.94, then it shall be~~  
27 ~~considered a material revision of the school's charter to increase its maximum authorized~~  
28 ~~enrollment by more than twenty percent (20%) of the previous year's maximum authorized~~  
29 ~~enrollment. For the purposes of this section, maximum authorized enrollment is as defined in~~  
30 ~~G.S. 115C-218.8.~~

31 (1) ~~The actual enrollment of the charter school is within ten percent (10%) of its~~  
32 ~~maximum authorized enrollment.~~

33 (2) ~~The charter school has commitments for ninety percent (90%) of the requested~~  
34 ~~maximum growth.~~

35 (3) ~~The charter school is not currently identified as low performing.~~

36 (4) ~~The charter school meets generally accepted standards of fiscal management.~~

37 (5) ~~The charter school is, at the time of the request for the enrollment increase,~~  
38 ~~substantially in compliance with State law, federal law, the charter school's~~  
39 ~~own bylaws, and the provisions set forth in its charter granted by the State~~  
40 ~~Board.~~

41 (c) ~~For the purposes of calculating actual enrollment and maximum authorized~~  
42 ~~enrollment under subdivision (1) of subsection (b) of this section, if a charter school is pursuing~~  
43 ~~a material revision of enrollment growth based on a proposed capital expansion of the charter~~  
44 ~~school, but fails to meet the requirements of subdivision (1) of subsection (b) of this section, the~~  
45 ~~State Board shall have the discretion to investigate and determine whether subdivision (1) of~~  
46 ~~subsection (b) of this section may be waived to grant the school's material revision request to~~  
47 ~~allow the capital expansion to move forward. In making such a determination, the charter school~~  
48 ~~shall provide the State Board with documentation to show evidence that demonstrates sufficiently~~  
49 ~~in the State Board's discretion all of the following:~~  
50

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

6           (d)    If a charter school presents evidence of a proposed capital expansion as part of a  
7           request for a material revision of enrollment growth under this section that is granted by the State  
8           Board, and the charter school is not able to realize that capital expansion within two years of the  
9           grant of the material revision, the charter shall reflect the maximum authorized enrollment  
10          immediately preceding that material revision."

11           **SECTION 2.(b)** If House Bill 618, 2023 Regular Session, becomes law,  
12          G.S. 115C-218.7, as amended by House Bill 618, 2023 Regular Session, reads as rewritten:  
13          "**§ 115C-218.7. Material revisions of charters.**

14          (a)    A material revision of the provisions of a charter shall be made only upon the approval  
15          of the Review Board.

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

- 24               (1)    The actual enrollment of the charter school is within ten percent (10%) of its  
25               maximum authorized enrollment.  
26               (2)    The charter school has commitments for ninety percent (90%) of the requested  
27               maximum growth.  
28               (3)    The charter school is not currently identified as low performing.  
29               (4)    The charter school meets generally accepted standards of fiscal management.  
30               (5)    The charter school is, at the time of the request for the enrollment increase,  
31               substantially in compliance with State law, federal law, the charter school's  
32               own bylaws, and the provisions set forth in its charter granted by the Review  
33               Board.

34          If a charter school has been identified as low-performing under G.S. 115C-218.94, then it  
35          shall be considered a material revision of the school's charter to increase its maximum authorized  
36          enrollment by more than twenty percent (20%) of the previous year's maximum authorized  
37          enrollment. For the purposes of this section, maximum authorized enrollment is as defined in  
38          G.S. 115C-218.8.

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

- 48               (1)    The requested increase in enrollment growth is within a reasonable margin of  
49               the threshold necessary to support the requested material revision.

1           (2)    ~~The charter school has secured financing for its proposed capital expansion~~  
2                   ~~conditioned on its obtaining the requested material revision of enrollment~~  
3                   ~~growth.~~

4           (d)    ~~If a charter school presents evidence of a proposed capital expansion as part of a~~  
5           ~~request for a material revision of enrollment growth under this section that is granted by the~~  
6           ~~Review Board, and the charter school is not able to realize that capital expansion within two~~  
7           ~~years of the grant of the material revision, the charter shall reflect the maximum authorized~~  
8           ~~enrollment immediately preceding that material revision."~~

9           **SECTION 2.(c)** G.S. 115C-218.8 reads as rewritten:

10    **"§ 115C-218.8. Nonmaterial revisions of charters.**

11           It shall not be considered a material revision of a charter and shall not require prior approval  
12    of the State Board for a charter school to do any of the following:

13           (1)    Increase its maximum authorized enrollment during the charter school's  
14                   second year of operation and annually ~~thereafter in accordance with~~  
15                   ~~G.S. 115C-218.7(b).~~thereafter, provided the school is not identified as  
16                   low-performing under G.S. 115C-218.94. The maximum authorized  
17                   enrollment is the target enrollment number identified in a school's charter. The  
18                   maximum authorized enrollment may only be updated once per year and shall  
19                   not decrease based on actual enrollment.

20           (2)    ~~Increase~~ If a school is low-performing under G.S. 115C-105.37A and has  
21                   planned growth authorized in its charter, increase its maximum authorized  
22                   enrollment during the charter school's second year of operation and annually  
23                   thereafter in accordance with planned growth as authorized in its charter.

24           (3)    Expand to offer one grade higher or lower than the charter school currently  
25                   offers if the charter school has (i) operated for at least three years, (ii) has not  
26                   been identified as continually low-performing as provided in  
27                   G.S. 115C-218.94, and (iii) has been in financial compliance as required by  
28                   the State Board."

29  
30    **PART III. ALLOW CHARTER SCHOOLS TO ADMIT OUT-OF-STATE STUDENTS**  
31    **AND FOREIGN EXCHANGE STUDENTS**

32           **SECTION 3.(a)** G.S. 115C-218.45 is amended by adding the following new  
33    subsections to read:

34           "(h1) Any charter school that is unable to fill its current enrollment with students qualified  
35           under the laws of this State for admission to a public school may enroll out-of-state students who  
36           are domiciliaries of other states. The charter school shall charge the out-of-state students a tuition  
37           amount of at least fifty percent (50%) of the total of the per pupil allocation of the local  
38           appropriation for the county in which the charter school is located and the per pupil State  
39           appropriation for that school year but no more than one hundred percent (100%) of the total of  
40           the per pupil allocation of the local appropriation for the county in which the charter school is  
41           located and the per pupil State appropriation for that school year. The number of out-of-state  
42           students who are domiciliaries of other states who are enrolled in a charter school may not exceed  
43           ten percent (10%) of the total number of students enrolled in the charter school.

44           (h2) For the purposes of this subsection, a foreign exchange student is a student who is  
45           domiciled in a foreign country and has come to the United States on a valid student or exchange  
46           visa pursuant to the Immigration and Nationality Act, 8 U.S.C. § 1101, et seq. A charter school  
47           may enroll foreign exchange students as follows:

48                   (1)    No more than two foreign exchange students per high school grades nine  
49                   through 12 shall be enrolled in any given school year at the charter school.

50                   (2)    The charter school may charge the foreign exchange students a tuition amount  
51                   of at least fifty percent (50%) of the total of the per pupil allocation of the

1 local appropriation for the county in which the charter school is located and  
2 the per pupil State appropriation for that school year but no more than one  
3 hundred percent (100%) of the total of the per pupil allocation of the local  
4 appropriation for the county in which the charter school is located and the per  
5 pupil State appropriation for that school year.

6 (3) Foreign exchange students shall not count toward the enrollment capacity or  
7 cap for any program, class, building, or grade levels for grades nine through  
8 12 and shall not be subject to any lottery process used by the charter school  
9 for enrollment."

10 **SECTION 3.(b)** This section is effective when it becomes law and applies beginning  
11 with the admissions process for the 2024-2025 school year.

12  
13 **PART IV. ADD ADMISSIONS PREFERENCES FOR GRADUATES OF CERTAIN**  
14 **PRE-K PROGRAMS AND FOR CHILDREN OF MILITARY FAMILIES**

15 **SECTION 4.** G.S. 115C-218.45(f) is amended by adding two new subdivisions to  
16 read:

17 "(2b) Limited to no more than ten percent (10%) of the school's total enrollment, a  
18 student who was enrolled for at least 75 consecutive days in the prior semester  
19 in a preschool program operated by an entity other than the charter school and  
20 the charter school has a written enrollment articulation agreement with the  
21 program operator to give the program's students enrollment priority.

22 ...

23 (8) A student whose parent or legal guardian is on active military duty."

24  
25 **PART V. PROHIBIT DISCRIMINATION OF CHARTER SCHOOL STUDENTS**

26 **SECTION 5.** G.S. 115C-47 is amended by adding a new subdivision to read:

27 "(68) To Provide Equal Access to All Residents of the Local School Administrative  
28 Unit. – A local board of education shall not consider a student's current or  
29 prior enrollment in a charter school in any criteria used by the local board for  
30 determination of admissions or eligibility to any school or special program."

31  
32 **PART VI. AUTHORIZE COUNTIES TO PROVIDE CAPITAL FUNDS TO CHARTER**  
33 **SCHOOLS**

34 **SECTION 6.(a)** G.S. 115C-218.100(b) reads as rewritten:

35 "(b) Distribution of Assets. – Upon dissolution of a charter school, all net assets of the  
36 charter school purchased with public funds shall be deemed the property of the local school  
37 administrative unit in which the charter school is ~~located~~located, except capital-sourced assets.  
38 For purposes of this subsection, capital-sourced assets include (i) capital funds provided to a  
39 charter school by one or more counties pursuant to G.S. 115C-218.105(b1) and (ii) net assets  
40 purchased or improved with such funds, up to the total amount of the funds provided.  
41 Capital-sourced assets shall be deemed the property of the county or counties providing the  
42 funding and, if applicable, divided between the counties in proportion to the funds provided."

43 **SECTION 6.(b)** G.S. 115C-218.105 is amended by adding the following new  
44 subsections to read:

45 "(b1) Counties may provide funds to charter schools by direct appropriation as set forth in  
46 G.S. 153A-461. These funds shall be used only for the following purposes:

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

49 (2) The acquisition, construction, reconstruction, enlargement, renovation, or  
50 replacement of buildings and other structures, including, but not limited to,

1 buildings for classrooms and laboratories, physical and vocational educational  
2 purposes, libraries, auditoriums, and gymnasiums.

3 (3) The acquisition or replacement of furniture and furnishings, instructional  
4 apparatus, technology, data processing equipment, business machines, and  
5 similar items of furnishings and equipment.

6 (b2) If a charter school uses funds provided in subsection (b1) of this section to acquire or  
7 improve property, the amount provided by the county shall be evidenced by a promissory note  
8 and secured by a deed of trust on the property acquired or improved by the funds. The county  
9 may subordinate the deed of trust to other liens to facilitate the acquisition or improvement of  
10 the property secured by the deed of trust. In the event that a charter school repays the county in  
11 the amount of the capital funds provided, the county shall, for the property acquired or improved  
12 by the funds, execute and file a deed of release or other documentation of satisfaction showing  
13 the charter school repaid the county in the amount of the capital funds provided."

14 **SECTION 6.(c)** G.S. 153A-149(c) reads as rewritten:

15 "(c) Each county may levy property taxes for one or more of the purposes listed in this  
16 subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one hundred dollars  
17 (\$100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate  
18 limitation are:

19 ...

20 (38) Charter Schools. – To provide capital funds for charter schools as authorized  
21 by G.S. 153A-461."

22 **SECTION 6.(d)** Article 23 of Chapter 153A of the General Statutes is amended by  
23 adding a new section to read:

24 "**§ 153A-461. Charter schools.**

25 Each county is authorized to appropriate funds and lease real property to schools chartered  
26 under Article 14A of Chapter 115C of the General Statutes. Counties may provide funds only for  
27 the purposes set forth in G.S. 115C-218.105(b1)."

28  
29 **PART VII. ALLOW THE CENTRAL PARK SCHOOL FOR CHILDREN IN DURHAM**  
30 **COUNTY TO CONDUCT A WEIGHTED ADMISSIONS LOTTERY PILOT PROGRAM**

31 **SECTION 7.(a)** The charter school Central Park School for Children in Durham  
32 County may establish a pilot program to expand the school's weighted lottery admission  
33 procedures for a period of up to four years. The pilot program shall preserve existing weighting  
34 factors but may add additional weighting factors that serve the goal of assisting educationally or  
35 economically disadvantaged students, including walk zones.

36 **SECTION 7.(b)** Notwithstanding G.S. 115C-218.7, an admissions lottery pilot  
37 program established under this act shall not be considered a material change of a school's charter.

38 **SECTION 7.(c)** By June 15 of each year in which a pilot program established under  
39 this act is being designed or conducted, the Central Park School for Children shall report to the  
40 Office of Charter Schools the following information:

41 (1) A description of the pilot weighted lottery procedures, including the weighted  
42 factors considered and how those factors further the goals of the weighted  
43 lottery system.

44 (2) How the pilot procedure differed from the existing procedure.

45 (3) The number of students that were admitted under the pilot program that would  
46 not have otherwise been admitted.

47 **SECTION 7.(d)** This section is effective when it becomes law and applies to  
48 weighted lotteries conducted for the admissions process for the 2024-2025 school year.

49  
50 **PART VIII. TECHNICAL CORRECTION TO REVIEW BOARD STAGGER**

1           **SECTION 8.(a)** If House Bill 618, 2023 Regular Session, becomes law, Section 2  
2 of that act is repealed.

3           **SECTION 8.(b)** If House Bill 618, 2023 Regular Session, becomes law, the current  
4 members of the Charter Schools Advisory Board shall serve as initial members of the Charter  
5 Schools Review Board. Notwithstanding G.S. 115C-218(b), as amended by House Bill 618, 2023  
6 Regular Session, upon the expiration of the current term of the Charter School Review Board  
7 members, (i) two terms expiring in 2025 shall be replaced with an appointment to a two-year  
8 term of office by the General Assembly upon the recommendation of the Speaker of the House  
9 of Representatives, in accordance with G.S. 120-121, and (ii) two terms expiring in 2025 shall  
10 be replaced with an appointment to a two-year term of office by the General Assembly upon the  
11 recommendation of the President Pro Tempore of the Senate, in accordance with G.S. 120-121.  
12 As those terms expire in 2027 and thereafter, or as vacancies occur prior to the expiration of those  
13 terms, those members on the North Carolina Charter Schools Review Board shall be appointed  
14 in accordance with G.S. 115C-218.

15           **SECTION 8.(c)** This section is effective on the date House Bill 618, 2023 Regular  
16 Session, becomes law.

17  
18 **PART IX. EFFECTIVE DATE**

19           **SECTION 9.** Except as otherwise provided, this act is effective when it becomes law  
20 and applies beginning with the 2023-2024 school year.