

## SUBCHAPTER 06G - EDUCATION AGENCY RELATIONS

### SECTION .0100 - PRIVATE BUSINESS AND TRADE SCHOOLS AND CORRESPONDENCE SCHOOLS

**16 NCAC 06G .0101 LICENSING PROCEDURES**  
**16 NCAC 06G .0102 BUSINESS SCHOOL REQUIREMENTS**

*History Note:* Authority G.S. 115C-570(c);  
Eff. July 1, 1986;  
Repealed Eff. March 1, 1993.

### SECTION .0200 - ACCREDITATION

**16 NCAC 06G .0201 ACCREDITATION PURPOSE**

*History Note:* Authority G.S. 115C-81; N.C. Constitution, Article IX, Sec. 5;  
Eff. July 1, 1986;  
Expired Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.

**16 NCAC 06G .0202 ACCREDITATION PROCEDURES**

*History Note:* Authority G.S. 115C-81; N.C. Constitution, Article IX, Sec. 5;  
Eff. July 1, 1986;  
Amended Eff. September 1, 1990;  
Repealed Eff. August 1, 1999.

**16 NCAC 06G .0203 HIGH SCHOOL ACCREDITATION FRAMEWORK**

(a) The High School Accreditation Framework is the process whereby public schools or school districts undergo a quality assurance process that includes outside review by the North Carolina Department of Public Instruction (NCDPI).

(b) The process to request an accreditation review and determine high school accreditation is as follows:

- (1) The district superintendent shall make the request in writing and submit it to the SBE;
- (2) The NCDPI shall conduct the review using three years of data;
- (3) The NCDPI shall provide findings to the SBE, and the SBE shall make a decision regarding accreditation; and
- (4) The LEA shall be notified of the SBE decision.

(c) The NCDPI shall use the following indicators to conduct its accreditation review:

- (1) The school's performance composite;
- (2) The cohort graduation rate, which is the percentage of ninth graders who graduate high school within the same four-year period; and
- (3) Factors of post-secondary readiness measures, including:
  - (A) successful completion of Mathematics III;
  - (B) ACT, a college readiness assessment; and
  - (C) WorkKeys, a career readiness assessment.

(d) Accreditation shall be valid for five years.

*History Note:* Authority G.S. 115C-12(39); N.C. Const. Art. IX, Sect. 2 and 5;  
Eff. April 1, 2014.

### SECTION .0300 -SCHOOL-BASED MANAGEMENT AND ACCOUNTABILITY PROGRAM

**16 NCAC 06G .0301 LOCAL SCHOOL IMPROVEMENT PLANS**  
**16 NCAC 06G .0302 DIFFERENTIATED PAY**

*History Note:* Filed as a Temporary Rule Eff. November 7, 1989 for a period of 180 days to expire on May 6, 1990;

*Authority G.S. 115C-238.1; 115C-238.4;*  
*Eff. May 1, 1990;*  
*Amended Eff. July 1, 1994; March 1, 1993;*  
*Repealed Eff. June 1, 1996.*

### **16 NCAC 06G .0303 FLEXIBLE FUNDING**

The SBE shall not consider or grant waivers for:

- (1) teacher assistants;
- (2) matching state funds for federal vocational education;
- (3) transportation;
- (4) employee benefits, including annual leave and longevity;
- (5) Willie M.; and
- (6) all federal funds.

*History Note: Filed as a Temporary Rule Eff. November 7, 1989 for a period of 180 days to expire on May 6, 1990;*  
*Authority G.S. 115C-238.1;*  
*Eff. May 1, 1990;*  
*Amended Eff. June 1, 1996.*

### **16 NCAC 06G .0304 DISPUTE RESOLUTION PROCESS**

- (a) In the event a local board of education does not accept a school's improvement plan within 60 days after the school initially submitted the plan to the board, the local board or the school may request the SBE to mediate the disagreement.
- (b) Either the principal of the school or the local board of education may submit a request for mediation to the Department, office of instructional and accountability services.
- (c) The request shall summarize the dispute issues. Both the principal of the school and the chair of the local board of education shall sign the request.
- (d) The office of instructional and accountability services shall review the request and shall inform the principal of the school and the chair of the local board of education of the time and place for the mediation.
- (e) The office of instructional and accountability services shall assign a mediator from persons who have been selected as assistance team members pursuant to G.S. 115C-105.31.
- (f) The mediator shall assist the parties to identify options for solving the disagreement.
- (g) If the mediator determines that the parties can reach an agreement, the mediator shall suggest language and shall write the agreement. Each party involved shall agree on each part.
- (h) Each party shall sign the agreement. The agreement shall become a part of the school's improvement plan. The school shall then submit the improvement plan to the local board of education for its approval.

*History Note: Authority G.S. 115C-12(9)c4;*  
*Eff. November 1, 1997.*

### **16 NCAC 06G .0305 DEFINITIONS**

For purposes of this Section, the following definitions shall apply:

- (1) "Accountability measures" are SBE-adopted tests designed to gauge student performance and achievement.
- (2) "Adequate yearly progress" or "AYP" shall have the same definition as set out in P.L. 107-110, section 1111(b)(2)(C).
- (3) "Compliance commission" means that group of persons selected by the SBE to advise the SBE on testing and other issues related to school accountability and improvement. The commission shall be composed of teachers, principals, central office staff representatives, local school board representatives, a charter schools representative, and at-large members who represent parents, business, and the community.
- (4) "C-scale" means change scale, which is a standardized scale to measure student performance across the years and content areas. To convert the developmental scale scores to c-scale scores, subtract the state mean for the standard setting year from the developmental scale score, and then divide by the standard deviation for the standard setting year.

- (5) "C-ratio" means the ratio of student scores that achieve an academic change of "0.00" or greater to those with an academic change of less than "0.00", including in the numerator for high schools when used for calculating high growth, the factor for change in college tech prep and college university prep graduation rate and the change in competency test pass rate and including in the denominator, the factor for change in drop out rate.
- (6) "Eligible students" means the total number of students in membership in the respective grades or enrolled in the respective EOC courses at the time the assessments are administered in a statewide assessment.
- (7) "Expected growth" means having met the standard defined by students on average performing as well in their current grade or content as is typical for the same student in previous grades and contents when using the change scale to compare and allowing for a factor of regression to the mean as defined in this policy.
- (8) "High growth" means the school has met the standard of having a c-ratio of 1.50 or greater.
- (9) "Growth standards" means and includes collectively all the factors defined in this Rule that are used in the calculations described in Paragraph (h) of Rule .0312 of this Section to determine a school's growth/gain composite.
- (10) "Performance Composite" is the percent of scores of students in a school that are at or above Achievement Level III, are at a passing level on the North Carolina Computer Skills Test (students in eighth grade only) as specified by 16 NCAC 06D .0503(f), and at proficiency level or above on the state alternate assessments to the extent that any apply in a given school and consistent with United States Department of Education regulations concerning alternate assessments. The SBE shall:
  - (a) determine the number of scores that are at Level III or IV in reading, or mathematics, or writing across grades 3 through 8, or on all EOC assessments administered as a part of the statewide testing program; add the number of scores that are at a passing level on the North Carolina Computer Skills Test (students in eighth grade only); add the number of scores that are proficient or above on the state alternate assessments and use the total of these numbers as the numerator;
  - (b) determine the number of student scores in reading, or mathematics, or writing (starting in the 2004-05 school year), across grades 3 through 8, or on all EOC assessments administered as part of the statewide testing program; add the number of students in grade 8; add the number of student scores on the state alternate assessments and use the total of these numbers as the denominator; and
  - (c) total the numerators for each content area and subject, total the denominators for each content area and subject, and divide the denominator into the numerator and multiply the quotient by 100 to compute the performance composite.
- (11) "Regression coefficient" means an adjustment factored into the expected growth formula for the purpose of making a prediction about expected student performance. For the purposes of figuring student growth (academic change) the factor shall be 0.08 when using the average of two previous assessments and 0.18 when using a single assessment.
- (12) "Standard setting year" means the first year of the test edition implementation.
- (13) "Students with the most significant cognitive disabilities" means students with disabilities whose IEP has determined shall be assessed using an alternate assessment based on alternate achievement standards as determined by their IEP.
- (14) "Students with persistent academic disabilities" means students with disabilities assessed using an alternate assessment based on modified grade-level achievement standards as determined by their IEP.
- (15) "Weight" means the number of students used in the calculation of the amount of growth for a subject or content area, and the College University Prep/College Tech Prep, the Competency Passing Rate, and the ABCs Dropout Rate components.

*History Note: Authority G.S. 115C-12(9)c4.;  
 Eff. January 1, 1998;  
 Amended Eff. December 1, 2000;  
 Temporary Amendment Eff. March 5, 2001;  
 Amended Eff. January 2, 2006; April 1, 2005; April 1, 2002; September 1, 2001.*

### **16 NCAC 06G .0306 IDENTIFICATION OF LOW-PERFORMING SCHOOLS**

The SBE shall identify a school as low-performing if its expected growth composite score is less than zero and its composite performance score is less than 50 percent.

*History Note: Authority G.S. 115C-12(9)c4;  
Eff. January 2, 1998.*

### **16 NCAC 06G .0307 ASSISTANCE TEAMS**

- (a) When performing its duties under G.S. 115C-105.38, each assistance team appointed by the SBE shall act in an advisory capacity to local school personnel, local school boards, and the SBE.
- (b) Local boards of education and local school employees shall cooperate with assistance teams in the performance of their duties.
- (c) Members of the assistance teams shall be subject to all confidentiality requirements that apply to local school employees.
- (d) In the event of a disagreement between the assistance team and the school improvement team, the assistance team may request help from the central office and the local board of education.
- (e) In carrying out its duty to evaluate employees, members of the assistance team shall:
  - (1) be familiar with and follow the provisions of G.S. 115C-326;
  - (2) use the appropriate form of the performance evaluation for the category of personnel being evaluated, such as teachers, support personnel, and administrators;
  - (3) share its evaluation and recommendations with each employee and the employee's supervisor; and
  - (4) notify the SBE of the evaluations for an employee who receives two consecutive evaluations by the assistance team that include findings and recommendations regarding the employee's inadequate performance.
- (f) An assistance team that is assigned by the SBE to a low-performing school may at any time recommend to the SBE that a teacher, assistant principal, director, or supervisor be dismissed or demoted for one or more of the grounds established in G.S. 115C-325(e)(1). The SBE shall provide written notice to the employee of the grounds for the recommendation for dismissal or demotion.
- (g) In reviewing evaluations of a local school employee, the SBE may deem the evaluations of the assistance team to supersede previous evaluations of the employee.

*History Note: Authority G.S. 115C-12(9)c4;  
Eff. January 2, 1998.*

### **16 NCAC 06G .0308 DUE PROCESS PROTECTIONS**

- (a) At any hearing conducted by a panel of the SBE pursuant to the provisions of G.S. 115C-325(q)(1), (q)(2), or (q)(2a), the panel shall sit as an impartial tribunal to receive evidence and to decide on the basis of that evidence whether the principal, assistant principal, teacher, supervisor, or director, hereafter referred to as "the employee," shall be dismissed. The assistance team assigned to the school where the employee was assigned shall present the case against the employee.
- (b) Both the employee and the assistance team shall have the right:
  - (1) to be represented by counsel at the hearing;
  - (2) to subpoena witnesses and documents;
  - (3) to examine and cross-examine witnesses under oath; and
  - (4) to present relevant evidence using witnesses and documents.
- (c) The panel of the SBE which conducts the hearing shall:
  - (1) give written notice to the parties of the time and place of the hearing;
  - (2) make a complete record of the evidence received during the hearing; and
  - (3) issue subpoenas for witnesses and documents on behalf of any party to the proceedings.
- (d) In any hearing pursuant to the provisions of G.S. 115C-325(q)(2) or (q)(2a), the assistance team shall have the burden of proof.
- (e) Either the employee or the assistance team may within 10 days of notification of the panel's decision give notice of appeal to the full SBE. The appeal shall be on the record with no arguments by counsel except in the form of written briefs of no more than 25 pages. The SBE shall consider the appeal at its next regularly-scheduled meeting that is at least 20 days following receipt of notice of the appeal and shall render a decision within 30 days unless the

SBE determines that good cause, as defined by 26 NCAC 03 .0118, exists to extend the period or the parties agree to extend the period. The panel which sat and decided the case shall not be excluded from the full SBE hearing. Appeal from the SBE decision shall be in accordance with G.S. 150B.

(f) If the SBE appoints an interim superintendent, revokes the superintendent's license, or dismisses the superintendent pursuant to G.S. 115C-105.39(c), the superintendent shall not have the right to a hearing under this Rule but shall have the right to file a contested case petition pursuant to the provisions of G.S. 150B. The SBE shall make written findings to support any of these actions taken pursuant to the provisions of G.S. 115C-105.39(c).

(g) If the SBE revokes or refuses to renew a teacher's license pursuant to G.S. 115C-296(d), the procedures set forth in 16 NCAC 6C .0312 shall apply.

*History Note:* Authority G.S. 115C-12(9)c4.; 115C-325(q);  
Eff. January 2, 1998;  
Amended Eff. August 1, 1999.

#### **16 NCAC 06G .0309 SUSPENSION OF POWERS AND DUTIES OF SCHOOL BOARDS**

Before the SBE suspends any of the powers and duties of a local board of education pursuant to the provisions of G.S. 115C-39(b) and 115C-105.39(e), the SBE shall provide written notice to the local board of the reasons for which it is considering suspending those powers and duties. If the local board fails to remedy the reasons presented to it by the SBE within 60 days after receiving written notice, the SBE shall enter an order that incorporates the reasons for suspending the powers and duties, the efforts that the local board has made to remedy those reasons, and the period of time during which those powers and duties shall be suspended. Within the first 45 days following the SBE's notification to the local board, the SBE shall provide the local board an opportunity to present a response in an attempt to reach agreement.

*History Note:* Authority G.S. 115C-12(9)c4;  
Eff. November 1, 1997;  
Amended Eff. August 1, 1999.

#### **16 NCAC 06G .0310 ANNUAL PERFORMANCE STANDARDS, GRADES 9-12**

*History Note:* Authority G.S. 115C-12(9)c4;  
Eff. September 1, 1998;  
Repealed Eff. December 1, 2000.

#### **16 NCAC 06G .0311 GENERAL KNOWLEDGE TEST FOR CERTIFIED STAFF**

*History Note:* Authority G.S. 115C-105.38A;  
Codifier of Rules Objected to the Findings of Need for the Temporary Rule Eff. April 15, 1998;  
Temporary Adoption Eff. April 24, 1998;  
Temporary Adoption Expired February 9, 1999;  
Eff. August 1, 1999;  
Expired Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.

#### **16 NCAC 06G .0312 ANNUAL PERFORMANCE STANDARDS**

#### **16 NCAC 06G .0313 ALTERNATIVE SCHOOLS**

*History Note:* Authority G.S. 115C-12(9)c4.;  
Eff. April 1, 2005;  
Amended Eff. June 1, 2007; January 2, 2006;  
Expired Eff. June 1, 2022 pursuant to G.S. 150B-21.3A.

#### **16 NCAC 06G .0314 ALTERNATIVE SCHOOLS' MODIFIED ACCOUNTABILITY SYSTEM**

(a) This Rule establishes the State Board of Education's (SBE) procedures for alternative schools' participation in the State's Accountability System and shall apply to all alternative schools, including charter schools approved to use the modified accountability system, that have an NCDPI-assigned local education agency (LEA) school code.

Accountability indicators and results for students who attend programs or classes in a facility that does not have an LEA school code shall be reported to and included in the students' base school's accountability results.

(b) At the beginning of each school year, local public school and charter school boards shall determine the Option that each alternative school under their jurisdiction will follow for participation in the Alternative Schools' Modified Accountability System. The local board's participation decision shall be reported to the NCDPI's Director of Accountability Services by August 1 of each school year.

(c) Local public school and charter school boards shall select from the following Alternative Schools' Modified Accountability System Options:

- (1) Option A. Alternative schools can participate in School Performance Grades as defined by G.S. 115C-83.15 or
- (2) Option B. Alternative schools electing to participate in this Option shall be evaluated as follows:
  - (A) The Components used in the overall school score shall be: 20 percent Student Persistence, which is defined as the percent of alternative students who remain enrolled in any North Carolina public school; 20 percent School Achievement, which is comprised of three years of data using the following indicators: End-of-Grade (EOG) English Language Arts/Reading and Mathematics Assessments at Grades 3–8; EOG Science Assessments at Grades 5 and 8; End-of-Course (EOC) Assessments in Biology, NC Math 1, NC Math 3, and English II; ACT®; ACT WorkKeys; 4-year graduation rate; 5-year graduation rate; and math course rigor; 60 percent Growth, which will be calculated using the Education Value-Added Assessment System (EVAAS).
  - (B) A change rating will be assigned to schools comparing their previous year score to the current year score. All schools will receive a rating of either: "Progressing," which indicates a change in the score from the previous year by at least +3 points; "Maintaining," which indicates a change in the score from the previous year by -2.9 to +2.9 points; or, "Declining," which indicates a change in the score from the previous year by at least -3 points.
- (3) Option C. Alternative schools electing to participate in this Option shall propose modifications to the Accountability System for approval by the SBE. The SBE shall approve the proposed modifications to the system if a preponderance of the evidence proves that the modifications comprise valid and reliable measures of the achievement and growth of the school's students. A request to participate in Option C must be submitted annually to the SBE for approval at its October meeting.

(d) Schools that are identified as Developmental Day Centers (as determined by the Department of Health and Human Services) and schools which are providing special education and related services in public separate settings to students with disabilities shall participate in the Accountability System by administering the appropriate assessment, based on the student's Individualized Education Program created under the Individuals with Disabilities Education Act, 33 U.S.C. 1414, and regulations adopted pursuant to that Act, to all enrolled students, and participating in either Option B or Option C as defined herein. Schools that meet the criteria in this Section shall be reviewed and approved by the Exceptional Children's Division and the Accountability Services Division of the North Carolina Department of Public Instruction before implementing these modifications to the Accountability System.

*History Note:* G.S. 115C-12(24); 115C-105.35; 115C-83.15;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

### **16 NCAC 06G .0315 ACCOUNTABILITY ANNUAL PERFORMANCE STANDARDS**

(a) All students enrolled in a public school unit (PSU) in grades 3 through 8 or in high school courses in which an end-of-course (EOC) assessment is administered shall participate in the State Annual Testing Program. PSUs shall report to the North Carolina Department of Public Instruction (NCDPI) test results for:

- (1) beginning of grade 3 reading proficiency
- (2) grades 3 through 8 end-of-grade (EOG) English language arts/reading and mathematics;
- (3) grades 5 and 8 EOG science;
- (4) grade 10 EOC English II;
- (5) grade 11 EOC assessments in NC Math 1, NC Math 3, and EOC Biology;
- (6) grade 11 ACT; and

- (7) grade 12 Career and Technical Education Concentrators and WorkKeys.
- (b) PSUs shall administer the tests in the Annual Testing Program in accordance with the rules in this Subchapter and the Elementary and Secondary Education Act of 1965 (ESEA), Pub. L. 89-10, 79 Stat. 27, amended by the Every Student Succeeds Act (ESSA), Pub. L. No. 114-95, 129 Stat. 1802 (2015), and the regulations adopted thereunder.
- (c) All students entitled to testing accommodations shall participate in the State Annual Testing Program using one of the following assessments as required by the student's accommodation:
- (1) The standard test administration with or without accommodations, or
  - (2) An alternate assessment with or without accommodations.
- (d) "Students entitled to testing accommodations" for purposes of this Chapter shall mean:
- (1) students with Individualized Education Programs (IEPs) created under the Individuals with Disabilities Education Act, 33 U.S.C. 1414, and regulations adopted pursuant to that Act;
  - (2) students with a plan created under 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 as implemented through 34 C.F.R. 104.44, and other regulations adopted pursuant to that Act;
  - (3) students with documented transitory impairments with actual or expected duration of six months or less that affect their ability to demonstrate their knowledge on standard test administrations without accommodation as determined by the LEA; and
  - (4) students who score below Level 5.0 Bridging on the reading domain of the WIDA Screener/ACCESS for ELLs®.

*History Note:* G.S. 115C-12; 115C-105.35; 115C-83.15; 115C-174.11(c); 115C-288.66(11); 115C-218.65; 116-239.8(b)(14);  
*Emergency Adoption Eff. August 20, 2019;*  
*Eff. March 17, 2021.*

**16 NCAC 06G .0316 PURPOSE AND COMPOSITION OF THE STATE BOARD OF EDUCATION'S COMPLIANCE COMMISSION FOR ACCOUNTABILITY**

*History Note:* Authority G.S. 115C-105.35; Every Student Succeeds Act (ESSA); N.C. Constitution, Article IX, Sec. 5;  
*Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);*  
*Emergency Adoption Eff. August 20, 2019;*  
*Emergency Adoption Expired Eff. November 19, 2020.*

**SECTION .0400 - LOW PERFORMING SCHOOL UNITS**

- 16 NCAC 06G .0401 DEFINITIONS**  
**16 NCAC 06G .0402 IMPROVEMENT PLANS**  
**16 NCAC 06G .0403 CARETAKER ADMINISTRATORS AND BOARDS**  
**16 NCAC 06G .0404 TERMINATION OF LOW PERFORMING SCHOOL UNIT STATUS AND CARETAKERS**

*History Note:* Authority G.S. 115C-64.5;  
*Eff. June 1, 1992;*  
*Repealed Eff. November 1, 1997.*

**SECTION .0500 - CHARTER SCHOOLS**

**16 NCAC 06G .0501 LIABILITY INSURANCE**

- (a) Each charter school shall obtain and maintain liability insurance and fidelity bonding of the types and amounts specified in the charter agreement.
- (b) The provisions of this Rule shall not preclude any charter school from obtaining liability insurance coverage in addition to or in excess of the requirements of this Rule.

*History Note:* Authority G.S. 115C-238.29F(c)(1);

*Temporary Adoption Eff. November 14, 1997;  
Eff. March 15, 1999;  
Amended Eff. April 1, 2005.*

**16 NCAC 06G .0502 CHARTER SCHOOL ADVISORY COMMITTEE**

The Charter School Advisory Committee referred to in G.S. 115C-238.291(d) shall represent the following categories:

- (1) charter school officials;
- (2) public school employees;
- (3) business and community leaders;
- (4) local boards of education;
- (5) the North Carolina Parents and Teachers Association; and
- (6) county commissioners.

*History Note: Authority G.S. 115C-238.29G(b);  
Eff. August 1, 2000;  
Amended Eff. April 1, 2003.*

**16 NCAC 06G .0503 CHARTER SCHOOL ACCOUNTABILITY REQUIREMENTS**

*History Note: Authority G.S. 115C-83.15, 115C-83.16, 115C-105.20, 115C-218(a)(6), 115C-218.85(a)(3); N.C. Constitution, Article IX, Sec. 5;  
Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);  
Emergency Adoption Eff. August 20, 2019;  
Emergency Adoption Expired Eff. November 19, 2020.*

**16 NCAC 06G .0504 CHARTER SCHOOLS STUDENT ADMISSION**

All charter schools admission procedures and policies shall comply with G.S. 115C-118.45. Open enrollment for a charter school shall follow the mission statement and targeted population in the State Board of Education approved application. The admissions period shall be no less than 30 consecutive calendar days. If there are more applications than seats available, the charter school shall determine a date, time, and location to hold the lottery required by G.S. 115C-218.45(h). The lottery shall occur during an official meeting that shall be open to the public and subject to Article 33C of Chapter 143 of the General Statutes.

*History Note: Authority G.S. 115C-12; 115C-218.45;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.*

**16 NCAC 06G .0505 CHARTER SCHOOLS FINANCIAL NONCOMPLIANCE – IMPACT OF FINANCIAL NONCOMPLIANCE**

(a) There are three stages of financial noncompliance under which a charter school may be placed: cautionary, probationary, and disciplinary.

(b) The presence of any one of the following financial conditions shall result in a charter school being assigned a noncompliance status:

- (1) if the charter school fails to report financial, personnel or student data within 10 days of the required or agreed-upon reporting date or does not submit accurate data ;
- (2) if the charter school fails to respond to a specific financial, personnel, or student information request for information or data from the Department of Public Instruction by the required reporting date;
- (3) if the charter school fails to submit the required audited financial statements to the North Carolina Department of State Treasurer's Local Government Commission, as prescribed by G.S. 115C-218.30 and G.S. 115C-447.
- (4) if the charter school shows signs of financial insolvency or weakness, including a decline in student membership based on evaluation of financial statements by an accountant;
- (5) if the Office of State Treasurer receives a "non-sufficient funds (NSF)" notification during the course of cash certification processing;



- (6) if the charter school receives a material audit finding in its annual independent financial statement audit which indicates a violation of State law, a violation of any of the conditions or procedures set forth in its Charter, a failure to meet generally accepted accounting practices and principles, including sound fiscal management in accordance with G.S. 115C-218.95 and remains unresolved; or
  - (7) if the charter school's staff fails to attend required financial training.
- (c) For these warning conditions, the school's access to the cash management system may be revoked if necessary to prevent the expenditure of funds in violation of the standards in Subparagraph (b)(6) of this Rule until the exception is corrected. Decisions to place a school in Cautionary, Probationary, or Disciplinary status will be based on the evidence of how likely the financial problems of the school are to force the school into an unplanned and unorganized closure if corrective actions are not implemented. Any combination of the above violations may result in a decision to move the charter school to Financial Disciplinary Status without first being held in either the Cautionary or Probationary status. Should a charter school have repeated violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status.
- (d) This policy does not preclude the State Board of Education from taking any action with regards to a charter school if so warranted, regardless of the charter school's financial noncompliance status.
- (e) The stages of financial noncompliance are as follows:
- (1) Level 1: Financial Cautionary Status: A charter school may receive a notification of Financial Cautionary Status for any of the above conditions. The school shall remain in cautionary status for a minimum of 30 calendar days from the date of notification, and during that time must correct the exception(s) that caused the financial warning(s) if applicable. When the exception(s) is corrected as prescribed in the notification of noncompliance by NCDPI, the school will be notified of removal from cautionary status.
  - (2) Level 2: Financial Probationary Status: A charter school may receive a notification of Financial Probationary Status for any of the above conditions. The school will be placed in Financial Probationary Status, if the school fails to correct the exception(s) during the 30 calendar days cautionary period, unless otherwise stated in the initial notification of noncompliance. The school remains in probationary status for a minimum of 30 calendar days from the date of notification, and during that time must correct the exceptions that caused the financial warnings if applicable. When all of the exceptions have been corrected, the school will be notified of removal from probationary status. While in probationary status, state funds for the school may be allotted on a monthly basis until the exceptions that caused the financial warnings are corrected. Failure to resolve the exceptions may result in the school being placed on Financial Disciplinary Status, referred to the Charter School Advisory Board and/or to the State Board of Education for further action.
  - (3) Level 3: Financial Disciplinary Status: The school will be placed in Financial Disciplinary Status, if the school fails to correct all of the exceptions during the established timeframe. Any of the financial conditions noted in this policy, or combination thereof, may result in the charter school being placed on Financial Noncompliance Disciplinary status without the benefit of being first held in either the Cautionary or Probationary status. Also, should a charter school have repeat violations of the same or similar non-compliance condition, the charter school may be moved to Financial Disciplinary Status without the benefit of completing either the Cautionary or Probationary status periods.
- (f) When in Disciplinary status, the school shall address all of the exceptions that caused the financial noncompliance within 10 business days from the date of notification or otherwise stated. State funds for the school may be allotted on a monthly basis until the exceptions causing the noncompliance are corrected. When all of the exceptions have been corrected, the school will be notified of removal from disciplinary status. Failure to resolve the exceptions will result in the school being referred to the Charter School Advisory Board or to the State Board of Education for further action.

*History Note: Authority G.S. 115C-12(5); 115C-218, 115C-218.15, 115C-218.30, 115C-218.95; 115C-408; Emergency Adoption Eff. August 20, 2019; Eff. March 17, 2021.*

(a) There are three stages of Governance Noncompliance: Governance Cautionary Status, Governance Probationary Status, and Governance Disciplinary Status. The State Board of Education shall place a charter school within a governance non-compliance status based on substantial evidence of any one of the following governance warning conditions. The status imposed shall be based on the degree to which the non-compliance reflects the charter school board's neglect of its corporate obligations.

- (1) Failure of the board to conduct meetings in accordance with schedule in the bylaws or the approved charter application and failure to adopt and follow policies regarding the operation of the charter school including Personnel, Disciplinary, and Parental Grievance policies.
- (2) Failure to show progress towards the educational and organizational goals described in the approved charter school application.
- (3) Failure to maintain minimum student enrollment stated in the charter application or approved waiver to operate under the minimum of 80 students.
- (4) Bylaws violations including, failure to follow the Open Meetings Law, failure to maintain Public Records, failure to implement a Conflict of Interest Policy, failure to adhere to rules of Parliamentary Procedure.
- (5) Charter Agreement violations including, failure to follow State or federal laws, failure to meet the health and safety standards required in G.S. 115C-218.75, failure to make adequate academic progress as described in the charter application, failure to comply with State testing and accountability statutes and rules in this Chapter, and failure to supply all reports and documentation as requested by the Office of Charter Schools to ensure legal compliance with General Statutes, State Board of Education rules in this Chapter, and the Charter Agreement.
- (6) Failure to maintain certification of at least 50 percent of teachers in all grades pursuant to G.S. 115C-218.90 from December 31 of each year through the end of the school calendar year.

(b) The stages of noncompliance are as follows:

- (1) Level 1: Governance Cautionary Status: Upon receiving a governance warning for any of the above conditions, the charter school will be placed on Governance Cautionary Status. The school remains in cautionary status for 30 calendar days and during that time must correct the exception that caused the warning. When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will be removed from cautionary status. Failure to correct the exception during the 30 calendar days cautionary period constitutes a second governance warning and the school will be placed on Governance Probationary Status.
- (2) Level 2: Governance Probationary Status: The school remains on Governance Probationary Status for 30 calendar days and during that time must correct the exceptions that caused all of the governance warnings. When the 30 calendar days have ended and the exception is corrected, the governance warning will be removed and the school will be removed from probationary status. Failure to correct the exception during the 30 calendar days probationary period constitutes a third governance warning and the school will be placed on Governance Noncompliance Status.
- (3) Level 3: Governance Noncompliance Status: The school remains on Governance Noncompliance Status for 10 calendar days. When in Noncompliance Status, the school is expected to correct all of the exceptions that caused the governance warnings within 10 calendar days. State funds for the school may be allotted on a monthly basis until the exceptions that caused all of the governance warnings are corrected. A School placed in Governance Noncompliance Status may be referred to the Charter Schools Advisory Board for appropriate inquiry and action as determined by the State Board of Education.

*History Note* Authority G.S. 115C-12; 115C-218; 115C-218.15; 115C-218.30; 115C-218.95; Emergency Adoption Eff. August 20, 2019; Eff. March 17, 2021.

#### **16 NCAC 06G .0507 CHARTER SCHOOLS RENEWAL PROCESS**

(a) To request renewal of a charter, a charter school shall submit a Self-Study form. The North Carolina State Board of Education shall review the Self-Study form and other available information, including information obtained through public records requests, when determining whether the charter school is meeting the standards in G.S. 115C-218.6, the academic goals and mission in the approved charter application, and is operating in accordance with the financial and governance standards in this Subchapter.

(b) The charter holder shall provide the following information in the Self-Study on the form, available on the Office of Charter School's website:

- (1) school name;
- (2) school mailing address;
- (3) primary contact person, including name, title, phone number, fax number, email address, and dated signature;
- (4) contact information for the board of directors' chairperson, including name, term of office, mailing address, phone number, fax number, email address, and dated signature;
- (5) a letter signed by the Board Chairperson stating the charter holder's intent to seek charter renewal;
- (6) school mission statement as stated in the original or amended charter application;
- (7) if applicable, revised school mission statement approved by the State Board of Education;
- (8) a narrative statement not to exceed two pages explaining how the school is fulfilling the State Board approved mission statement;
- (9) five goals the charter holder has for the school during the next five years, including at least one academic goal, one financial goal, and one operational goal;
- (10) the name of or a description of the curriculum design currently used by the school;
- (11) a summary of instructional methodology or instructional techniques utilized used at the school;
- (12) the names of evaluation instruments, other than State-mandated tests, used to assess student performance, including descriptions of those assessments; and
- (13) a narrative statement explaining how the school uses student data to improve student learning and to raise the academic performance of all students.

(c) All pages of the Self-Study shall be numbered consecutively and include a table of contents.

(d) No font smaller than 12 point shall be used in the typed report.

(e) Any charter school seeking renewal may use help from outside the school to complete the Self-Study report.

*History Note: Authority G.S. 115C-12; 115C-218(a)(6); 115C-218.6; 115C-218.95; Emergency Adoption Eff. August 20, 2019; Eff. March 17, 2021.*

#### **16 NCAC 06G .0508 CHARTER SCHOOLS APPLICATION AND REVIEW PROCESS**

(a) Applicants shall complete and submit the charter application at <https://www.dpi.nc.gov/students-families/alternative-choices/charter-schools/applications> and deliver the nonrefundable one thousand dollar (\$1,000) fee to the Office of Charter Schools no later than 5:00 p.m. on the last Friday in April. The fee shall be in the form of a certified check or money order payable to NC DPI Office of Charter Schools. Applicants may mail the certified check or money order to the Office of Charter Schools, 6307 Mail Service Center Raleigh, NC 27699-6307; or deliver it to the Office of Charter Schools, Department of Public Instruction, 301 N. Wilmington Street, Raleigh, NC. Applicants are responsible for submitting applications and delivering fees to the Office of Charter School by the deadline.

(b) Applications and fees received after the deadline specified in Paragraph (a) of this Rule will not be considered. The Office of Charter Schools shall send written notice to the applicant and signatories of any statement required in G.S. 115C-218.1(a) informing them that the SBE will not consider the application because the applicant did not submit the application or deliver the fee to the Office of Charter School by the deadline.

(c) When determining whether to award a charter, the SBE shall consider any factors relevant to the applicant's academic, financial, and governance plans for the school, including the extent to which the application:

- (1) reflects the applicant's commitment to the purposes of the charter school law stated in G.S. 115C-218(a);
- (2) describes how the applicant will promote the use of different and innovative teaching methods;
- (3) reflects the applicant's understanding of, research into, and planning for educational issues, particularly budgeting, financing, and accounting issues;
- (4) describes a board whose size, diversity, and regional affiliations represent the community and are likely to promote community support for the school;
- (5) contains articles of incorporation and by-laws;
- (6) contains a budget that reflects anticipated revenues and costs, including costs associated with maintenance of the school facilities and projected growth;
- (7) contains a plan for acquisition and utilization of a facility consistent with the proposed budget and timeline for opening school;

- (8) describes a five year marketing plan that promotes a diverse student population; and
- (9) describes other factors that will promote the purposes of the Charter School Act, G.S. 115C-218 et seq.

*History Note: Authority G.S. 115C-12; 115C-218; 115C-218.1; 115C-218.5;  
Emergency Adoption Eff. August 20, 2019;  
Eff. August 23, 2022;  
Amended Eff. December 1, 2022.*

**16 NCAC 06G .0509 PLANNING YEAR FOR NEW PRELIMINARY CHARTER SCHOOLS**

(a) All nonprofit boards eligible to receive a charter for the first time shall participate in a year-long planning program prior to the charter school's opening for students. During this planning year, directors from nonprofit boards holding charters shall attend meetings conducted by consultants from the Office of Charter Schools regarding the following topics: school opening plans, staff development, finance, governance, board training, marketing, statutes and rules governing operation of the school, securing a school site, and hiring a school administrator. Final approval of the charter shall be contingent upon the nonprofit board attending the planning meetings, acquisition of a facility, and commitments from parents or guardians to enroll students that comprise at least 75 percent of the projected enrollment.

(b) The State Board of Education may accelerate the mandatory planning year for a charter applicant that meets the following requirements:

- (1) agrees to participate in the planning year while the charter application is being reviewed without any guarantee of charter award; and
- (2) demonstrates that there is a facility identified by the applicant that is feasible for opening on an accelerated schedule.

(c) The State Board shall also consider the presence or absence of evidence of the following factors in making its determination of whether to accelerate a planning year:

- (1) whether the mission and educational program outlined in the nonprofit board's application will provide parents and students with different educational opportunities than are currently available in the area;
- (2) whether local, state, or national nonprofit partnerships have committed to assisting the school;
- (3) whether the school will contribute to potential for economic and educational development of the region;
- (4) whether an organization that has experience in creating public schools is mentoring the applicant;
- (5) whether obstacles to educational reform efforts leave chartering as an available option;
- (6) whether an existing charter school board has agreed to mentor the applicant;
- (7) whether the nonprofit corporation has existed for more than two years; and
- (8) whether the proposed board has previously operated or currently operates a public charter school.

(d) An applicant requesting acceleration shall submit the request to the State Board of Education prior to the application due date for consideration.

*History Note: Authority G.S. 115C-12; 115C-218; 115C-218.1; 115C-218.5(b);  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.*

**16 NCAC 06G .0510 CHARTER AMENDMENTS FOR EXISTING PUBLIC CHARTER SCHOOLS - APPROVAL PROCESS**

(a) The following constitute material charter amendments that require the State Board of Education's ("SBE") approval prior to implementation:

- (1) Grade expansion beyond increases contemplated in G.S. 115C-218.8(3);
- (2) Relocation outside a 5-mile radius or outside of the Local Education Agency (LEA) identified in the charter;
- (3) Transferring the charter to another non-profit entity;
- (4) Altering the mission or targeted student population;
- (5) Employing or terminating a management company;
- (6) Change to the charter application with respect to the National School Lunch program;
- (7) Enrollment growth, consistent with requirements in G.S. 115C-218.7.

- (b) In determining whether to approve a material charter amendment, the SBE shall consider:
- (1) Demonstrated need for the amendment by the charter school;
  - (2) Impact of the amendment on the student population, governing board of directors, and staff; and
  - (3) Impact on the LEA.
- (c) The following constitute charter amendments that require Department of Public Instruction staff approval prior to implementation, but do not require further approval from the SBE:
- (1) Bylaws;
  - (2) The name of the charter school;
  - (3) The Articles of Incorporation;
  - (4) Relocation within a 5-mile radius or outside of the Local Education Agency (LEA) identified in the approved charter application;
  - (5) Class sizes as stated in the approved charter application;
  - (6) Length of school day;
  - (7) Length of academic year;
  - (8) Curriculum changes;
  - (9) Change to the charter application with respect to student transportation;
  - (10) Change to the charter application with respect to changing its food service plan;
  - (11) Requests to delay the opening of the school by one year; and
  - (12) Enrollment changes due to an approved one year delay.
- (d) In determining whether to approve a material charter amendment, Office of Charter Schools staff shall consider:
- (1) Demonstrated need for the amendment by the charter school;
  - (2) Impact of the amendment on the student population, governing board of directors, and staff; and
  - (3) Impact on the LEA.
- (e) Notwithstanding the foregoing, the Department of Public Instruction may submit any proposed amendment to the SBE for its review and approval or denial.

*History Note:* Authority G.S. 115C-12; 115C-218.5; 115C-218.7; 115C-218.8;  
 Emergency Adoption Eff. August 20, 2019;  
 Eff. March 17, 2021.

**16 NCAC 06G .0511 CHARTER AMENDMENTS FOR EXISTING PUBLIC CHARTER SCHOOLS – REQUIRED DOCUMENTATION**

- (a) A charter holder shall submit the following documentation to the State Board of Education when it seeks to amend its approved charter application:
- (1) Board meeting minutes reflecting the vote of the Board of Directors for the charter school;
  - (2) A cover letter explaining the request signed by the nonprofit board chair and lead administrator of the charter school;
  - (3) A version of the charter application showing proposed amendments as strikethroughs and underlines; and
  - (4) The proposed amended text to the charter application without strikethroughs or underlines.
- (b) If the charter holder does not provide the required documentation, its amendment proposal shall not be processed.

*History Note:* Authority G.S. 115C-218.7; 115C-218.8;  
 Emergency Adoption Eff. August 20, 2019;  
 Eff. March 17, 2021.

**16 NCAC 06G .0512 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – PURPOSE AND DEFINITIONS**

- (a) The State Board of Education (SBE) may grant permission for a non-profit corporation board of directors (board) to replicate either its own successful model, or to employ an educational management company (EMO) or a charter management organization (CMO) as defined Rule .0523 of this Section to replicate a successful model currently being operated under the management of the EMO or CMO. The SBE may also grant permission for a non-profit corporation board to "fast-track" such a replication by foregoing the planning year normally required for approved charter applicants. Rules .0512 through .0515 of this Section outline the criteria and process by which the SBE may authorize fast-track replication.

(b) Nothing in these Rules shall be construed to prohibit a North Carolina non-profit corporation board from applying to replicate another charter school through the regular application process in Rule .0508 of this Section and, upon approval, receive the planning year trainings from NCDPI.

(c) Definitions for terms used in Rules .0512 through .0515 of this Section.

- (1) "Charter school model" or "model" mean the mission as defined in the charter application and function of a charter school, including its governance, its curriculum, its organizational structure, its targeted population, and other key characteristics of the school, such as small class size, thematic academics, and extended day.
- (2) "Successful model" means a charter school model that meets the eligibility requirements in Rule .0513 of this Section.
- (3) "Replication" means the act of copying, recreating, or repeating, a successful charter school model. A "replication" requires the utilization of one charter school "model" to form the creation of a new charter school.
- (4) "Fast-Track Replication" is a special form of replication in which the approved applicant foregoes the planning year required of new charter school applicants.

(d) The "fast-track" applicant shall participate in a one-day basic training workshop that will be provided by the Department of Public Instruction. The State Board of Education shall make final decisions regarding "fast-track" replication applications in less than 120 days from the application submission.

*History Note: Authority G.S. 115C-218.3;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.*

#### **16 NCAC 06G .0513 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – ELIGIBILITY**

(a) A non-profit corporation board that operates a charter school in North Carolina is eligible to apply to fast-track replicate its existing model only if the non-profit corporation board's current school or schools demonstrate a consistent track record of academic, financial, and operational success. If the board operates more than one school, each school shall meet this standard. To meet this standard, the non-profit corporation board shall meet each of the following conditions at all times while its application is pending:

- (1) Each school operated by the non-profit corporation shall:
  - (A) have academic outcomes comparable to or better than those of the students enrolled in the LEAs in which the charter schools are located; or
  - (B) meet or exceed growth for the three years preceding the application at issue, by measures contemplated by G.S. 115C-83.15;
- (2) Each school operated by the non-profit corporation shall have unqualified audits for the three years preceding the application.
- (3) Each school operated by the non-profit corporation shall have resolved any failures to comply with obligations in statute, rules, or the charter agreement cited by the Department of Public Instruction during the three years preceding the application.
- (4) A majority of the non-profit corporation board members and a majority of the board officers shall be North Carolina residents.

(b) A non-profit corporation board that does not operate a charter school in North Carolina is eligible to apply to replicate through fast-track replication an existing model operated by an EMO or CMO. The non-profit corporation board is eligible to apply only if the schools operated by the EMO or CMO have a consistent track record of academic, financial, and operational success. The non-profit corporation board is eligible to replicate an existing model operated by the EMO or CMO only if the non-profit corporation board shows that each of the following conditions at all times while its application is pending:

- (1) The non-profit corporation board shall demonstrate that each school managed by the EMO or CMO:
  - (A) have academic outcomes at least comparable to or better than those of the students enrolled in the LEAs in which the charter schools are located; or
  - (B) meets or exceeds growth for the three years preceding the application at issue based on the growth scores calculated using NC Accountability data.

- (2) The non-profit corporation board shall demonstrate that the schools operated in other states by the EMO or CMO meet similarly rigorous standards for academic performance through the presentation of academic performance data from the respective state board of education.
  - (3) The non-profit corporation board shall demonstrate that each school managed by the EMO or CMO have unqualified audits for three years immediately preceding the application.
  - (4) The non-profit corporation board shall demonstrate that the schools operated in other states by the EMO or CMO meet similarly rigorous standards for financial performance through the presentation of annual audit data.
  - (5) A majority of the non-profit corporation board members and at least 50 percent of the board officers shall be North Carolina residents.
- (c) "Comparable" means a proficiency score that is no more than five points below the LEA's Grade-Level Proficiency (GLP) score based on NC Accountability data as described in G.S. 115C-83.15, 83.16 and 83.17.

*History Note:* Authority G.S. 115C-218.3;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

**16 NCAC 06G .0514 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – GENERAL REQUIREMENTS**

- (a) In addition to the specific requirements set forth in Rules .0512 and .0513 of this Section, the State Board of Education ("SBE") may impose additional requirements in the review, application, and approval process as allowed by G.S. 115C-218(c) to assure that a "fast-tracked" charter school has at least the same probability of success as a charter that completes the planning process in Rule .0509 of this Section.
- (b) In addition to considering evidence of student growth, proficiency, and financial audits in the applicant's other schools, the SBE may consider any other relevant factors in determining whether to grant a fast-track replication request, including the following:
  - (1) the needs of the particular geographical area proposed to be served by the replicated model;
  - (2) the ability of the non-profit corporation board to manage additional schools;
  - (3) the abilities and strengths of the non-profit corporation board that seeks to employ the EMO or CMO; and
  - (4) the community support for the replicated model.
- (c) In determining the needs of the particular geographical area, the SBE shall consider whether there are similar charter school options in the geographical area and capacity data for the county's public schools. In determining the community support of the replicated model, the SBE shall consider community survey data, community letters of support, and any other evidence the applicant chooses to present.

*History Note:* Authority G.S. 115C-218.3;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

**16 NCAC 06G .0515 FAST TRACK REPLICATION OF HIGH QUALITY CHARTER SCHOOLS – ACCOUNTABILITY**

- (a) A "network" means one or more charter schools operated by a single non-profit corporation board or a single EMO or CMO."
- (b) Each school within a network of schools operated by a single non-profit corporation board or a single EMO or CMO is a separate and distinct charter school and shall be assessed based upon its own separate academic, financial, and operational performance.
- (c) The strengths or weaknesses of other schools are not factors in determining whether the State Board of Education ("SBE") shall take action against an individual school; however, the strengths and weaknesses of all schools in a network may influence the SBE's decision regarding whether or not to allow fast track replication of a school in that network.
- (d) Replicated charter schools shall be subject to the same requirements as other charter schools.

*History Note:* Authority G.S. 115C-12; 115C-218.3;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

**16 NCAC 06G .0516 VIRTUAL CHARTER SCHOOLS ATTENDANCE AND MEMBERSHIP - APPLICABILITY**

(a) A pilot virtual charter school established pursuant to S.L. 2014-100 and approved by the State Board of Education (SBE) through the charter application process is not required to record and report daily attendance to the Department of Public Instruction.

(b) A pilot virtual charter school established pursuant to S.L. 2014-100 as amended by S.L. 2016-94, s. 8.13(a), S.L. 2018-5, s. 7.13, and G.S. 115C-218 et. seq. and approved by the State Board of Education (SBE) through the charter application process is required to keep records of student activity by course and shall report that information to the Department of Public Instruction within 15 days of the end of each school month. The virtual charter school's measurements of student activity shall be defined by the school in a manner consistent with its SBE-approved charter.

(c) A virtual charter school shall define a full instructional course load for each grade level it offers. A student shall be enrolled for at least half of the instructional course load to be considered in membership at the virtual charter school.

(d) A student shall not be counted in the virtual charter school's average daily membership until the school has evidence of student activity in each of his or her courses.

(e) When a student who has no evidence of student activity for 10 consecutive calendar days, excluding holidays, the virtual charter school shall remove the student from the school's enrollment and take the actions required in G.S. 115C-378(e). Upon a determination that the student is not returning to the school, the virtual charter school shall withdraw the student's enrollment and take any actions required in G.S. 115C-378(f). The effective date of withdrawal reported to the Department of Public Instruction shall be the first day after the last day for which there is evidence of student activity.

(f) Virtual schools shall use the statewide student information management system to record and report school and student data.

*History Note:* Authority G.S. 115C-12(18); 115C-218; 115C-218.30; S.L. 2014-101, s. 8.35; S.L. 2016-94, s. 8.13(a); S.L. 2018-5, s. 7.13;  
Emergency Adoption Eff. August 20, 2019;  
Eff. October 1, 2020.

**16 NCAC 06G .0517 ALTERNATIVE CHARTER SCHOOL – PURPOSE AND APPLICABILITY**

*History Note:* Authority G.S. 115C-12(24); 115C-218(a)(2); N.C. Constitution, Article IX, Sec. 5;  
Interim Rule status conferred Eff. June 27, 2018, pursuant to S.L. 2018-114, sec. 27.(b);  
Emergency Adoption Eff. August 20, 2019;  
Emergency Adoption Expired Eff. November 19, 2020.

**16 NCAC 06G .0518 ALTERNATIVE CHARTER SCHOOL – ELIGIBILITY**

(a) The following definitions apply for purposes of rules in this Chapter:

(1) "Student at risk" means a child enrolled in a public school who, due to circumstances such as an unstable home life, poor socio-economic background, and other factors, either enter or continue in school from a disadvantaged standpoint, at least in relation to other students who are not burdened with such circumstances. *Hoke County Board of Education v. State*, 358 N.C. 605 at 632 n.13, 599 S.E.2d 365 at 387 n.13 (2004).

(2) "Dropout" means any student who leaves school for any reason before graduation or completion of a program of studies without transferring to another elementary or secondary school.

(b) A charter school that desires to be designated an "alternative school" for purposes of determining and reporting school and student achievement and growth in accordance with G.S. 115C-83.15, 83.16 and 83.17 shall include the request in the charter school application or request for amendment to an approved application.

(c) The charter school application or request for amendment to be an alternative school shall state that the charter school will include grades 9-12, and that at least 75 percent of the school's population in grades 9-12 will be "students at risk" of academic failure.

(d) The charter school application or request for amendment shall also state that the charter school will meet one or more of the following indicators:



- (1) the students shall either be released from a juvenile justice facility within the last year, or otherwise be subject to and participating in the juvenile justice court;
- (2) the students shall be currently served by a treatment facility licensed pursuant to Chapter 122C of the General Statutes, or have been discharged from such a facility within the last year;
- (3) the students shall be currently under suspension for more than 10 days from a public or private school; or
- (4) the students shall be high-school dropouts as defined in Subparagraph (a)(2) of this Rule; or be "Student Chronic Absentee(s)" as defined in 16 NCAC 06E .0106.

*History Note:* Authority G.S. 115C-12(24); 115C-218(a)(2); 115C-105.46; 115C-218.85(a)(3);  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

#### **16 NCAC 06G .0519 ALTERNATIVE CHARTER SCHOOL - APPLICATION**

A charter school that meets the eligibility criteria set forth in 16 NCAC 06G .0518 and seeks to be designated as an "alternative school" shall submit an application to the Office of Charter Schools that includes the following:

- (1) The school's mission as it relates to the request for designation as an "alternative school";
- (2) A designation of which alternative accountability option, as defined 16 NCAC 06G .0314, that it is requesting, which option cannot be changed except at the time of renewal;
- (3) The criteria the school plans to use that will meet the eligibility requirements, including the documentation the school will use to support its admissions process;
- (4) An admission plan for recruiting at-risk students as described in the application;
- (5) An explanation of how the school intends to serve its student population; and
- (6) The goals the school is setting for academic achievement for its student population.

*History Note:* Authority G.S. 115C-12(24); 115C-218(a)(2);  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

#### **16 NCAC 06G .0520 ALTERNATIVE CHARTER SCHOOL – APPLICATION APPROVAL**

- (a) The Charter School Advisory Board ("CSAB") shall establish a timeline, available on the Office of Charter School's webpage, for the submission of applications for alternative charter schools and for the review and approval of applications.
- (b) The CSAB shall develop an application template, available on the Office of Charter School's website, to be used for applicants for alternative charter school designation.
- (c) The Office of Charter Schools ("OCS") will first review the alternative charter school application for completeness, give the applicant five days to provide missing information, and will then submit all complete applications to the CSAB for its review.
- (d) The CSAB shall review complete applications and make recommendations to the State Board of Education.
- (e) The State Board of Education's approval of alternative charter school designation is valid for three years from the effective date of the approval, which effective date will be set forth in the approval document.

*History Note:* Authority G.S. 115C-12(24); 115C-218(a)(2); 115C-218.2;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

#### **16 NCAC 06G .0521 ALTERNATIVE CHARTER SCHOOL – REVIEW AND RENEWAL OF DESIGNATION**

- (a) The Charter School Advisory Board ("CSAB") shall review each alternative charter school every three years to determine if the school shall continue with its alternative charter school designation. In its review the CSAB shall utilize the criteria set forth in Rule .0519 of this Section. The CSAB shall also evaluate the school's academic progress and compare the goals the school set in its application in Rule .0519(6) of this Section for academic achievement for its student population to its students' actual academic achievements.
- (b) If the review shows that the school continues to meet eligibility criteria in Rule .0518 of this Section, is achieving its academic goals, and is in compliance with Chapter 115C, Article 14A of the General Statutes and the

rules in this Section, the CSAB shall recommend the school to the State Board of Education for final approval for another three-year designation.

*History Note:* Authority G.S. 115C-12(24); 115C-218(a)(2);  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

**16 NCAC 06G .0522 ALTERNATIVE CHARTER SCHOOL – TERMINATION OF DESIGNATION**

(a) If at any time it appears the school is not meeting the criteria for designation as an alternative charter school under Rule .0518 of this Section, or is otherwise not in compliance with State or federal laws the Charter School Advisory Board ("CSAB") may:

- (1) direct the Office of Charter Schools or the Department of Public Instruction to investigate the school; or
- (2) direct the school to appear before the CSAB and respond to questions.

(b) In the event the CSAB finds an alternative charter school is in violation of the terms of its charter or no longer meets the eligibility criteria in Rule .0518 of this Section, the CSAB may recommend the State Board of Education ("SBE") terminate the alternative school designation.

*History Note:* Authority G.S. 115C-12(24); 115C-218(a)(2); 115C-218(b)(10)(c); 115C-218.95;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

**16 NCAC 06G .0523 APPROVAL AND DISCLOSURE OF MANAGEMENT ORGANIZATIONS AND SUPPORT ORGANIZATIONS**

(a) When used in this Section, "Management Organization" means an entity that meets one of the following definitions:

- (1) A "Charter Management Organization" (CMO) is a non-profit organization that operates or manages one or multiple charter schools by centralizing support and operations.
- (2) An "Education Management Organization" (EMO) is a for-profit organization that contracts with new or existing public-school districts, charter school districts, and charter schools to operate and manage one or multiple charter schools by centralizing support and operations.
- (3) A "Charter Support Organization" (CSO) is a for-profit or non-profit, nongovernmental entity that provides:
  - (A) assistance to developers during the application, planning, program design, and initial implementation of a charter school, or
  - (B) technical assistance to operating charter schools, including specific and limited services such as professional development, non-profit board development, payroll, and curriculum development.

(b) All applicants for a charter school shall receive SBE approval before partnering with a Management Organization. This approval may be sought as part of the application or renewal processes or through the amendment process. In determining whether to grant approval, the SBE shall consider whether the partnership with the Management Organization is in the best interest of the school, its staff, and its students.

(c) All applicants for a charter school shall disclose existing or contingent partnerships with Charter Support Organizations as part of the applicant's charter application.

*History Note:* Authority G.S. 115C-218; 115C-218.1; 115C-218.5;  
Emergency Adoption Eff. August 20, 2019;  
Eff. March 17, 2021.

**16 NCAC 06G .0524 CHARTER SCHOOLS PROCESS FOR ASSUMPTION OF INADEQUATELY PERFORMING CHARTER SCHOOLS**

(a) In determining whether a different non-profit entity may assume a charter of an existing charter school the SBE shall comply with the provisions of S.L. 2014-101, s. 6 and consider all factors, including:

- (1) Factors relevant to the existing charter school whose charter may be eligible for assumption include:
  - (A) academic performance;

- (B) financial status of the existing school, including outstanding debts;
  - (C) compliance with all applicable laws and rules;
  - (D) status of the school facility;
  - (E) feedback from the school community, including the parents, staff and students; and
  - (F) any other relevant factor.
- (2) Factors Relevant to the non-profit entity seeking to assume the charter of an existing charter school include:
- (A) overall financial viability;
  - (B) academic performance;
  - (C) geographic location;
  - (D) existence of any financial and governance compliance issues;
  - (E) ability of the assuming school to retain existing students; and
  - (F) any other relevant factor.
- (b) No single factor is determinative.
- (c) The State Board of Education shall make its decision based on the best interests of the students in the existing charter school.

*History Note:* Authority G.S. 115C-12; 115C-218.95;  
Emergency Adoption Eff. August 20, 2019;  
Eff. October 1, 2020.

## **SECTION .0600 – REMOTE ACADEMIES**

### **16 NCAC 06G .0601 REMOTE ACADEMIES HARDWARE AND SOFTWARE FEES**

(a) Definitions:

- (1) "Damage fee" means "any mandatory payment that a local school administrative unit charges a student enrolled in a remote academy for injury to, abuse of, or loss of hardware or software that the local school administrative unit has provided to the student other than degradation arising from normal use, wear and tear, provided the payments cannot exceed the actual cost of repair or fair market value of the hardware or software, whichever is less."
- (2) "Rental fee" means "any mandatory payment that a local school administrative unit requires students enrolled in remote academies to make before the local school administrative unit will give a student access to or possession of any hardware and software needed to participate in the remote academy."

(b) Local administrative units shall not charge students enrolled in remote academies rental fees for use of hardware or software needed to participate in the remote academy but may charge them damage fees.

*History Note:* Authority G.S. 115C-234.10(b)(1);  
Eff. November 1, 2023.

## **SECTION .0700 – PUBLIC SCHOOL UNIT OVERSIGHT**

### **16 NCAC 06G .0701 PARENTAL CONCERN HEARINGS**

(a) For the purposes of this Rule, the following definitions shall apply:

- (1) "Child" is defined in G.S. 115C-76.1(2).
- (2) "Hearing officer" means an individual who meets the requirements in G.S. 115C-76.60(b)(1)a.
- (3) "Parent" is defined in G.S. 115C-76.1(5).
- (4) "Practice" means a regular method, process, or course of conduct, whether or not established in the written policies of a PSU, by which the PSU provides the notices or information to parents as required by Chapter 115C, Article 7B, Part 4 of the General Statutes. "Practice" does not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.
- (5) "Principal" is defined in G.S. 115C-76.1(6).
- (6) "Procedure" means a regular method or process, as established in the written policies of a PSU, by which the PSU provides the notices or information to parents as required by G.S. 115C-76.45, or age-appropriate instruction on certain topics as described in G.S. 115C-76.55. "Procedure" does

not include isolated incidents or isolated conduct by individual PSU personnel, including those inconsistent with the established procedures of the PSU.

(7) "Public school unit" or "PSU" is defined in G.S. 115C-5(7a).

(8) "Superintendent" is defined in G.S. 115C-76.1(8).

(b) A parent who wishes to request a parental concern hearing before the State Board of Education ("SBE") regarding the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the General Statutes shall do so in writing. The written request shall be submitted to the SBE, with a copy to the superintendent, and include the following information:

(1) The specific procedures or practices of the PSU about which the parent is concerned.

(2) The specific concerns that the parent has about the procedures or practices of the PSU.

(3) Copies of all written correspondence and summaries of all verbal correspondence with PSU personnel, including date, times, and parties involved for any correspondence conducted by telephone or in person, regarding the parental concern and efforts by the PSU to resolve the concern. The parent shall also include documented evidence that the parent has notified the principal of the school at which the parent's child is enrolled about these concerns at least 30 days prior to requesting a hearing before the SBE.

(4) A description of the relevant facts.

(5) An explanation of why the parent believes that the concerns have not been resolved by the PSU.

(6) A proposed resolution to address the parent's concerns.

(c) Upon receipt of a request in accordance with Paragraph (b) of this Rule, the SBE or its authorized designee shall review the request and determine whether the SBE has jurisdiction to review the matters therein addressed. The SBE may dismiss the request for any of the following reasons:

(1) The parent has failed to provide any of the information required by Paragraph (b) of this Rule.

(2) The parent's concern does not address the procedures or practices of a PSU required by Chapter 115C, Article 7B, Part 4 of the General Statutes.

(3) The parent has failed to provide the PSU 30 days to resolve the parent's concern.

(4) The parent's proposed resolution is not within the legal authority of the PSU or SBE.

(d) If the SBE determines that it has jurisdiction to review the matters addressed in the request, the SBE shall appoint a hearing officer to review the request.

(e) Upon appointment, the hearing officer shall hold a hearing, subject to the following requirements:

(1) The parent and the superintendent shall attend as parties to the hearing and may be represented by legal counsel, provided that any party intending to be represented notifies the hearing officer at least three business days before the hearing. The hearing officer may delay the hearing if a party requests additional time to secure legal representation.

(2) The hearing officer shall provide the parties with notice of the time and place for the hearing at least five business days in advance. The hearing may be held in person or via teleconference, at the discretion of the hearing officer.

(3) Each party shall provide any documentation or written statements to the hearing officer and the other party at least three business days before the hearing.

(4) Each party shall have up to 30 minutes to present the party's case to and answer questions from the hearing officer. The hearing officer may extend time for each party's presentation at the hearing officer's discretion.

(5) The North Carolina Rules of Evidence, codified at Chapter 8C of the General Statutes, shall not apply to the hearing, and the hearing officer may consider any information that is relevant to the proceedings.

(6) The hearing officer shall arrange for audio and video recording of the hearing.

(f) Within 30 days of appointment and after having conducted a hearing in accordance with Paragraph (d) of this Rule, the hearing officer shall provide a recommendation to the SBE that includes the following:

(1) Findings of fact.

(2) Conclusions of law, including citations to any relevant statutes, rules, or policies.

(3) A proposed resolution to the case, which may include a finding that the parental concern lacks merit.

(g) At the next regularly scheduled meeting of the SBE held more than three days after receipt of the hearing officer's recommendation, the SBE shall vote to either approve, reject, or amend the hearing officer's recommendation. The decision of the SBE shall be final.

(h) The hearing officer shall provide an invoice to the PSU for the cost of the hearing officer's services, at a rate of two hundred dollars (\$200.00) per hour, within 45 days of submitting the hearing officer's recommendation to the SBE. The PSU shall pay the hearing officer within 60 days of receipt of the invoice.

*History Note: Authority G.S. 115C-76.60;  
Emergency Adoption Eff. November 16, 2023;  
Temporary Adoption Eff. February 8, 2024.*