

§ 115C-218.2. Opportunity to correct applications; opportunity to address Advisory Board.

(a) The State Board of Education and the Advisory Board shall provide timely notification to an applicant of any format issues or incomplete information in the initial application and provide the applicant at least five business days to correct those issues in the initial application. If the applicant submits the corrections within the five business days, equal consideration shall be given to that application.

(b) Before taking action regarding a charter school or charter school applicant, including recommendations on preliminary or final approval of charter applications, renewals of charters, nonrenewals of charters, and revocations of charters, the Advisory Board or a committee of the Advisory Board shall provide an opportunity for the applicant or charter board member to address the Advisory Board or its committee, if present, at a meeting. (2015-248, s. 4(a).)

§ 115C-218.95. Causes for nonrenewal or termination; disputes.

(a) The State Board of Education may terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board upon any of the following grounds:

- (1) Failure to meet the requirements for student performance contained in the charter;
- (2) Failure to meet generally accepted standards of fiscal management;
- (3) Violations of law;
- (4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
- (5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or
- (6) Other good cause identified.

(b) Repealed by Session Laws 2016-79, s. 1.7(b), effective June 30, 2016, and applicable beginning with the 2016-2017 school year.

(b1) If a charter school is continually low-performing, the State Board is authorized to terminate, not renew, or seek applicants to assume the charter through a competitive bid process established by the State Board. However, the State Board shall not terminate or not renew the charter of a continually low-performing charter school solely for its continually low-performing status if the charter school has met growth in each of the immediately preceding three school years or if the charter school has implemented a strategic improvement plan approved by the State Board and is making measurable progress toward student performance goals. The State Board shall develop rules on the assumption of a charter by a new entity that includes all aspects of the operations of the charter school, including the status of the employees. Public assets shall transfer to the new entity and shall not revert to the local school administrative unit in which the charter school is located pursuant to G.S. 115C-218.100(b).

(c) The State Board of Education shall develop and implement a process to address contractual and other grievances between a charter school and the local board of education during the time of its charter.

(d) The State Board and the charter school are encouraged to make a good-faith attempt to resolve the differences that may arise between them. They may agree to jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual information, statements of positions and contentions, and efforts to negotiate an agreement settling the differences. The mediator shall, at the request of either the State Board or a charter school, commence a mediation immediately or within a reasonable period of time. The mediation shall be held in accordance with rules and standards of conduct adopted under Chapter 7A of the General Statutes governing mediated settlement conferences but modified as appropriate and suitable to the resolution of the particular issues in disagreement.

Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation proceedings shall be conducted in private. Evidence of statements made and conduct occurring in a mediation are not subject to discovery and are inadmissible in any court action. However, no evidence otherwise discoverable is inadmissible merely because it is presented or discussed in a mediation. The mediator shall not be compelled to testify or produce evidence concerning statements made and conduct occurring in a mediation in any civil proceeding for any purpose, except disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators. The mediator may determine that an impasse exists and discontinue the mediation at any time. The mediator shall not make any recommendations or public statement of findings or conclusions. The State Board and the charter school shall share equally the mediator's compensation and expenses. The mediator's compensation shall be determined according to rules adopted under Chapter 7A of the General Statutes. (1995 (Reg. Sess., 1996), c. 731, s. 2; 1997-430, s. 6; 2011-164, s. 5; 2013-355, s. 1(g); 2014-100, s. 8.34(c); 2014-101, s. 7; 2016-79, s. 1.7(b).)

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 .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 .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. 115C218.30 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 noncompliance 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.

16 NCAC 06G .0506 CHARTER SCHOOLS GOVERNANCE NONCOMPLIANCE

(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.

§ 115C-218.7. Material revisions of charters.

- (a) A material revision of the provisions of a charter shall be made only upon the approval of the State Board of Education.
- (b) Enrollment growth of greater than twenty percent (20%) shall be considered a material revision of the charter if the charter is currently identified as low-performing. The State Board shall not approve a material revision for enrollment growth of greater than twenty percent (20%) for a charter that is currently identified as low-performing. Enrollment growth of greater than thirty percent (30%) shall be considered a material revision of the charter for any charter school that is not identified as low-performing. The State Board may approve such additional enrollment growth of greater than thirty percent (30%) only if it finds all of the following:
- (1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment.
 - (2) The charter school has commitments for ninety percent (90%) of the requested maximum growth.
 - (3) The charter school is not currently identified as low-performing.
 - (4) The charter school meets generally accepted standards of fiscal management.
 - (5) The charter school is, at the time of the request for the enrollment increase, substantially in compliance with State law, federal law, the charter school's own bylaws, and the provisions set forth in its charter granted by the State Board.
- (c) For the purposes of calculating actual enrollment and maximum authorized enrollment under subdivision (1) of subsection (b) of this section, if a charter school is pursuing a material revision of enrollment growth based on a proposed capital expansion of the charter school, but fails to meet the requirements of subdivision (1) of subsection (b) of this section, the State Board shall have the

discretion to investigate and determine whether subdivision (1) of subsection (b) of this section may be waived to grant the school's material revision request to allow the capital expansion to move forward. In making such a determination, the charter school shall provide the State Board with documentation to show evidence that demonstrates sufficiently in the State Board's discretion all of the following:

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

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

(d) If a charter school presents evidence of a proposed capital expansion as part of a request for a material revision of enrollment growth under this section that is granted by the State Board, and the charter school is not able to realize that capital expansion within two years of the grant of the material revision, the charter shall reflect the maximum authorized enrollment immediately preceding that material revision. (2016-79, s. 1.3; 2017-173, ss. 3(a), (c).)

§ 115C-218.8. Nonmaterial revisions of charters.

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

(1) Increase its enrollment during the charter school's second year of operation and annually thereafter in accordance with G.S. 115C-218.7(b).

(2) Increase its enrollment during the charter school's second year of operation and annually thereafter in accordance with planned growth as authorized in its charter.

(3) Expand to offer one grade higher or lower than the charter school currently offers if the charter school has (i) operated for at least three years, (ii) has not been identified as continually low-performing as provided in G.S. 115C-218.94, and (iii) has been in financial compliance as required by the State Board. (2016-79, s. 1.4; 2017-173, s. 3(b).)