

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

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SENATE BILL 222

Short Title: Charter Approval Process. (Public)

Sponsors: Senators Johnson, Perry, and Lazzara (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 8, 2023

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH CRITERIA FOR APPROVAL OF CHARTER SCHOOL
APPLICATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-218(b) reads as rewritten:

"(b) North Carolina Charter Schools Advisory Board. –

...

(10) Powers and duties. – The Advisory Board shall have the following duties:

- a. To make recommendations to the State Board of Education on the adoption of rules regarding all aspects of charter school operation, including time lines, standards, and criteria for acceptance ~~and approval~~ of applications, monitoring of charter schools, and grounds for revocation of charters.
- b. To review applications and make recommendations to the State Board on whether the application meets the criteria established by G.S. 115C-218.5 for final approval of ~~charter applications~~ the charter.
- c. To make recommendations to the State Board on actions regarding a charter school, including renewals of charters, nonrenewals of charters, and revocations of charters.
- d. To undertake any other duties and responsibilities as assigned by the State Board.

...."

SECTION 2. G.S. 115C-218.1(b) reads as rewritten:

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

- (1) A description of a program that implements one or more of the purposes in G.S. 115C-218.
- (2) A description of student achievement goals for the school's educational program and the method of demonstrating that students have attained the skills and knowledge specified for those student achievement goals.
- (3) The governance structure of the school including the names of the initial members of the board of directors of the nonprofit, tax-exempt corporation and the process to be followed by the school to ensure parental involvement. A teacher employed by the board of directors to teach in the charter school may serve as a nonvoting member of the board of directors for the charter school.
- (4) The local school administrative unit in which the school will be located.



- 1 (5) Admission policies and procedures.
 2 (6) A proposed budget for the school and evidence that the financial plan for the
 3 school is economically sound.
 4 (7) Requirements and procedures for program and financial audits.
 5 (8) A description of how the school will comply with G.S. 115C-218.20,
 6 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50,
 7 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75,
 8 115C-218.80, 115C-218.85, and 115C-218.90.
 9 (9) Types and amounts of insurance coverage, including bonding insurance for
 10 the principal officers of the school, to be obtained by the charter school.
 11 (10) The term of the charter.
 12 (11) The qualifications required for individuals employed by the school.
 13 (12) The procedures by which students can be excluded from the charter school
 14 and returned to a public school. Notwithstanding any law to the contrary, any
 15 local board may refuse to admit any student who is suspended or expelled
 16 from a charter school due to actions that would lead to suspension or expulsion
 17 from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until
 18 the period of suspension or expulsion has expired.
 19 (13) The number of students to be served, which number shall be at least 80, and
 20 the minimum number of teachers to be employed at the school, which number
 21 shall be at least three. However, the charter school may serve fewer than 80
 22 students or employ fewer than three teachers if the application contains a
 23 compelling reason, such as the school would serve a geographically remote
 24 and small student population.
 25 (14) Information regarding the facilities to be used by the school and the manner
 26 in which administrative services of the school are to be provided.
 27 (15) The process for conducting a weighted lottery that reflects the mission of the
 28 school if the school desires to use a weighted lottery.
 29 (16) The information needed to meet the criteria established by G.S. 115C-218.5."

30 **SECTION 3.** G.S. 115C-218.5 reads as rewritten:

31 **"§ 115C-218.5. Final approval of applications for charter schools.**

32 (a) The State Board ~~may~~ shall grant final approval of an application if it finds the
 33 following:

- 34 (1) The application meets the requirements set out in this ~~Article and such other~~
 35 ~~requirements as may be adopted by the State Board of Education.~~ Article.
 36 (2) The applicant has the ability to operate the school and would be likely to
 37 operate the school in an educationally and economically sound
 38 ~~manner.~~ manner, consistent with the requirements of this subsection.
 39 (3) Granting the application would achieve one or more of the purposes set out in
 40 G.S. 115C-218.
 41 (4) The application demonstrates that need exists for the proposed charter school
 42 by demonstrating at least one of the following:
 43 a. The application shows evidence of interest from parents for students
 44 that will utilize seventy-five percent (75%) of the proposed initial
 45 enrollment of the charter.
 46 b. The application shows evidence that, based on current interest from
 47 parents, the charter school will be able to achieve or surpass
 48 seventy-five percent (75%) of the proposed initial enrollment of the
 49 charter within the first year of operation.
 50 c. The application shows evidence that no other charter schools exist
 51 within the zip code area, as defined by the United States Postal

- 1 Service, in which that application proposes location of the charter
2 school.
- 3 d. The application shows evidence that at least one charter school has a
4 waitlist that exists within the zip code area, as defined by the United
5 States Postal Service, in which that application proposes location of
6 the charter school.
- 7 (5) The application meets at least one of the following academic and
8 programmatic criteria:
- 9 a. The new charter school is proposed to be located within all or part of
10 the same zip code area, as defined by the United States Postal Service,
11 as a local school administrative district designated as low-performing
12 at the time of consideration of the application.
- 13 b. The new charter school is proposed to be located within the same zip
14 code area, as defined by the United States Postal Service, as a school
15 designated as low-performing at the time of consideration of the
16 application.
- 17 c. No other school with an equivalent curriculum exists within a 3-mile
18 radius of the proposed charter school site.
- 19 d. Evidence demonstrating that a majority of schools in the State
20 contracted with the proposed education management entity or charter
21 management entity exceed one of the following:
- 22 1. The State average school achievement score.
- 23 2. The average school achievement score for schools in the local
24 school administrative unit in which the charter school is
25 located.
- 26 3. The State average subgroup performance score for targeted
27 student subgroups.
- 28 e. Evidence demonstrating that charter schools affiliated with the
29 proposed education management entity or charter management entity
30 have increased individual student proficiency or academic growth
31 during their enrollment.
- 32 (6) The application meets at least one of the following parental and community
33 support criteria:
- 34 a. Demonstration of strong interest and community support evidenced
35 either in the form of letters of support or verifiable survey results from
36 individuals and businesses within the county in which the proposed
37 charter school will be located and adjacent counties.
- 38 b. A confirmed waitlist of students for the school based on the address of
39 the student's primary place of residence.
- 40 c. Evidence demonstrating that charter schools affiliated with the
41 proposed education management entity or charter management entity
42 have positive student retention statistics.
- 43 (7) The application meets all of the following financial support and sustainability
44 criteria:
- 45 a. Documentation that the board of directors or the proposed education
46 management entity or charter management entity has the financial
47 ability to contribute to, or mobilize support for, the charter school
48 during its initial three years of existence.
- 49 b. Documentation that the board of directors or the proposed education
50 management entity or charter management entity can either lease
51 space within an existing building sufficient to meet the needs of the

1 school or secure an identified site upon which the school shall be built
2 if approval is granted.

- 3 c. Evidence that the board of trustees' membership or the proposed
4 education management entity or charter management entity has
5 experience or expertise in educational management, community
6 engagement, and business administration.

7 ~~In reviewing applications for the establishment of charter schools within a local school~~
8 ~~administrative unit, the State Board is encouraged to give preference to applications that~~
9 ~~demonstrate the capability to provide comprehensive learning experiences to students identified~~
10 ~~by the applicants as at risk of academic failure.~~

11 (a1) The State Board shall not establish additional criteria for approval of charters but shall
12 review applications only on the basis of the criteria established in this section.

13 (b) The State Board shall make final decisions on the approval or denial of applications
14 by August 15 of a calendar year on all applications it receives prior to a date established by the
15 Office of Charter Schools for receipt of applications in that application cycle. The State Board
16 may make the final decision for approval contingent upon the successful completion of a planning
17 period prior to enrollment of students.

18 (c) The State Board of Education may authorize a school before the applicant has secured
19 its space, equipment, facilities, and personnel if the applicant indicates the authority is necessary
20 for it to raise working capital. The State Board shall not allocate any funds to the school until the
21 school has obtained space.

22 (d) The State Board of Education ~~may~~shall grant the initial charter for a period not to
23 exceed 10 years.

24 (e), (f) Repealed by Session Laws 2016-79, s. 1.1, effective June 30, 2016, and applicable
25 beginning with the 2016-2017 school year.

26 (g) A charter school shall be entitled to automatically extend any deadline to begin
27 operations or commence the term of its charter until the next school year if it notifies the State
28 Board by June 30 that it is seeking land use or development approvals for its selected site or
29 facilities or if it is challenging the denial of any requested land use or development approvals.
30 The term of the charter issued by the State Board shall be tolled during the period of any extension
31 or extensions issued under this section."

32 **SECTION 4.(a)** Applicants for a charter denied after September 1, 2022, may apply
33 for immediate reconsideration of their application on the basis of the criteria established in
34 G.S. 115C-218.5, as amended by this act. The reconsideration of the application shall be
35 considered for final action at the first meeting of the State Board of Education held more than
36 three days after the application for immediate reconsideration is received by the State Board of
37 Education.

38 **SECTION 4.(b)** All charters granted by the State Board of Education between
39 September 1, 2022, and the date this act becomes law shall be deemed valid, regardless of
40 whether the applicant meets the requirements of G.S. 115C-218.5, as amended by this act.

41 **SECTION 4.(c)** Any established rules or policies that have been used prior to the
42 effective date of this act for the evaluation of an application for a charter school that are
43 inconsistent with the provisions of this act shall not be implemented or enforced. The State Board
44 of Education shall repeal any rules and policies inconsistent with the provisions of this act and
45 shall not adopt any new rules governing the approval process for charter schools that exceed, are
46 inconsistent with, or are contrary to the requirements of this act.

47 **SECTION 5.** This act is effective September 1, 2022.