

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017**

**SESSION LAW 2018-3  
HOUSE BILL 514**

AN ACT TO PERMIT CERTAIN TOWNS TO OPERATE CHARTER SCHOOLS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 115C-218 reads as rewritten:

**"§ 115C-218. Purpose of charter schools; definitions; establishment of North Carolina Charter Schools Advisory Board and North Carolina Office of Charter Schools.**

...

(a1) Definitions. – For the purposes of this Article, the following definitions apply:

(1) Board of directors or charter board. – Any of the following:

a. The board of directors of a nonprofit corporation.

b. The governing body of a municipality who serve ex officio as the board of directors of a charter school granted to a municipality.

c. A board of directors appointed to govern a charter school granted to a municipality by the governing body of that municipality.

(2) Nonprofit corporation. – A private nonprofit corporation that receives federal tax exempt status no later than 24 months following final approval of the charter.

...

(c) North Carolina Office of Charter Schools. –

...

(3) Powers and duties. – The Office of Charter Schools shall have the following powers and duties:

a. Serve as staff to the Advisory Board and fulfill any task and duties assigned to it by the Advisory Board.

b. Provide technical assistance and guidance to charter schools operating within the State.

c. Provide technical assistance and guidance to nonprofit corporations or municipalities seeking to operate charter schools within the State.

d. Provide or arrange for training for charter schools that have received preliminary approval from the State Board.

e. Assist approved charter schools and charter schools seeking approval from the State Board in coordinating services with the Department of Public Instruction.

f. Other duties as assigned by the State Board.

...."

**SECTION 2.** G.S. 115C-218.1 reads as rewritten:

**"§ 115C-218.1. Eligible applicants; contents of applications; submission of applications for approval.**

(a) Any nonprofit corporation or municipality seeking to establish a charter school may apply to establish a charter school. If the applicant seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and



instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion.

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

...

(3) The governance structure of the ~~school including the school~~ as follows:

a. For nonprofit corporation applicants. – The names of the initial members of the board of directors of the ~~nonprofit, tax-exempt nonprofit~~ corporation and the process to be followed by the school to ensure parental involvement. A teacher employed by the board of directors of a nonprofit corporation to teach in the charter school may serve as a nonvoting member of the board of directors for the charter school.

b. For municipal applicants. – The names of the governing board of the municipality, and if the members of the governing board will not serve ex officio as the board of directors, the members of the board of directors appointed to govern the charter school by the municipality. The process to be followed by the school to ensure parental involvement shall also be included.

...."

**SECTION 3.** G.S. 115C-218.15 reads as rewritten:

**"§ 115C-218.15. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. All charter schools shall be accountable to the State Board for ensuring compliance with applicable laws and the provisions of their charters.

(b) A charter school shall be operated by a ~~private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the application.~~ one of the following:

(1) A nonprofit corporation.

(2) A municipality.

(b1) The board of directors of ~~the~~ a nonprofit corporation operating a charter school shall adopt a conflict of interest and anti-nepotism policy that includes, at a minimum, the following:

(1) The requirements of Chapter 55A of the General Statutes related to conflicts of interest.

(2) A requirement that before any immediate family, as defined in G.S. 115C-12.2, of any member of the board of directors or a charter school employee with supervisory authority shall be employed or engaged as an employee, independent contractor, or otherwise by the board of directors in any capacity, such proposed employment or engagement shall be (i) disclosed to the board of directors and (ii) approved by the board of directors in a duly called open-session meeting. The burden of disclosure of such a conflict of interest shall be on the applicable board member or employee with supervisory authority. If the requirements of this subsection are complied with, the charter school may employ immediate family of any member of the board of directors or a charter school employee with supervisory authority.

(3) A requirement that a person shall not be disqualified from serving as a member of a charter school's board of directors because of the existence of a conflict of interest, so long as the person's actions comply with the school's conflict of interest policy established as provided in this subsection and applicable law.

(b2) The board of directors of a municipal charter school shall adopt a conflict of interest and anti-nepotism policy related to the charter school that includes, at a minimum, the requirements of subdivisions (2) and (3) of subsection (b1) of this section.

...."

**SECTION 4.** G.S. 115C-218.25 reads as rewritten:

**"§ 115C-218.25. Open meetings and public records.**

The charter school and board of directors ~~of the private nonprofit corporation~~ that operates the charter school are subject to the Public Records Act, Chapter 132 of the General Statutes, and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. Notwithstanding the requirements of Chapter 132 of the General Statutes, inspection of charter school personnel records for those employees directly employed by the board of directors of the charter school shall be subject to the requirements of Article 21A of this Chapter. The charter school and board of directors ~~of the private nonprofit corporation~~ that operates the charter school shall use the same schedule established by the Department of Natural and Cultural Resources for retention and disposition of records of local school administrative units."

**SECTION 5.** G.S. 115C-218.45(f) reads as rewritten:

- "(f) The charter school may give enrollment priority to any of the following:
- (1) Siblings of currently enrolled students who were admitted to the charter school in a previous year. For the purposes of this section, the term "siblings" includes any of the following who reside in the same household: half siblings, stepsiblings, and children residing in a family foster home.
  - (2) Siblings of students who have completed the highest grade level offered by that school and who were enrolled in at least four grade levels offered by the charter school or, if less than four grades are offered, in the maximum number of grades offered by the charter school.
  - (3) Limited to no more than fifteen percent (15%) of the school's total enrollment, unless granted a waiver by the State Board of Education, the following:
    - a. Children of the school's full-time employees.
    - b. Children of the charter school's board of directors.
  - (4) A student who was enrolled in the charter school within the two previous school years but left the school (i) to participate in an academic study abroad program or a competitive admission residential program or (ii) because of the vocational opportunities of the student's parent.
  - (5) A student who was enrolled in another charter school in the State in the previous school year that does not offer the student's next grade level.
  - (6) A student who was enrolled in another charter school in the State in the previous school year that does not offer the student's next grade level and both of the charter schools have an enrollment articulation agreement to accept students or are governed by the same board of directors.
  - (7) If the charter school is operated by a municipality, domiciliaries of the municipality."

**SECTION 6.** G.S. 115C-218.90 reads as rewritten:

**"§ 115C-218.90. Employment requirements.**

- (a) Employees. –
- (1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors of the nonprofit corporation or the governing body of a municipality shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least fifty percent (50%) of these teachers shall hold teacher licenses. All teachers who

are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The ~~board-charter school's~~ board of directors of the nonprofit corporation or the governing body of a municipality also may employ necessary employees who are not required to hold teacher licenses to perform duties other than teaching and may contract for other services. The ~~board-charter school's~~ board of directors of the nonprofit corporation or the governing body of a municipality may discharge teachers and nonlicensed employees.

- ...
- (4) The employees of ~~the~~ a charter school operated by a nonprofit corporation shall be deemed employees of the local school administrative unit for purposes of providing certain State-funded employee benefits, including membership in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The State Board of Education provides funds to charter schools, approves the original members of the boards of directors of the charter schools, has the authority to grant, supervise, and revoke charters, and demands full accountability from charter schools for school finances and student performance. Accordingly, it is the determination of the General Assembly that charter schools are public schools and that the employees of charter schools operated by a private nonprofit corporation are public school employees. Employees of a charter school operated by a private nonprofit corporation whose board of directors elects to become a participating employer under G.S. 135-5.3 are "teachers" for the purpose of membership in the North Carolina Teachers' and State Employees' Retirement System. In no event shall anything contained in this Article require the North Carolina Teachers' and State Employees' Retirement System to accept employees of a private employer as members or participants of the System.

...."

**SECTION 11.** This act applies only to the Town of Cornelius, the Town of Huntersville, the Town of Matthews, and the Town of Mint Hill.

**SECTION 12.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

**SECTION 13.** This act is effective when it becomes law and applies to applications to establish a charter school submitted on or after that date.

In the General Assembly read three times and ratified this the 7<sup>th</sup> day of June, 2018.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives