

Article 16.

Optional Programs.

Part 1. Educational Research.

**§ 115C-230. Special projects.**

Local boards of education are authorized to sponsor or conduct educational research and special projects pursuant to the provisions of G.S. 115C-47(8). (1981, c. 423, s. 1.)

Part 2. Adult Education.

**§ 115C-231. Adult education programs; tuition; limitation of enrollment of pupils over 21.**

(a) When in the judgment of the State Board of Education a program of adult education should be established as a part of the public school system and when appropriations have been made therefor, there shall be organized and administered under the general supervision of the Superintendent of Public Instruction, a course in adult education: Provided, that local boards of education, in their discretion, may institute and support such programs from local funds upon the approval of the State Board of Education.

(b) Tuition shall be free of charge to every person of the State 18 years of age, or over, who has not completed a standard high school course of study.

(c) Unless otherwise assigned by the local board of education, all persons of the district or attendance area who have not completed the prescribed course for graduation in the high school are entitled to attend the schools in the district or attendance area in which they reside: Provided, the superintendent, or the principal with the approval of the superintendent, of the local school administrative unit may, in his discretion, prohibit the enrollment of or remove from school any pupil who has attained the age of 21 years. (1955, c. 1372, art. 1, s. 1; art. 19, s. 3; art. 23, s. 2; 1963, c. 448, s. 24; 1971, c. 153; c. 704, s. 1; c. 1231, s. 1; 1981, c. 423, s. 1.)

Part 3. Summer Schools.

**§ 115C-232. Local financing of summer schools.**

Supplementary funds authorized in special tax elections for school purposes may be used to establish and maintain summer schools, as provided in G.S. 115C-501(a). (1981, c. 423, s. 1.)

**§ 115C-233. Operation of summer schools.**

Each local school administrative unit may establish and maintain summer schools. Such summer schools as may be established shall be administered by local boards of education and shall be conducted in accordance with standards developed by the State Board of Education. The standards so developed shall specify the requirements for approved curriculum, the qualifications of the personnel, the length of the session, and the conditions under which students may be granted credit for courses pursued during a summer school. In determining the eligibility of students for admission to summer schools, boards of education shall be governed by Article 9 of this Chapter, and G.S. 115C-366(b) and 115C-367 to 115C-370. Boards of education of local school administrative units may provide for summer schools from funds made available for that purpose by the State Board of Education, funds appropriated to the local school administrative unit by the tax-levying authority, and from any other revenues available for the purpose. (1975, c. 437, s. 11; 1981, c. 423, s. 1; 2006-69, s. 3(d).)

## Part 3A. Remote Academies.

### **§ 115C-234. Remote academies.**

(a) A local school administrative unit may apply to the State Board of Education for approval of remote academies that meet the requirements of this Part.

(b) A remote academy is a public school whose instruction is provided primarily online through a combination of synchronous and asynchronous instruction delivered to students in a remote location outside of the school facility. A remote academy may include any combination of grade levels.

(c) Notwithstanding G.S. 115C-84.3, a remote academy approved by the State Board of Education may satisfy the minimum required number of instructional days or hours for the school calendar through remote instruction. (2022-59, s. 2(a); 2022-74, s. 7.13(c).)

### **§ 115C-234.5. Remote academy enrollment.**

(a) A student shall not be assigned to attend a remote academy without parental consent. A local school administrative unit shall require an application to secure parental consent prior to enrollment of a student in a remote academy.

(b) A local school administrative unit shall identify characteristics for successful remote learning and establish criteria for admittance to a remote academy and shall make that information available to parents.

(c) A student may not be denied admission to a remote academy solely on the basis that the student is a child with a disability. If a student is admitted to a remote academy, that student's IEP team, as defined in G.S. 115C-106.3, or section 504 team, 29 U.S.C. § 794, must plan for a successful student entry and accommodations necessary to provide for a free appropriate public education in the remote academy.

(d) A local school administrative unit may reassign a student to an in-person school within that unit during the school year if the local board of education determines that an in-person school would better ensure academic success for that student. The local board of education may delegate this authority to the superintendent.

(e) A remote academy in a local school administrative unit shall comply with the requirements of G.S. 115C-301 with regards to class size. (2022-59, s. 2(a); 2022-74, s. 7.13(c).)

### **§ 115C-234.10. Remote academy requirements.**

(a) Except as provided in this Part, a remote academy shall meet the same requirements required in this Chapter as other public schools governed by local boards of education.

(b) A remote academy shall provide all of the following to enrolled students:

- (1) Any hardware and software needed to participate in the remote academy. Students may not be charged rental fees but may be charged damage fees for abuse or loss of hardware or software under rules adopted by the State Board of Education.
- (2) Access to a learning management platform that enables monitoring of student performance and school-owned devices, as well as allows video conferencing and supervised text-based chat for synchronous communication.
- (3) Access to the internet that is available during instructional hours, evenings, and weekends.
- (4) Technical support that is available during instructional hours.

- (5) For children with an individualized education program (IEP), as defined in G.S. 115C-106.3, or a section 504 plan, 29 U.S.C. § 794, adaptive or assistive devices, transportation, and in-person services as required by that program or plan.

(c) A remote academy may require students to attend in person to fulfill State-mandated student assessments or graduation requirements. A remote academy may conduct optional in-person meetings between students and instructors or parents and instructors at a local school administrative unit facility.

(d) The employees of a remote academy shall meet the same licensure and evaluation requirements as required for in-person employees of the local school administrative unit. The remote academy shall ensure sufficient digital teaching and learning support staff, including, at a minimum, the following:

- (1) An instructional technology facilitator.
- (2) A school library media coordinator.
- (3) A data manager.
- (4) Sufficient remote technicians to ensure technical support throughout the instructional day for staff and students. (2022-59, s. 2(a); 2022-74, s. 7.13(c).)

#### **§ 115C-234.15. Remote academy approval process.**

(a) Each local board of education seeking to offer a remote academy shall submit to the State Board of Education for approval a plan that provides for the following:

- (1) The range of grades for which the remote academy will offer courses.
- (2) The method by which the remote academy will monitor calendar compliance, enrollment, daily attendance, course credit accrual, progress toward graduation, and course completion.
- (3) Hardware, software, and learning management platforms that support online learning.
- (4) The measures used to ensure that both synchronous and asynchronous remote instruction time, practice, and application components support learning growth that continues towards mastery of the standard course of study.
- (5) The professional development that will be provided to those teaching in the remote academy related to the pedagogy of providing remote instruction.
- (6) The identified characteristics for successful remote learning and criteria for admission to the remote academy. The governing body shall identify the means by which information will be communicated to the parents and legal guardians of prospective applicants and current enrollees about the remote academy and those characteristics and criteria to allow for informed decisions about enrollment.
- (7) Any school nutrition services or transportation services that will be provided to students.

(b) The State Board of Education shall review and approve a plan submitted by a local board of education for the creation of a remote academy that meets the requirements established in this Part for a term of five years. (2022-59, s. 2(a); 2022-74, s. 7.13(c).)

#### **§ 115C-234.20. Operation and renewal of remote academies.**

(a) Each approved remote academy shall adhere to the plan submitted to and approved by the State Board of Education unless the local board of education obtains in writing approval for plan modifications from the State Board of Education.

(b) Each approved remote academy shall receive a school code. A remote academy in a local school administrative unit with less than 100 students in final average daily membership is not entitled to 12 months of employment for a principal.

(c) A local board of education may apply for renewal of approval as a remote academy for additional terms of five years. The State Board shall consider compliance with the requirements of this Part and success of the remote academy in the prior five years in determining whether to approve a request for renewal of a remote academy. (2022-59, s. 2(a); 2022-74, s. 7.13(c).)

#### **§ 115C-234.25. Evaluation.**

The State Board of Education shall evaluate the success of remote academies approved under this Part. Success shall be measured by school performance scores and grades, retention rates, attendance rates, and, for grades nine through 12, high school completion and dropout rates. The Board shall report by November 15 of each year to the Joint Legislative Education Oversight Committee on the evaluation of these schools and on any recommended statutory changes. (2022-59, s. 2(a); 2022-74, s. 7.13(c).)

#### Part 4. Performance-based Accountability Program.

**§§ 115C-238.1 through 115C-238.4: Recodified as §§ 115C-105.20 through 115C-105.35.**

**§ 115C-238.5: Repealed by Session Laws 1995, c. 450, s. 14.**

**§§ 115C-238.6 through 115C-238.8: Recodified as §§ 115C-105.29 through 115C-105.32.**

**§ 115C-238.9. Reserved for future codification purposes.**

**§ 115C-238.10. Reserved for future codification purposes.**

**§ 115C-238.11. Reserved for future codification purposes.**

#### Part 5. Outcome-Based Education Program.

**§§ 115C-238.12 through 115C-238.19: Repealed by Session Laws 1995, c. 324, s. 17.2.**

**§ 115C-238.20. Reserved for future codification purposes.**

**§ 115C-238.21. Reserved for future codification purposes.**

#### Part 6. Project Genesis Program.

**§§ 115C-238.22 through 115C-238.25: Repealed by Session Laws 1997-18, s. 8.**

**§§ 115C-238.26 through 115C-238.29. Reserved for future codification purposes.**

#### Part 6A. Charter Schools.

**§§ 115C-238.29A through 115C-238.29L:** Recodified as Article 14A of Chapter 115C, G.S. 115C-218 et seq., pursuant to the authority granted to the Revisor of Statutes in Session Laws 2014-101, s. 7, effective August 6, 2014, and applicable beginning with the 2014-2015 school year.

Part 7. Extended Services Programs.

**§ 115C-238.30. Purpose.**

The General Assembly believes that all children can learn. It is the intent of the General Assembly that the mission of the public school community is to challenge with high expectations each child to learn, to achieve, and to fulfill his or her potential. With that mission as a guide, local school administrative units are encouraged to provide timely assistance to students who are at risk of school failure through the extended services programs described in this Part. (1993, c. 132.)

**§ 115C-238.31. Extended services programs.**

(a) Local school administrative units are encouraged to implement extended services programs that will expand students' opportunities for educational success through high-quality, integrated access to instructional programming during nonschool hours. Extended services programs may be incorporated into school improvement plans developed in accordance with G.S. 115C-105.27. Calendar alternatives include, but are not limited to, after-school hours, before-school hours, evening school, Saturday school, summer school, and year-round school. Instructional programming may include, but is not limited to, tutoring, direct instruction, enrichment activities, study skills, and reinforcement projects.

(b) Extended services programs shall be targeted primarily toward students who perform significantly below their age-level peers; however, these programs may be established for students who are achieving at or above grade level.

(c) Extended services programs should be accelerated and based on needs assessments of the students in the program. The programs shall build on, and be fully integrated with, existing classroom and school activities.

(d) Extended services programs may be based in schools, collaboratively between schools, or in other community-based locations. (1993, c. 132, s. 1; 1995 (Reg. Sess., 1996), c. 716, s. 24; 2011-145, s. 7.13(r); 2011-391, s. 14(b).)

**§ 115C-238.32. Needs assessment; community-based collaboration.**

(a) Before implementing an extended services program, the local school administrative unit shall conduct a needs assessment within the unit and in collaboration with local governmental and nongovernmental agencies to identify students, schools, and communities that need extended services. The needs assessment shall include an evaluation of existing school and community resources and programs and shall identify how instruction in the core curriculum could be improved to meet the needs of children at risk of school failure.

(b) Goals and expected outcomes for the program shall be based on the needs assessment. (1993, c. 132.)

**§ 115C-238.33. Plan for effective use of fiscal resources; comprehensive plan to implement extended services programs.**

(a) The State Board of Education shall develop model plans which show how to (i) deliver comprehensive extended services; (ii) effectively use all fiscal resources, including federal funds,

and other resources under its control that support the goals of this Part; and (iii) maintain quality program evaluation. The model plans shall be communicated to local units and building-level committees.

(b) Repealed by Session Laws, 1997-18, c. 15(j). (1993, c. 132, s. 1; 1997-18, s. 15(j).)

**§§ 115C-238.34 through 115C-238.39. Reserved for future codification purposes.**

Part 8. Intervention/Prevention Grant Program for North Carolina School Children.

**§§ 115C-238.40 through 115C-238.47: Repealed by Session Laws 1995, c. 450, s. 16.**

Part 9. Cooperative Innovative High School Programs.

**§ 115C-238.50. Purpose.**

(a) The purpose of this Part is to authorize local boards of education to jointly establish with one or more boards of trustees cooperative innovative programs in high schools and colleges or universities that will expand students' opportunities for educational success through high quality instructional programming. These cooperative innovative high school programs shall target any of the following groups:

- (1) High school students who are at risk of dropping out of school before attaining a high school diploma.
- (1a) High school students with parents who did not continue education beyond high school.
- (2) High school students who would benefit from accelerated academic instruction.
- (b) All the cooperative innovative high school programs established under this Part shall:
  - (1) Enable students to concurrently obtain a high school diploma and begin or complete an associate degree program, master a certificate or vocational program, or earn up to two years of college credit within five years.
  - (1a) Prepare students adequately for future learning in the workforce or in an institution of higher education.
  - (2), (3) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.
  - (4) Encourage the cooperative or shared use of resources, personnel, and facilities between public schools and colleges or universities, or both.
  - (5) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.
  - (6) Emphasize parental involvement and provide consistent counseling, advising, and parent conferencing so that parents and students can make responsible decisions regarding course taking and can track the students' academic progress and success.
  - (7) through (10) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.
  - (11) Develop methods for early identification of potential participating students in the middle grades and through high school and provide outreach to those students to promote academic preparation and awareness of the cooperative innovative high school programs.
  - (12) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.
- (c) through (e) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.
- (f) Students are eligible to attend these programs as early as ninth grade. (2003-277, s. 2; 2005-276, s. 7.33(a); 2010-31, s. 7.21(a); 2011-145, s. 7.1A(j).)

**§ 115C-238.50A. Definitions.**

The following definitions apply in this Part:

- (1) Constituent institution. – A constituent institution as defined in G.S. 116-2(4).
- (1a) Cooperative innovative high school. – A high school approved by the State Board of Education and the applicable governing Board that meets the following criteria:
  - a. It has no more than 100 students per grade level. This criterion shall not apply to a regional school as defined in G.S. 115C-238.61.
  - b. It partners with an institution of higher education to enable students to concurrently obtain a high school diploma and begin or complete an associate degree program, master a certificate or vocational program, or earn up to two years of college credit within five years.
  - c. It is located on the campus of the partner institution of higher education, unless the governing Board or the local board of trustees for a private North Carolina college specifically waives the requirement through adoption of a formal resolution. This criterion shall not apply to a regional school established as provided in Part 10 of this Article.
- (1b) Cooperative innovative high school allotment. – Funds appropriated by the General Assembly to the Department of Public Instruction to provide additional resources to approved cooperative innovative high schools.
- (2) Education partner. – An education partner as provided in G.S. 115C-238.52.
- (3) Governing Board. – The State Board of Community Colleges or the Board of Governors of The University of North Carolina.
- (3a) Local board of education. – A local board as defined in G.S. 115C-5(5) or a regional school board of directors as defined in G.S. 115C-238.61(5).
- (4) Local board of trustees. – The board of trustees of a community college, constituent institution of The University of North Carolina, or private college located in North Carolina.
- (5) Partner institution of higher education. – A community college, constituent institution of The University of North Carolina, or private college located in North Carolina. (2005-276, s. 7.33(a); 2010-31, s. 7.21(c); 2011-145, s. 7.1A(j); 2011-241, s. 4; 2012-142, s. 7.11(a); 2014-100, s. 8.36(a).)

**§ 115C-238.51. Application process.**

- (a) A local board of education and at least one local board of trustees shall jointly apply to establish a cooperative innovative high school program under this Part.
- (b) The application shall contain at least the following information:
  - (1) A description of a program that implements the purposes in G.S. 115C-238.50.
  - (2) A statement of how the cooperative innovative high school relates to the Economic Vision Plan adopted for the economic development region in which the cooperative innovative high school is to be located.
  - (3) The facilities to be used by the cooperative innovative high school and the manner in which administrative services of the school are to be provided.

- (4) A description of student academic and vocational achievement goals and the method of demonstrating that students have attained the skills and knowledge specified for those goals.
- (5) A description of how the cooperative innovative high school will be operated, including budgeting, curriculum, transportation, and operating procedures.
- (6) The process to be followed by the cooperative innovative high school to ensure parental involvement.
- (7) The process by which students will be selected for and admitted to the cooperative innovative high school.
- (8) A description of the funds that will be used and a proposed budget for the first five years of the implementation of the cooperative innovative high school. This description shall identify how the average daily membership (ADM) and full-time equivalent (FTE) students are counted. If additional funds are requested, a description of how those additional funds will be used shall be submitted. Additional funds may include the cooperative innovative high school allotment and tuition payments. For cooperative innovative high schools that have a community college as their partner institution of higher education, the proposed budget shall include the cost of including their students in calculations of budget full-time equivalent students for the North Carolina Community College System.
- (9) The qualifications required for individuals employed in the cooperative innovative high school.
- (10) The number of students to be served.
- (11) A description of how the cooperative innovative high school's effectiveness in meeting the purposes in G.S. 115C-238.50 will be measured.

(c) The application shall be submitted to the State Board of Education and the applicable governing Board. If the partner institution of higher education is a private North Carolina college, the application shall be submitted solely to the State Board of Education.

(d), (e) Repealed by Session Laws 2012-142, s. 7.11(b), effective July 2, 2012. (2003-277, s. 2; 2005-276, s. 7.33(a); 2005-345, ss. 6(b), 6(c); 2011-145, s. 7.1A(j); 2012-142, s. 7.11(b).)

**§ 115C-238.51A. Approval process.**

(a) Joint Advisory Committee. – The State Board of Education and the applicable governing Board of the local board of trustees shall appoint a joint advisory committee to review the applications and to recommend approval for those applications that meet the requirements of this Part and achieve purposes set out in G.S. 115C-238.50. The recommendation shall indicate whether additional funds were requested in the application.

(a1) **(See editor's note for applicability)** Limitation on Approvals. – The State Board may only conditionally approve up to three applications for cooperative innovative high schools that request additional funds under subsection (c) of this section to open in a school year. If an application requesting additional funds is not approved due to this limitation, a revised application may be submitted under subsection (b) of this section. The State Board may prioritize conditional approval of applications for cooperative innovative high schools located in local school administrative units that do not already operate a school pursuant to this Part.



(b) No Additional Funds. – For applications which have not requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools. In granting approval, consideration shall be given to the proposed budget and demonstration of sources of sustainable funding for the operation of the cooperative innovative high school. Approvals shall be made by June 30 of each year. No additional State funds, position allotments, earning of budget full-time equivalent students, or payments of tuition shall be provided to cooperative innovative high schools approved under this subsection.

(c) Additional Funds. – For applications which have requested additional funds, the State Board of Education and the applicable governing Board may approve cooperative innovative high schools contingent upon appropriation of the additional funds by the General Assembly. Contingent approval shall be made by April 1 of each year. The contingent approval shall expire if no appropriation is made by the General Assembly for the additional funds within one calendar year. No cooperative innovative high school shall open prior to the appropriation by the General Assembly of the full amount of the additional funds as requested in the application for that school under G.S. 115C-238.51 for the upcoming fiscal year or fiscal biennium, as appropriate. If no appropriation is made by the General Assembly, a revised application may be submitted under subsection (b) of this section. (2012-142, s. 7.11(c); 2020-64, s. 7(a).)

#### **§ 115C-238.52. Participation by other education partners.**

(a) Any or all of the following education partners may participate in the development of a cooperative innovative high school under this Part that is targeted to high school students who would benefit from accelerated academic instruction:

- (1), (2) Repealed by Session Laws 2005-276, s. 7.33(a), effective July 1, 2005.
- (3) A private business or organization.
- (4) The county board of commissioners in the county in which the cooperative innovative high school is located.

(b) Any or all of the education partners listed in subsection (a) of this section that participate shall:

- (1) Jointly apply with the local board of education and the local board of trustees to establish a cooperative innovative high school under this Part.
- (2) Be identified in the application.
- (3) Sign the written agreement under G.S. 115C-238.53(b). (2003-277, s. 2; 2005-276, s. 7.33(a); 2012-142, s. 7.11(d).)

#### **§ 115C-238.53. Operation of cooperative innovative high schools.**

(a) A cooperative innovative high school approved by the State is accountable to the local board of education.

(b) A cooperative innovative high school approved under this Part shall operate under the terms of a written agreement signed by the local board of education, local board of trustees, State Board of Education, and applicable governing Board. The agreement shall incorporate the information provided in the application, as modified during the approval process, and any terms and conditions imposed on the school by the State Board of Education and the applicable governing Board. The agreement may be for a term of no longer than five school years.

(c) A cooperative innovative high school may be operated in a facility owned or leased by the local board of education, the local board of trustees, or the education partner, if any.

(d) A cooperative innovative high school approved under this Part shall do the following:

- (1) Provide instruction each school year for at least 185 days or 1,025 instructional hours during nine calendar months, and may include the use of remote instruction in accordance with G.S. 115C-84.3. The requirements of G.S. 115C-84.2 shall not apply to the school calendar of a program approved under this Part.
- (2) Comply with laws and policies relating to the education of students with disabilities.
- (3) Comply with Article 27 of this Chapter.

(e) A cooperative innovative high school approved under this Part may use State, federal, and local funds allocated to the local school administrative unit, to the applicable governing Board, and to the partner institution of higher education to implement its program. If there is an education partner and if it is a public body, the cooperative innovative high school may use State, federal, and local funds allocated to that body.

(f) Except as provided in this Part and under the terms of the agreement, cooperative innovative high schools:

- (1) Shall have the same exemptions from statutes and rules as charter schools operating under Article 14A of this Chapter, other than those pertaining to personnel.
- (2) May be exempted by the State Board of Education or by the applicable governing Board from laws and rules applicable to a local board of education, a local school administrative unit, a community college, a constituent institution, or a local board of trustees. (2003-277, s. 2; 2005-276, s. 7.33(a); 2010-182, s. 1; 2012-142, ss. 7.11(e), 7A.11(c); 2012-145, s. 2.5; 2014-101, s. 7; 2021-130, s. 3(d); 2022-59, s. 1(b); 2022-74, s. 7.13(b).)

**§ 115C-238.54. Funds for cooperative innovative high schools.**

(a) The Department of Public Instruction shall assign a school code for each cooperative innovative high school that is approved under this Part. Notwithstanding G.S. 115C-105.25, once the cooperative innovative high school has been assigned a school code, the local board of education may use these funds for the school and may transfer these funds between funding allotment categories.

(a1) Repealed by Session Laws 2011-145, s. 7.1A(j), effective January 1, 2012.

(b) The local board of trustees may allocate State and federal funds for a cooperative innovative high school that is approved under this Part.

(c) An education partner under G.S. 115C-238.52 that is a public body may allocate State, federal, and local funds for a cooperative innovative high school that is approved under this Part.

(d) If not an education partner under G.S. 115C-238.52, a county board of commissioners in a county where a cooperative innovative high school is located may nevertheless appropriate funds to the school approved under this Part.

(e) The local board of education and the local board of trustees are strongly encouraged to seek funds from sources other than State, federal, and local appropriations. They are strongly encouraged to seek funds the Education Cabinet identifies or obtains under G.S. 116C-4.

(f) Students in cooperative innovative high schools shall not be charged tuition for courses taken through the partner institution of higher education.

(g) Students in cooperative innovative high schools that have a community college as their partner institution of higher education and were approved under G.S. 115C-238.51A(c) shall be

included in calculations of budget full-time equivalent students for the North Carolina Community College System. Students in cooperative innovative high schools that have a community college as their partner institution of higher education and were approved under G.S. 115C-238.51A(b) shall not be included in calculations of budget full-time equivalent students for the North Carolina Community College System.

(h) The State Board of Education shall reimburse The University of North Carolina for tuition for courses taken by students at cooperative innovative high schools that have a constituent institution of The University of North Carolina as their partner institution of higher education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed the annual Board of Governors-approved undergraduate resident tuition rate calculated on a per credit hour basis and shall not include fees. In addition, the cooperative innovative high school students' credit hours shall be nonfundable under The University of North Carolina Semester Credit Hour Enrollment Change Funding Model. The State Board of Education shall not reimburse The University of North Carolina for tuition for courses taken by students at cooperative innovative high schools that have a constituent institution of The University of North Carolina as their partner institution of higher education and were approved under G.S. 115C-238.51A(b).

(i) The State Board of Education shall reimburse private North Carolina colleges for tuition for courses taken by students at cooperative innovative high schools that have a private North Carolina college as their partner institution of higher education and were approved under G.S. 115C-238.51A(c). Tuition payments shall not exceed the highest undergraduate resident rate approved by the Board of Governors for The University of North Carolina constituent institutions and shall not include fees. The State Board of Education shall not reimburse private North Carolina colleges for tuition for courses taken by students at cooperative innovative high schools that have a private North Carolina college as their partner institution of higher education and were approved under G.S. 115C-238.51A(b).

(j) Any State funds appropriated for cooperative innovative high schools shall not be adjusted to reflect legislative salary increments, retirement rate adjustments, and health benefit adjustments for school personnel, unless specifically provided for by the General Assembly. (2003-277, s. 2; 2005-276, s. 7.33(a); 2010-31, s. 7.21(b); 2011-145, s. 7.1A(j); 2012-142, s. 7.11(f); 2015-241, s. 8.8.)

#### **§ 115C-238.55. Evaluation of cooperative innovative high schools.**

The State Board of Education and the governing Boards shall evaluate the success of students in cooperative innovative high schools approved under this Part. Success shall be measured by high school retention rates, high school completion rates, high school dropout rates, certification and associate degree completion, admission to four-year institutions, postgraduation employment in career or study-related fields, and employer satisfaction of employees who participated in and graduated from the schools. The Boards shall jointly report by March 15 of each year to the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Education/Higher Education, the House Appropriations Committee on Education, and the Fiscal Research Division of the General Assembly on the evaluation of these schools. The report shall be combined with the evaluation of and analysis of cost of students participating in the Career and College Promise Program required by G.S. 115D-5(x), and the Community Colleges System Office shall be responsible for submitting the combined report. (2003-277, s. 2; 2005-276, s. 7.33(a); 2009-305, s. 3; 2012-142, s. 7.11(g); 2017-102, s. 48(c); 2019-165, s. 3.3(a); 2021-180, s. 6.3(b).)

§§ 115C-238.56 through 115C-238.59: Reserved for future codification purposes. (2003-277, s. 2.)

#### Part 10. Regional Schools.

##### § 115C-238.60. Purpose.

(a) The purpose of this Part is to authorize local boards of education to jointly establish a regional school to serve enrolled students in two or more local school administrative units that will expand student opportunities for educational success through high quality instructional programming. Regional schools may include partnerships with other education partners, including institutions of higher education and private businesses or organizations, and shall foster, encourage, and promote the development of knowledge and skills in career clusters of critical importance to the region.

(b) Except as otherwise provided in this Part and Article 7B of this Chapter, a regional school is exempt from statutes and rules applicable to a local board of education or local school administrative unit. (2011-241, s. 1; 2023-106, s. 2(d).)

##### § 115C-238.61. Definitions.

The following definitions apply in this Part:

- (1) First generation student. – A student who has no parent who has completed a two- or four-year degree.
- (2) Participating units. – A local school administrative unit whose local board of education has adopted a resolution to create a regional school that has been approved by the State Board of Education.
- (3) Principal. – The principal of a regional school.
- (4) Regional school. – A school created pursuant to G.S. 115C-238.62 which includes all of grades nine through twelve and may include grades seven and eight.
- (5) Regional school board of directors or board of directors. – The governing board of a regional school appointed pursuant to G.S. 115C-238.63. (2011-241, s. 1.)

##### § 115C-238.62. Creation and expansion of regional schools, and withdrawal from regional schools by participating units.

(a) Resolution to Create a Regional School. – Any two or more local boards of education may create a regional school as provided in this Part. In order to create a regional school, each local board of education shall adopt a resolution stating its intent to create the regional school, which shall include the following:

- (1) Name of the regional school.
- (2) Names of all other local boards of education known to that local board of education adopting resolutions to create the regional school.
- (3) Identification of one of the named local school administrative units to serve as the finance agent for the regional school.
- (4) Identification of one of the named local school administrative units to provide, to the extent practicable, school food services to the regional school, if needed.

The local board of education shall develop a plan to provide transportation to the students domiciled in the district.

(b) Recognition of Regional School. – Each local board of education that adopts a resolution as provided in this section shall file a copy of the resolution with the State Board of Education. Upon receipt of resolutions from all local boards of education identified in each resolution for a named regional school, the State Board of Education shall approve the creation of the regional school.

(c) Expansion of Regional School. – A local board of education may adopt a resolution stating its intent to join an existing regional school, which shall include the name of the regional school and the names of all other local boards of education which have previously adopted resolutions to create the regional school. The local board of education shall file a copy of the resolution with the State Board of Education. Following receipt of the petition and after receiving comment from the regional school board of directors, the State Board of Education may approve the expansion of the regional school.

(d) Withdrawal From Regional School. – A participating unit may seek withdrawal from a regional school as follows:

- (1) Adoption of Resolution. – A participating unit may adopt a resolution requesting withdrawal from an existing regional school and submit a copy of the resolution to the regional school board of directors. The resolution shall include the following:
  - a. The name of the regional school.
  - b. The names of all participating units in the regional school.
  - c. The withdrawal plan, including a time line for implementation that ensures that all students from the participating unit who are currently enrolled in the regional school may remain enrolled in the regional school until graduation.
- (2) Board of Directors Consideration of Resolution. – Upon receipt of a withdrawal resolution, the following shall occur:
  - a. The board of directors shall, at its next meeting held more than 10 days after receipt of the resolution, provide an opportunity for public comment on the resolution.
  - b. Following public comment, the board of directors may conditionally approve the withdrawal resolution with a vote of at least two-thirds of the membership of the board of directors, subject to consideration by the State Board of Education.
  - c. Upon approval of a withdrawal resolution by the board of directors, the board of directors shall submit the approved resolution to the State Board of Education.
- (3) State Board of Education Consideration of Resolution. – Upon receipt of a withdrawal resolution conditionally approved by the board of directors, the following shall occur:
  - a. The State Board of Education shall, at its next meeting held more than 10 days after receipt of the resolution, provide an opportunity for public comment on the resolution.
  - b. Following public comment, the State Board of Education may grant final approval of the withdrawal resolution by a majority vote of the State Board of Education and, upon final approval, shall authorize the participating unit to begin implementation of the withdrawal plan.

- (4) No Withdrawal Without Approval. – No participating unit that has created or joined a regional school may withdraw from the school except as provided in this subsection. A participating unit shall continue all of the following until that unit receives final approval for withdrawal from the State Board of Education:
  - a. Receipt of allotments for student seats.
  - b. Transfer of local funds to the regional school.
  - c. Provision of transportation substantially similar to the transportation provided to students in the prior school year.
  - d. Compliance with all other requirements of this Part. (2011-241, s. 1; 2019-184, s. 1.)

**§ 115C-238.63. Regional school boards of directors; appointment; terms of office.**

(a) Appointment. – A board of directors for a regional school shall consist of the following members. Appointed members of the board of directors shall be selected for their interest in and commitment to the importance of public education to regional economic development and to the purposes of the regional school.

- (1) Local boards of education. – Each participating unit shall appoint one member to the board of directors from among the membership of the local board of education. Members appointed by local boards of education shall serve terms of four years.
- (2) Local superintendents. – The local superintendent of the local school administrative unit identified as the finance agent for the regional school shall serve as an ex officio member of the board of directors. One additional superintendent shall be selected from among the superintendents of the participating units by those superintendents. The additional superintendent shall serve an initial term of two years. Subsequent appointees shall serve a term of four years.
- (3) Business community. – The board of directors for the chamber of commerce of the county in which the regional school is located, in consultation with the North Carolina Economic Developers Association, shall appoint at least three members as representatives of the business community. At least fifty percent (50%) of the members of the board of directors for the regional school shall be representatives of the business community appointed in accordance with this subdivision. At least one of the appointees shall be a resident of the county in which the regional school is located. The appointees shall serve an initial term of two years. Subsequent appointees shall serve a term of four years.
- (4) Parent Advisory Council. – The Parent Advisory Council established by G.S. 115C-238.69 shall appoint a member to the board of directors from among the Council membership. The member appointed by the Council shall serve a term of four years or until the child of the parent no longer attends the regional school.
- (5) Higher education partners. – Any institution of higher education partner may appoint a representative of the institution of higher education to serve as an ex officio member of the board of directors.

(b) Vacancies. – Whenever an appointed member of the board of directors shall fail for any reason other than ill health or service in the interest of the State or nation to be present at three

successive regular meetings of the board of directors, his or her place as a member of the board of directors shall be deemed vacant. Any member of the board of directors may be removed from office by the appointing authority for misfeasance, malfeasance, or nonfeasance in office. All vacancies shall be filled by the appointing authority for the remainder of the term of office. (2011-241, s. 1; 2013-360, s. 8.20.)

**§ 115C-238.64. Board of directors; meetings; rules of procedure; officers.**

(a) The board of directors shall meet at least four times a year and may hold special meetings at any time at the call of the chair or upon petition addressed to the chair by a majority of the members of the board of directors. All meetings of the board of directors shall be subject to the requirements of Article 33C of Chapter 143 of the General Statutes.

(b) The board of directors shall elect a chair and a vice-chair from among its members, who shall serve a two-year term.

(c) All members of the board of directors shall be voting members except for the chair, who may vote only on matters to break a tie.

(d) The board of directors shall determine its own rules of procedure and may delegate to such committees as it may create such of its powers as it deems appropriate.

(e) Members of the board of directors shall receive such per diem compensation and necessary travel and subsistence expenses while engaged in the discharge of their official duties as is provided by law for members of State boards and commissions. (2011-241, s. 1.)

**§ 115C-238.65. Board of directors; corporate powers.**

(a) The board of directors of the regional school shall be known and distinguished by the name of "The \_\_\_\_\_ Regional School Board of Directors" and shall continue as a body politic and corporate and by that name shall have perpetual succession and a common seal. It shall be able and capable in law to take, demand, receive, and possess all moneys, goods, and chattels that shall be given for the use of the regional school, and to apply to same according to the will of the donors; and by gift, purchase, or devise to receive, possess, enjoy, and retain forever any and all real and personal estate and funds, of whatsoever kind, nature, or quality the same may be, in special trust and confidence that the same, or the profits thereof, shall be applied to and for the use and purpose of establishing and endowing the regional school, and shall have power to receive donations from any source whatsoever, to be devoted exclusively to the purposes of the maintenance of the regional school, or according to the terms of the donation.

(b) The board of directors shall be able and capable in law to bargain, sell, grant, alien, or dispose of and convey and assure to the purchasers any and all such real and personal estate and funds as it may lawfully acquire when the condition of the grant to it or the will of the deviser does not forbid it; and shall be able and capable in law to sue and be sued in all courts whatsoever; and shall have power to open and receive subscriptions; and in general may do all such things as are usually done by bodies corporate and politic, or such as may be necessary for the promotion of learning and virtue. (2011-241, s. 1.)

**§ 115C-238.66. Board of directors; powers and duties.**

The board of directors shall have the following powers and duties:

(1) Academic program. –

a. The board of directors shall establish the standard course of study for the regional school. This course of study shall set forth the subjects to be

taught in each grade and the texts and other educational materials on each subject to be used in each grade. The board of directors shall design its programs to meet at least the student performance standards adopted by the State Board of Education and the student performance standards contained in this Chapter.

- b. The board of directors shall conduct student assessments required by the State Board of Education.
  - c. The board of directors shall provide the opportunity to earn or obtain credit toward degrees from a community college subject to Chapter 115D of the General Statutes or a constituent institution of The University of North Carolina.
  - d. The board of directors shall adopt a school calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months.
  - e. The board of directors shall ensure that financial literacy instruction is provided as required by the State Board of Education pursuant to G.S. 115C-81.65, including required professional development for teachers of the EPF course.
- (2) Standards of performance and conduct. – The board of directors shall establish policies and standards for academic performance, attendance, and conduct for students of the regional school. The policies of the board of directors shall comply with Article 27 of this Chapter.
  - (3) School attendance. – Every parent, guardian, or other person in this State having charge or control of a child who is enrolled in the regional school and who is less than 16 years of age shall cause such child to attend school continuously for a period equal to the time that the regional school shall be in session. No person shall encourage, entice, or counsel any child to be unlawfully absent from the regional school. Any person who aids or abets a student's unlawful absence from the regional school shall, upon conviction, be guilty of a Class 1 misdemeanor. The principal shall be responsible for implementing such additional policies concerning compulsory attendance as shall be adopted by the board of directors, including regulations concerning lawful and unlawful absences, permissible excuses for temporary absences, maintenance of attendance records, and attendance counseling.
  - (4) Reporting. – The board of directors shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.
  - (5) Assessment results. – The board of directors shall provide data to the participating unit in which a student is domiciled on the performance of that student on any testing required by the State Board of Education.
  - (6) Education of children with disabilities. – The board of directors shall require compliance with laws and policies relating to the education of children with disabilities.
  - (7) Health and safety. – The board of directors shall require that the regional school meet the same health and safety standards required of a local school administrative unit.



The Department of Public Instruction shall ensure that regional schools comply with G.S. 115C-375.2A. The board of directors of a regional school shall provide the school with a supply of emergency epinephrine auto-injectors necessary to carry out the provisions of G.S. 115C-375.2A.

- (7a) Repealed by Session Laws 2023-78, s. 5(d), effective July 7, 2023.
- (7b) Repealed by Session Laws 2023-78, s. 5(d), effective July 7, 2023.
- (7c) Repealed by Session Laws 2023-78, s. 5(d), effective July 7, 2023.
- (7d) Repealed by Session Laws 2023-78, s. 5(d), effective July 7, 2023.
- (7e) Repealed by Session Laws 2023-78, s. 5(d), effective July 7, 2023.
- (7f) Information about child abuse and neglect. – A regional school shall implement the rule addressing student awareness of child abuse and neglect, including sexual abuse, adopted by the State Board of Education under G.S. 115C-12(47).
- (7g) Each regional school shall comply with the requirements for public school units in Part 2 of Article 8C of this Chapter.
- (8) Driving eligibility certificates. – The board of directors shall apply the rules and policies established by the State Board of Education for issuance of driving eligibility certificates.
- (9) Purchasing and contracts. – The board of directors shall comply with the purchasing and contract statutes and regulations applicable to local school administrative units.
- (10) Exemption from the Administrative Procedures Act. – The board of directors shall be exempt from Chapter 150B of the General Statutes, except final decisions of the board of directors in a contested case shall be subject to judicial review in accordance with Article 4 of Chapter 150B of the General Statutes.
- (11) North Carolina School Report Cards. – A regional school shall ensure that the report card issued for it by the State Board of Education receives wide distribution to the local press or is otherwise provided to the public. A regional school shall ensure that the overall school performance score and grade earned by the regional school for the current and previous four school years is prominently displayed on the school Web site. If a regional school earned an overall school performance grade of D or F, the regional school shall provide notice of the grade in writing to the parent or guardian of all students enrolled in that school.
- (12) Policy against bullying. – A regional school is encouraged to adopt a policy against bullying or harassing behavior, including cyber-bullying, that is consistent with the provisions of Article 29C of this Chapter. If a regional school adopts a policy to prohibit bullying and harassing behavior, the regional school shall, at the beginning of each school year, provide the policy to staff, students, and parents as defined in G.S. 115C-390.1(b)(8).
- (13) Access for youth groups. – Regional schools are encouraged to facilitate access for students to participate in activities provided by any youth group listed in Title 36 of the United States Code as a patriotic society, such as the Boy Scouts of America, and its affiliated North Carolina groups and councils, and the Girl Scouts of the United States of America, and its affiliated North Carolina groups and councils. Student participation in any activities offered by these

organizations shall not interfere with instructional time during the school day for the purposes of encouraging civic education.

- (14) Property insurance. – The board of directors shall comply with the requirements of G.S. 115C-523.1 and G.S. 115C-523.2 for any regional school building owned by the board of directors.
- (15) Child sexual abuse and sex trafficking training program. – The board of directors shall adopt and implement a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20.
- (16) School-based mental health plan required. – A regional school shall adopt a school-based mental health plan, including a mental health training program and suicide risk referral protocol, in accordance with G.S. 115C-376.5.
- (17) Computer science reporting. – A regional school shall annually report the information required by G.S. 115C-12(48) to the State Board of Education, the Senate Appropriations Committee on Education/Higher Education, and the House Appropriations Committee on Education no later than September 15.
- (18) Digital learning dashboard updates. – A regional school shall annually update information to the digital learning dashboard, as required by G.S. 115C-102.9.
- (19) Cultural expression at graduation ceremonies. – A regional school shall comply with G.S. 115C-407.40 at all graduation ceremonies.
- (20) Muscadine grape juice. – A regional school shall strive to ensure that one hundred percent (100%) muscadine grape juice is made available to students as a part of the school's nutrition program or through the operation of the school's vending facilities.
- (21) Athletic teams. – A regional school organizing athletic teams for middle or high school students to participate in interscholastic or intramural athletic activities shall do so in accordance with G.S. 115C-12(23). (2011-241, ss. 1, 6(a); 2012-142, ss. 7A.3(d), 7A.11(d); 2012-145, s. 2.5; 2013-360, s. 8.43(b); 2014-100, ss. 8.23(c), 8.32(c); 2015-241, s. 8.26(i); 2015-249, s. 4; 2017-57, s. 7.26(j); 2018-5, s. 7.26(d); 2019-82, s. 4(b); 2019-176, s. 1(c); 2019-245, s. 4.4(c); 2020-7, s. 1(d); 2021-130, s. 3(e); 2021-132, s. 6(d); 2021-180, ss. 7.9(e), 7.61(d); 2022-59, s. 1(a), (b); 2022-74, s. 7.13(b); 2023-43, s. 3(b); 2023-63, s. 5(d); 2023-78, s. 5(d), (e); 2023-109, s. 1(c).)

#### **§ 115C-238.67. Student admissions and assignment.**

(a) Residency Requirement. – A student shall be domiciled in a participating unit to be eligible to attend the regional school. A student's eligibility to remain enrolled in the regional school shall terminate at the end of any school year during which a student ceases to satisfy the residency requirements.

(b) Participating Unit Allotments. – The number of student seats in the freshman class of the regional school shall be assigned proportionate to the total student population of the participating units, as determined by the participating unit's final average daily membership in the preceding school year. If fewer students residing in a participating unit elect to attend the regional school than available allotted seats, the remaining seats shall be divided proportionally among the other participating units.

(c) Admissions Criteria. – The board of directors shall establish criteria, standards, and procedures for admission of students. The admission criteria may give priority to first generation students and shall include the following:

- (1) Demonstrated academic achievement.
- (2) Demonstrated student interest in attendance.
- (3) Documented parental support for student attendance.

(d) Lottery. – If the number of eligible students meeting the board of directors' admission criteria exceeds the seats available through the participating unit allotment, students shall be accepted by lot. (2011-241, s. 1.)

### **§ 115C-238.68. Employees.**

The board of directors shall appoint all certified and noncertified staff.

- (1) Principal. – The board of directors shall employ and contract with a principal for a term not to exceed three years. The principal shall meet the requirements for certification set out in G.S. 115C-284, unless waived by the State Board of Education upon submission of a request by the board of directors. The principal shall be responsible for school operations and shall exercise those duties and powers delegated by the board of directors.
- (2) Teachers. – The board of directors 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 teachers employed by the board of directors shall hold teacher certificates, unless waived by the State Board of Education upon submission of a request by the board of directors.
- (3) Leave of absence from local school administrative unit. – If a teacher employed by a local school administrative unit makes a written request for a leave of absence to teach at the regional school, the local school administrative unit shall grant the leave for one year. For the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 45 days before the teacher would otherwise have to report for duty. After the initial year of the regional school's operation, the local school administrative unit may require that the request for a leave of absence be made up to 90 days before the teacher would otherwise have to report for duty. A local board of education is not required to grant a request for a leave of absence or a request to extend or renew a leave of absence for a teacher who previously has received a leave of absence from that school board under this subdivision. A teacher who has received a leave of absence to teach at a regional school may return to a public school in the local school administrative unit at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. If a teacher has career status under G.S. 115C-325 prior to receiving a leave of absence to teach at the regional school, the teacher may return to a public school in the local school administrative unit with career status at the end of the leave of absence or upon the end of employment at the regional school if an appropriate position is available. If an appropriate position is unavailable, the teacher's name shall be placed on a list of available teachers in accordance with G.S. 115C-325(e)(2).

- (4) Noncertified staff. – The board of directors also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services.
- (5) Employment dismissal. – An employee of the board of directors is not an employee of the local school administrative unit in which the regional school is located. The board of directors may discharge certified and noncertified employees according to the terms of the employment contract.
- (6) Employee benefits. – Employees of the board of directors shall participate in the Teachers' and State Employees' Retirement System and the State Health Plan on the same terms as employees employed by local boards of education.
- (7) Exemptions. – Employees of the board of directors shall be exempt from Chapter 126 of the General Statutes, except Articles 6 and 7.
- (8) Paid parental leave. – Teachers employed by the board of directors shall be eligible for paid parental leave as provided in G.S. 126-8.6. The board of directors shall be eligible to receive funds as provided in G.S. 115C-336.1(b). (2011-241, ss. 1, 6(b); 2013-360, s. 9.7(e), (r); 2017-157, s. 2(d), (n); 2023-65, s. 13A.1(e).)

**§ 115C-238.69. Parent Advisory Council; purpose; appointments.**

(a) Purpose. – There shall be a Parent Advisory Council to serve as a resource and provide input to the board of directors as to the operation of a regional school. The board of directors shall consult the Parent Advisory Council when considering changes to the regional school's operations that may significantly impact students attending the regional school.

(b) Appointment. – Each local board of education of the participating units shall appoint two members to the Parent Advisory Council for a term of four years or until the member's child no longer attends the regional school. Appointees shall be parents or guardians of students attending the regional school and shall, to the extent possible, reflect the demographic composition of the participating units. (2011-241, s. 1.)

**§ 115C-238.70. State and local funds.**

(a) The State Board of Education shall allocate to a regional school:

- (1) An amount equal to the average per pupil allocation for average daily membership from the participating unit allotments for each child attending the regional school, except for the allocation for children with disabilities and for the allocation for children with limited English proficiency.
- (2) An additional amount for each child attending the regional school who is a child with disabilities. In the event a child with disabilities leaves the regional school and enrolls in a public school during the first 60 school days in the school year, the regional school shall return a pro rata amount of funds allocated for that child to the State Board, and the State Board shall reallocate those funds to the local school administrative unit in which the public school is located. In the event a child with disabilities enrolls in the regional school during the first 60 school days in the school year, the State Board shall allocate to the regional school the pro rata amount of additional funds for children with disabilities.
- (3) An additional amount for children with limited English proficiency attending the regional school, based on a formula adopted by the State Board.

(4) If the regional school has a final total average daily membership of 100 or more students, an amount to fund 12 months of employment for the school principal position.

(b) The State Board shall allow for annual adjustments to the amount allocated to the regional school based on its enrollment growth in school years subsequent to the initial year of operation.

(c) For each child who enrolls in the regional school, the participating unit in which the child resides shall transfer to the regional school an amount equal to the per pupil amount of all money appropriated to the local current expense fund for the participating unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only if the child enrolled in the regional school resides in that tax district.

(d) A regional school may request appropriations directly from a city, as authorized by G.S. 160A-700.

(e) With respect to the receipt, deposit, and disbursement of moneys (i) required by law to be deposited with the State Treasurer or (ii) made available for expenditure by warrants drawn on the State Treasurer, regional schools are subject to Article 6A of Chapter 147 of the General Statutes. (2011-241, s. 1; 2013-363, s. 3.5; 2018-5, s. 38.8(e); 2021-170, s. 4(d).)

#### **§ 115C-238.71. Finance and budget.**

(a) The local school administrative unit identified as the finance agent by resolution pursuant to G.S. 115C-238.62 shall be the finance agent for the Board and shall have all the rights, duties, and obligations for receipt, accounting, and dispersing funds for the board of directors, including all the rights, duties, and obligations specified in Article 31 of this Chapter, which powers shall be exercised by the identified local school administrative unit for and on behalf of the board of directors. The board of directors shall provide reasonable compensation to the local school administrative unit for this service.

(b) No later than 10 days after the money is appropriated to the local current expense fund, each local board of education of a participating unit shall transfer to the board of directors the amount required under G.S. 115C-238.70(c) for each child enrolled in the school who resides in that participating unit. Once it has received funds from the local board of education, the board of directors shall be under no obligation to return the funds. (2011-241, s. 1.)

#### **§ 115C-238.72. Participating units.**

(a) Transportation. – Participating units shall develop a plan to provide transportation to the students domiciled in the district.

(b) Food Service. – The local school administrative unit identified by resolution shall provide, to the extent practicable, school food services to the regional school. For purposes of federal funding through the National School Lunch Program or other federally supported food service programs, the local school administrative unit identified by resolution shall be permitted to include eligible students enrolled in the regional school. Other participating units shall not include students enrolled in the regional school for purposes of federally supported food service programs. (2011-241, s. 1.)

#### **§ 115C-238.73. Criminal history record checks.**

(a) As used in this section:

- (1) "Criminal history" means a county, state, or federal criminal history of conviction of a crime, whether a misdemeanor or a felony, that indicates an individual (i) poses a threat to the physical safety of students or personnel or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel. These crimes include the following North Carolina crimes contained in any of the following Articles of Chapter 14 of the General Statutes: Article 5A, Endangering Executive and Legislative, and Court Officers; Article 6, Homicide; Article 7B, Rape and Other Sex Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device or Material; Article 14, Burglary and Other Housebreakings; Article 15, Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A, Obtaining Property or Services by False or Fraudulent Use of Credit Device or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses Against Public Morality and Decency; Article 26A, Adult Establishments; Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31, Misconduct in Public Office; Article 35, Offenses Against the Public Peace; Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and Article 60, Computer-Related Crime. These crimes also include possession or sale of drugs in violation of the North Carolina Controlled Substances Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related offenses such as sale to underage persons in violation of G.S. 18B-302 or driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5. In addition to the North Carolina crimes listed in this subdivision, such crimes also include similar crimes under federal law or under the laws of other states.
- (2) "School personnel" means any of the following:
- a. Member of the board of directors.
  - b. Employee of the regional school.
  - c. Independent contractor or employee of an independent contractor of the regional school if the independent contractor carries out duties customarily performed by school personnel, whether paid with federal, State, local, or other funds, who has significant access to students or who has responsibility for the fiscal management of the regional school.

(b) The board of directors shall adopt a policy on whether and under what circumstances school personnel shall be required to be checked for a criminal history. The board of directors shall apply its policy uniformly in requiring school personnel to be checked for a criminal history. The board of directors may grant conditional approval of an application while the board of directors is checking a person's criminal history and making a decision based on the results of the check.

The board of directors shall not require school personnel to pay for the criminal history record check authorized under this section.

(c) The board of directors shall require the person to be checked by the Department of Public Safety (i) to be fingerprinted and to provide any additional information required by the Department of Public Safety to a person designated by the board of directors or to the local sheriff or the municipal police, whichever is more convenient for the person, and (ii) to sign a form consenting to the check of the criminal record and to the use of fingerprints and other identifying

information required by the repositories. The board of directors shall consider refusal to consent when making employment decisions and decisions with regard to independent contractors. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Public Safety shall provide to the board of directors the criminal history from the State and National Repositories of Criminal Histories of any school personnel for which the board of directors requires a criminal history record check.

The board of directors shall not require school personnel to pay for the fingerprints authorized under this section.

(d) The board of directors shall review the criminal history it receives on an individual. The board of directors shall determine whether the results of the review indicate that the individual (i) poses a threat to the physical safety of students or personnel or (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her duties as school personnel and shall use the information when making employment decisions and decisions with regard to independent contractors. The board of directors shall make written findings with regard to how it used the information when making employment decisions and decisions with regard to independent contractors. The board of directors may delegate any of the duties in this subsection to the principal.

(e) The board of directors, or the principal if designated by the board of directors, shall provide to the State Board of Education the criminal history it receives on a person who is certificated, certified, or licensed by the State Board of Education. The State Board of Education shall review the criminal history and determine whether the person's certificate or license should be revoked in accordance with State laws and rules regarding revocation.

(f) All the information received by the board of directors through the checking of the criminal history or by the State Board of Education in accordance with this section is privileged information and is not a public record but is for the exclusive use of the board of directors or the State Board of Education. The board of directors or the State Board of Education may destroy the information after it is used for the purposes authorized by this section after one calendar year.

(g) There shall be no liability for negligence on the part of the board of directors, or its employees, or the State Board of Education, the Superintendent of Public Instruction, or any of their members or employees, individually or collectively, arising from any act taken or omission by any of them in carrying out the provisions of this section. The immunity established by this subsection shall not extend to gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity established by this subsection shall be deemed to have been waived to the extent of indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

(h) Any applicant for employment who willfully furnishes, supplies, or otherwise gives false information on an employment application that is the basis for a criminal history record check under this section shall be guilty of a Class A1 misdemeanor.

(i) The board of directors may adopt a policy providing for uniform periodic checks of criminal history of employees. Boards of directors shall not require employees to pay for the criminal history check authorized under this subsection. A board of directors shall indicate, upon inquiry by any other local board of education, charter school, or regional school in the State as to the reason for an employee's resignation or dismissal. If a teacher's criminal history is relevant to a

teacher's resignation, the board of directors shall report to the State Board of Education the reason for an employee's resignation. (2011-241, s. 1; 2014-100, s. 17.1(o); 2015-181, s. 47; 2016-126, 4th Ex. Sess., s. 19; 2017-189, s. 4(b).)

§ 115C-238.74. Reserved for future codification purposes.

§ 115C-238.75. Reserved for future codification purposes.

§ 115C-238.76. Reserved for future codification purposes.

§ 115C-238.77. Reserved for future codification purposes.

§ 115C-238.78. Reserved for future codification purposes.

§ 115C-238.79. Reserved for future codification purposes.

#### Part 11. North Carolina Virtual Education Program.

#### § 115C-238.80. Definitions.

The following definitions apply in this Part:

- (1) ADM. – Average daily membership.
- (2) NCVPS. – The North Carolina Virtual Public School program, as established by this Part.
- (3) Nonpublic school student. – A student enrolled in a school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter as identified by the Division of Nonpublic Education, Department of Administration.
- (4) Out-of-state student. – A student who is not qualified to be assigned to a public school in a local school administrative unit in North Carolina pursuant to G.S. 115C-366. (2019-51, s. 2.1.)

#### § 115C-238.81. Administration of the North Carolina Virtual Public School program.

(a) NCVPS shall be administered by the Department of Public Instruction in accordance with this Part. NCVPS is not a public school unit, as defined in G.S. 115C-5(11).

(b) NCVPS shall be responsible for the following:

- (1) Ensuring access to e-learning course offerings for students residing in rural and low-wealth public school units, in order to expand available instructional opportunities.
- (2) Providing e-learning instructional opportunities for courses required as part of the standard course of study for high school graduation and for Advanced Placement (AP) offerings when not otherwise available to students.
- (3) Establishing NCVPS course quality standards that meet the standards set by the State Board of Education.
- (4) Aligning all courses offered through NCVPS with the North Carolina Standard Course of Study.

(c) Within funds available, NCVPS shall provide NCVPS courses at no cost to all students in North Carolina who are enrolled in North Carolina's public school units, Department of Defense



schools, schools operated by The University of North Carolina under Articles 4 and 29 of Chapter 116 of the General Statutes, and schools operated by the Bureau of Indian Affairs.

(d) NCVPS courses shall be available to nonpublic school students and out-of-state students. The State Board of Education shall establish a separate per-student, per-course tuition for nonpublic school students and out-of-state students which shall be adjusted upward from the in-State student fee structure by an amount determined appropriate by the State Board of Education.

(e) NCVPS shall implement a plan, approved by the State Board of Education, to generate revenue from the sale of courses to out-of-state educational entities. Revenue generated by NCVPS under this subsection shall be used to offset instructional costs to public school units pursuant to G.S. 115C-238.82(d)(3). (2019-51, s. 2.1; 2020-56, s. 6(c).)

**§ 115C-238.82. Allotment formula; adjustments to other allotments; enrollment reserve.**

(a) The State Board of Education shall implement an allotment formula for NCVPS as follows:

- (1) Project NCVPS student enrollment by semester and year-long course types for each public school unit.
- (2) Establish a per-student, per-course teacher payment structure for the instructional costs of NCVPS. In establishing this payment structure, the State Board of Education shall consider the following:
  - a. The payment structure shall be based on a total compensation analysis to ensure NCVPS teacher pay has parity with similar programs. The total compensation analysis shall take into account salaries, benefits, and work effort to ensure valid comparisons between occupations.
  - b. The effects any change in NCVPS teacher payments may have on the attraction and retention of NCVPS teachers.
- (3) Develop a per-student, per-course fee structure that is based on the per-student, per-course teacher pay structure. The per-student, per-course fee structure shall ensure that the projected cost for public school units equals the projected instructional cost for NCVPS courses. The State Board of Education shall consider recommendations from the NCVPS Advisory Council in establishing a per-student, per-course fee structure.
- (4) Multiply the per-student, per-course fees by the projected enrollment by course type to determine the total instructional cost for each public school unit.
- (5) Transfer a dollar amount equal to seventy-five percent (75%) of the public school unit's projected instructional cost from the classroom teacher allotment to NCVPS.
- (6) No later than February 28 of each year, calculate the actual instructional cost for each public school unit based upon actual NCVPS enrollment as of that date.
- (7) Subtract the amount transferred pursuant to subdivision (5) of this subsection from the actual instructional cost for each public school unit and transfer the remaining dollar amount owed, up to a maximum of one hundred percent (100%) of the projected cost.
- (8) Develop and implement a policy regarding returning funds to public school units in cases where the amount transferred pursuant to subdivision (5) of this subsection exceeds the actual instructional cost.

(b) The State Board of Education shall reduce each public school unit's classroom teacher allotment, or other allotment, as determined by the State Board of Education, on the basis of ADM in grades six through 12 to support the State-level operations and administration of NCVPS. The allotment reduction to support the State-level operations and administration of NCVPS shall be based on the reduction taken from the prior fiscal year but shall be adjusted annually based upon the percentage growth in NCVPS enrollment to ensure the expansion of services due to increased student enrollment in NCVPS courses.

(c) An NCVPS enrollment reserve fund shall be maintained in an amount of at least two million dollars (\$2,000,000). For each fiscal year, the State Board of Education shall reduce each public school unit's classroom teacher allotment, or other allotment, as determined by the State Board of Education, on the basis of ADM in grades six through 12 by an amount that is the difference between two million dollars (\$2,000,000) and the balance of the NCVPS enrollment reserve. The funds in the NCVPS enrollment reserve fund shall not revert and shall be used to cover the NCVPS instructional cost of students enrolled in (i) public school units with enrollments exceeding projected NCVPS enrollment, (ii) Department of Defense schools, and (iii) schools operated by the Bureau of Indian Affairs.

(d) Only the following funds shall be used to cover the instructional costs of NCVPS:

- (1) Funds provided through the NCVPS allotment formula, as established by subsection (a) of this section.
- (2) Funds provided through the NCVPS enrollment reserve, as set forth in subsection (c) of this section.
- (3) Funds from the sale of courses to out-of-state educational entities, pursuant to G.S. 115C-238.81(d).
- (4) Local funds, including funds from private sources.
- (5) Federal funds.
- (6) The Special State Reserve Funds for Children and Youth with Disabilities.
- (7) The ADM Contingency Reserve. (2019-51, s. 2.1.)

#### **§ 115C-238.83. NCVPS Advisory Council.**

The State Board of Education shall establish the NCVPS Advisory Council to review NCVPS strategic planning, operational initiatives, and readiness for twenty-first century online learning. The membership of the Advisory Council, as appointed by the State Board of Education, shall consist of key stakeholders across the State with expertise in online learning from a variety of fields, including elementary and secondary education, business, universities and colleges, and the community at large. (2019-51, s. 2.1.)

#### **§ 115C-238.84. NCVPS reporting requirements.**

The Department of Public Instruction shall submit an annual report on the operation of NCVPS to the State Board of Education no later than December 15 of each year. The report shall use data from the previous fiscal year and shall include statistics on actual versus projected costs to public school units, student enrollment, virtual teacher salaries, and measures of academic achievement. (2019-51, s. 2.1.)

#### **§ 115C-238.85. Other virtual education providers.**

Local school administrative units may partner with eligible providers other than NCVPS for e-learning opportunities. Eligible providers shall meet all of the following:

- (1) Be accredited by a regional accrediting agency such as, but not limited to, AdvancEd or the Southern Association of Colleges and Schools (SACS).
- (2) Employ teachers who hold teaching licenses from states that participate in the NASDTEC Educator Identification Clearinghouse.
- (3) Ensure that courses offered to North Carolina students are aligned to the North Carolina Standard Course of Study. (2019-51, s. 2.1.)