

## SUBCHAPTER X. PRIVATE AND PROPRIETARY SCHOOLS.

### Article 39.

#### Nonpublic Schools.

##### Part 1. Private Church Schools and Schools of Religious Charter.

#### **§ 115C-547. Policy.**

In conformity with the Constitutions of the United States and of North Carolina, it is the public policy of the State in matters of education that "No human authority shall, in any case whatever, control or interfere with the rights of conscience," or with religious liberty and that "religion, morality and knowledge being necessary to good government and the happiness of mankind . . . the means of education shall forever be encouraged." (1979, c. 505; 1981, c. 423, s. 1.)

#### **§ 115C-548. Attendance; health and safety regulations.**

Each private church school or school of religious charter shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to these schools so that they can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to these schools so that they can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to these schools so that they can provide information annually on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to these schools so that they can provide information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with Article 5A of Chapter 7B of the General Statutes. (1979, c. 505; 1981, c. 423, s. 1; 2004-118, s. 4; 2007-59, s. 3; 2007-126, s. 3; 2013-307, s. 1.2; 2023-14, s. 6.2(j).)

#### **§ 115C-548.1. Athletic teams.**

(a) Any private church school or school of religious charter that is a member of an organization that administers interscholastic athletic activities pursuant to Article 29E of this Chapter shall comply with G.S. 115C-12(23).

(b) Any athletic team organized by a private church school or school of religious charter at the middle or high school level that is not covered by subsection (a) of this section shall comply with G.S. 115C-12(23) if the team is playing a team from any school required to follow G.S. 115C-12(23). (2023-109, s. 1(e).)

#### **§ 115C-549. Standardized testing requirements.**

(a) Each private church school or school of religious charter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine, as follows:

- (1) For grades three and six, the nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics.
- (2) For grade nine, the nationally standardized test or other equivalent measurement selected must measure either of the following:
  - a. Achievement in the areas of English grammar, reading, spelling, and mathematics.
  - b. Competencies in the verbal and quantitative areas.

(b) Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina. (1979, c. 505; 1981, c. 423, s. 1; 1987, c. 738, s. 180(b); 2004-199, s. 30(a); 2021-111, s. 1(a).)

#### **§ 115C-550. High school competency testing.**

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each private church school or school of religious charter shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each private church school or school of religious charter shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina. (1979, c. 505; 1981, c. 423, s. 1; 2004-199, s. 30(b).)

#### **§ 115C-551. Voluntary participation in the State programs.**

(a) Any private church school or school of religious charter may, on a voluntary basis, participate in any State operated or sponsored program which would otherwise be available to such school, including but not limited to the high school competency testing and statewide testing programs.

(b) All private church schools and all schools of religious charter are encouraged to do the following:

- (1) School Risk Management Plan. – In coordination with local law enforcement agencies, adopt a School Risk Management Plan (SRMP) relating to incidents of school violence. In constructing and maintaining these plans, the school may utilize the School Risk and Response Management System (SRRMS) established pursuant to G.S. 115C-105.49A. These plans are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.
- (2) Schematic diagrams and school crisis kits. – Provide schematic diagrams and keys to the main entrance of school facilities to local law enforcement agencies, in addition to implementing the provisions in G.S. 115C-105.52.
- (3) School safety exercises. – At least once a year, hold a full school-wide lockdown exercise with local law enforcement and emergency management agencies that are part of the private school's SRMP.
- (4) Safety information provided to the Department of Public Safety, Division of Emergency Management. – Provide the following: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency response information requested by the Division for the SRMP. The schematic diagrams and emergency response information are not considered public records as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6. (1979, c. 505; 1981, c. 423, s. 1; 2023-78, s. 5(h).)

**§ 115C-552. New school notice requirements; termination.**

(a) Any new school to which this Part relates shall send to a duly authorized representative of the State of North Carolina a notice of intent to operate, name and address of the school, and name of the school's owner and chief administrator.

(b) Any school to which this Part applies shall notify a duly authorized representative of the State of North Carolina upon termination of the school. (1979, c. 505; 1981, c. 423, s. 1.)

**§ 115C-553. Duly authorized representative.**

The duly authorized representative of the State of North Carolina to whom reports of commencing operation and termination shall be made and who may inspect certain records under this Part shall be designated by the Governor. (1979, c. 505; 1981, c. 423, s. 1.)

**§ 115C-554. Requirements exclusive.**

No school, operated by any church or other organized religious group or body as part of its religious ministry, which complies with the requirements of this Part shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization. (1979, c. 505; 1981, c. 423, s. 1.)

Part 2. Qualified Nonpublic Schools.

**§ 115C-555. Qualification of nonpublic schools.**

The provisions of this Part shall apply to any nonpublic school which has one or more of the following characteristics:

- (1) It is accredited by the State Board of Education.
- (2) It is accredited by a national or regional accrediting agency.
- (3) It is an active member of the North Carolina Association of Independent Schools.
- (4) It receives no funding from the State of North Carolina. For the purposes of this Article, scholarship funds awarded pursuant to Part 2A of this Article or Article 41 of this Chapter to eligible students attending a nonpublic school shall not be considered funding from the State of North Carolina. (1979, c. 506; 1981, c. 423, s. 1; 2013-360, s. 8.29(c); 2017-57, s. 10A.4(c); 2021-180, s. 8A.3(p).)

**§ 115C-556. Attendance; health and safety regulations.**

Each qualified nonpublic school shall make, and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. Attendance by a child at any school to which this Part relates and which complies with this Part shall satisfy the requirements of compulsory school attendance so long as the school operates on a regular schedule, excluding reasonable holidays and vacations, during at least nine calendar months of the year. Each school shall be subject to reasonable fire, health and safety inspections by State, county and municipal authorities as required by law.

The Division of Nonpublic Education, Department of Administration, shall ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about meningococcal meningitis and influenza and their vaccines at the beginning of every school year. This information may be provided electronically or on the Division's Web page. This information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that materials are provided to each qualified nonpublic school so that the school can provide parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to each qualified nonpublic school so that the school can provide information annually on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care.

The Division of Nonpublic Education, Department of Administration, shall also ensure that information is available to each qualified nonpublic school so that the school can provide information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with Article 5A of Chapter 7B of the General Statutes. (1979, c. 506; 1981, c. 423, s. 1; 2004-118, s. 5; 2007-59, s. 4; 2007-126, s. 4; 2013-307, s. 1.3; 2023-14, s. 6.2(k).)

**§ 115C-556.1. Athletic teams.**

(a) Any qualified nonpublic school that is a member of an organization that administers interscholastic athletic activities pursuant to Article 29E of this Chapter shall comply with G.S. 115C-12(23).

(b) Any athletic team organized by a qualified nonpublic school at the middle or high school level that is not covered by subsection (a) of this section shall comply with G.S. 115C-12(23) if the team is playing a team from any school required to follow G.S. 115C-12(23). (2023-109, s. 1(f).)

#### **§ 115C-557. Standardized testing requirements.**

(a) Each qualified nonpublic school shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine, as follows:

- (1) For grades three and six, the nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics.
- (2) For grade nine, the nationally standardized test or other equivalent measurement selected must measure either of the following:
  - a. Achievement in the areas of English grammar, reading, spelling, and mathematics.
  - b. Competencies in the verbal and quantitative areas.

(b) Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina. (1979, c. 506; 1981, c. 423, s. 1; 1987, c. 738, s. 180(c); 2004-199, s. 30(c); 2021-111, s. 1(b).)

#### **§ 115C-558. High school competency testing.**

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each qualified nonpublic school shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each qualified nonpublic school shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina. (1979, c. 506; 1981, c. 423, s. 1; 2004-199, s. 30(d).)

#### **§ 115C-559. Voluntary participation in the State programs.**

(a) Any qualified nonpublic school may, on a voluntary basis, participate in any State operated or sponsored program which would otherwise be available to such school, including but not limited to the high school competency testing and statewide testing programs.

(b) All qualified nonpublic schools are encouraged to do the following:

- (1) School Risk Management Plan. – In coordination with local law enforcement agencies, adopt a School Risk Management Plan (SRMP) relating to incidents of school violence. In constructing and maintaining these plans, the school may utilize the School Risk and Response Management System (SRRMS) established pursuant to G.S. 115C-105.49A. These plans are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.
- (2) Schematic diagrams and school crisis kits. – Provide schematic diagrams and keys to the main entrance of school facilities to local law enforcement agencies, in addition to implementing the provisions in G.S. 115C-105.52.
- (3) School safety exercises. – At least once a year, hold a full school-wide lockdown exercise with local law enforcement and emergency management agencies that are part of the qualified nonpublic school's SRMP.
- (4) Safety information provided to the Department of Public Safety, Division of Emergency Management. – Provide the following: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency response information requested by the Division for the SRMP. The schematic diagrams and emergency response information are not considered public records as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6. (1979, c. 506; 1981, c. 423, s. 1; 2023-78, s. 5(i).)

**§ 115C-560. New school notice requirements; termination.**

(a) Any new school to which this Part relates shall send to a duly authorized representative of the State of North Carolina a notice of intent to operate, name and address of the school, and name of the school's owner and chief administrator.

(b) Any school to which this Part applies shall notify a duly authorized representative of the State of North Carolina upon termination of the school. (1979, c. 506; 1981, c. 423, s. 1.)

**§ 115C-561. Duly authorized representative.**

The duly authorized representative of the State of North Carolina to whom reports of commencing operation and termination shall be made and who may inspect certain records under this Part shall be designated by the Governor. (1979, c. 506; 1981, c. 423, s. 1.)

**§ 115C-562. Requirements exclusive.**

No qualifying nonpublic school, which complies with the requirements of this Part, shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation and immunization. (1979, c. 506; 1981, c. 423, s. 1.)

Part 2A. Scholarship Grants.

**§ 115C-562.1. Definitions.**

The following definitions apply in this Part:

- (1) Authority. – The State Education Assistance Authority.
- (2) Division. – The Division of Nonpublic Education, Department of Administration.

- (3) Eligible students. – A student residing in North Carolina who has not yet received a high school diploma and who meets all of the following requirements:
- a. Meets one of the following criteria:
    1. Was a student (i) assigned to and attending a public school full time pursuant to G.S. 115C-366 or (ii) enrolled full time in a Department of Defense Elementary and Secondary School, established pursuant to 10 U.S.C. § 2164 and located in North Carolina, during the spring semester prior to the school year for which the student is applying.
    2. Received a scholarship grant for the school year prior to the school year for which the student is applying.
    3. Is eligible to enter kindergarten, first grade, or second grade pursuant to Article 25 of this Chapter. A child who is the age of four on or before April 16 is eligible to attend the following school year if the principal, or equivalent, of the school in which the child seeks to enroll finds that the student meets the requirements established by the Authority pursuant to G.S. 115C-562.2(d) and those findings are submitted to the Authority with the child's application.
    4. Is a child in foster care as defined in G.S. 131D-10.2(9).
    5. Is a child whose adoption decree was entered not more than one year prior to submission of the scholarship grant application.
    6. Is a child whose parent or legal guardian (i) is on full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301, et seq., and 10 U.S.C. § 12401, et seq., or (ii) receives an honorable discharge as an active duty member from the uniformed service of the United States within 12 months prior to application.
    7. Is a child who meets both of the following:
      - I. Was enrolled in a nonpublic school that meets the requirements of Part 1 and Part 2 of this Article during the spring semester prior to the school year for which the student is applying.
      - II. Was enrolled for the entire school year immediately prior to the school year in which the student enrolled in the nonpublic school in one of the following:
        - A. A North Carolina public school.
        - B. A Department of Defense Elementary and Secondary School established pursuant to 10 U.S.C. § 2164 and located in North Carolina.
  - a1. Has not enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit.
  - b. Meets one of the following criteria:

1. Resides in a household with an income level not in excess of two hundred percent (200%) of the amount required for the student to qualify for the federal free or reduced-price lunch program. The Authority shall not count any distribution from the estate of a decedent in calculating the income level of the applicant's household for the purposes of determining eligibility for a scholarship under this sub-sub-subdivision.
  2. Is a child in foster care as defined in G.S. 131D-10.2. The Authority shall not consider the household income of the foster parent, as defined in G.S. 131D-10.2, in determining the eligibility of a foster care child.
- (3c) Full-time student. – A student enrolled exclusively in a nonpublic school for elementary or secondary education whose parents have released the local school administrative unit the student is eligible to attend under G.S. 115C-366 of all obligations to educate the eligible student while the eligible student is receiving a scholarship grant under this Part.
- (4) Local school administrative unit. – A local school administrative unit, charter school, or regional school.
- (5) Nonpublic school. – A school that meets the requirements of Part 1 or Part 2 of this Article as identified by the Division.
- (5c) Part-time student. – A student enrolled part time in a public school and part time in a nonpublic school.
- (5e) Reserve. – The Opportunity Scholarship Grant Fund Reserve established under G.S. 115C-562.8.
- (6) Scholarship grants. – Grants awarded annually by the Authority to eligible students. (2013-360, s. 8.29(a); 2016-94, s. 11A.3(a), (d); 2018-97, s. 2.12(a); 2018-145, s. 1(d); 2020-97, s. 3.3(c); 2021-180, s. 8A.3(c); 2022-6, s. 2.13(a); 2022-74, ss. 8A.1(b), 8A.4(a).)

**§ 115C-562.2. Scholarship grants.**

(a) The Authority shall make available no later than February 1 annually applications to eligible students for the award of scholarship grants to attend any nonpublic school. Information about scholarship grants and the application process shall be made available on the Authority's Web site. Beginning March 15, the Authority shall begin awarding scholarship grants according to the following criteria:

- (1) First priority shall be given to eligible students who received a scholarship grant for the school year prior to the school year for which the students are applying if those students have applied by March 1.
- (2) After scholarship grants have been awarded to prior recipients as provided in subdivision (1) of this subsection, scholarships shall be awarded with remaining funds as follows:
  - a. At least fifty percent (50%) of the remaining funds shall be used to award scholarship grants to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program.



- b. Repealed by Session Laws 2020-97, s. 3.3(a), effective September 4, 2020.
- c. Any remaining funds shall be used to award scholarship grants to all other eligible students.

(b) Scholarship grants awarded to eligible students residing in households with an income level not in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be, per year per eligible student, in an amount of up to ninety percent (90%) as a full-time student or up to forty-five percent (45%) as a part-time student of the average State per pupil allocation for average daily membership in the prior fiscal year. Scholarship grants awarded to eligible students residing in households with an income level in excess of the amount required for the student to qualify for the federal free or reduced-price lunch program shall be for amounts of not more than ninety percent (90%) of the required tuition and fees as a full-time student or forty-five percent (45%) of the required tuition and fees as a part-time student for the nonpublic school the eligible child will attend. Tuition and fees for a nonpublic school may include tuition and fees for books, transportation, equipment, or other items required by the nonpublic school. No scholarship grant shall exceed, per year per eligible student, an amount equal to ninety percent (90%) for a full-time student or forty-five percent (45%) for a part-time student of the average State per pupil allocation for average daily membership in the prior fiscal year, and no scholarship grant shall exceed the required tuition and fees for the nonpublic school the eligible student will attend.

(b1) Repealed by Session Laws 2021-180, s. 8A.3(e), effective July 1, 2021.

(c) The Authority shall permit an eligible student receiving a scholarship grant to enroll in a different nonpublic school and remain eligible. An eligible student receiving a scholarship grant who transfers to another nonpublic school during the year may be eligible to receive a pro rata share of any unexpended portion of the scholarship grant for tuition and fees at the nonpublic school to which the student transfers.

(d) The Authority shall establish rules and regulations for the administration and awarding of scholarship grants and shall include a rule regarding the early admission of four-year-old children that establishes the same factors for eligibility as the rule adopted by the State Board of Education pursuant to G.S. 115C-364(d). The Authority may include in those rules a lottery process for selection of scholarship grant recipients within the criteria established by this section.

(e) Scholarship applications and personally identifiable information related to eligible students receiving scholarship grants shall not be a public record under Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable information means any information directly related to a student or members of a student's household, including the name, birthdate, address, Social Security number, telephone number, e-mail address, financial information, or any other information or identification number that would provide information about a specific student or members of a specific student's household. (2013-360, s. 8.29(a); 2014-100, s. 8.25(a), (b); 2016-94, s. 11A.3(b), (e); 2018-145, s. 1(e); 2020-97, s. 3.3(a); 2021-180, s. 8A.3(d), (e); 2022-74, s. 8A.4(b).)

### **§ 115C-562.3. Verification of eligibility; information from other State agencies.**

(a) The Authority may seek verification of information on any application for scholarship grants from eligible students. The Authority shall select and verify six percent (6%) of applications annually, including those with apparent errors on the face of the application. The Authority shall establish rules for the verification process and may use the federal verification requirements

process for free and reduced-price lunch applications as guidance for those rules. If a household fails to cooperate with verification efforts, the Authority shall revoke the award of the scholarship grant to the eligible student.

(b) Household members of applicants for scholarship grants shall authorize the Authority to access information needed for verification efforts held by other State agencies, including the Department of Revenue, the Department of Health and Human Services, and the Department of Public Instruction. The Department of Public Instruction shall provide the Authority with public school enrollment information to establish eligibility pursuant to G.S. 115C-562.1(3)a., as needed.

(c) By December 1 of each year, the Department of Public Instruction shall provide the Authority the average State per pupil allocation for that fiscal year to determine the maximum scholarship amount for eligible students to be awarded in the following fiscal year in accordance with G.S. 115C-562.2(b). (2013-360, s. 8.29(a); 2014-100, s. 8.25(c); 2021-180, s. 8A.3(f).)

#### **§ 115C-562.4. Identification of nonpublic schools and distribution of scholarship grant information.**

(a) The Division shall provide annually by February 1 to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1 or Part 2 of this Article. The Division shall notify the Authority of any schools included in the list that the Division has determined to be ineligible within five business days of the determination of ineligibility.

(b) The Authority shall provide information about the scholarship grant program to the Division, including applications and the obligations of nonpublic schools accepting eligible students receiving scholarship grants. The Division shall ensure that information about the scholarship grant program is provided to all qualified nonpublic schools on an annual basis. (2013-360, s. 8.29(a).)

#### **§ 115C-562.5. Obligations of nonpublic schools accepting eligible students receiving scholarship grants.**

(a) A nonpublic school that accepts eligible students receiving scholarship grants shall comply with the following:

- (1) Provide to the Authority documentation for required tuition and fees charged to the student by the nonpublic school.
- (2) Provide to the Authority a criminal background check conducted for the staff member with the highest decision-making authority, as defined by the bylaws, articles of incorporation, or other governing document. Information provided to the Authority in accordance with this subdivision is privileged information and is not a public record but is for the exclusive use of the Authority.
- (3) Provide to the parent or guardian of an eligible student, whose tuition and fees are paid in whole or in part with a scholarship grant, an annual written explanation of the student's progress, including the student's scores on standardized achievement tests.
- (4) Administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of the nonpublic school to all eligible students whose tuition and fees are paid in whole or in part with a scholarship grant enrolled in grades three and higher. For grades three through eight, the nationally standardized test or other equivalent measurement selected must measure

achievement in the areas of English grammar, reading, spelling, and mathematics. For grades nine through 12, the nationally standardized test or other equivalent measurement selected must measure either (i) achievement in the areas of English grammar, reading, spelling, and mathematics or (ii) competencies in the verbal and quantitative areas. Test performance data shall be submitted to the Authority by July 15 of each year. Test performance data reported to the Authority under this subdivision is not a public record under Chapter 132 of the General Statutes.

- (5) Provide to the Authority graduation rates of the students receiving scholarship grants in a manner consistent with nationally recognized standards.
- (6) Contract with a certified public accountant to perform a financial review, consistent with generally accepted accounting principles, for each school year in which the school enrolls 70 or more students receiving scholarship grants or scholarship funds awarded by the Authority.

(b) A nonpublic school that accepts students receiving scholarship grants shall not require any additional fees based on the status of the student as a scholarship grant recipient.

(c) A nonpublic school enrolling more than 25 students whose tuition and fees are paid in whole or in part with a scholarship grant shall report to the Authority on the aggregate standardized test performance of eligible students. Aggregate test performance data reported to the Authority which does not contain personally identifiable student data shall be a public record under Chapter 132 of the General Statutes. Test performance data may be shared with public or private institutions of higher education located in North Carolina and shall be provided to an independent research organization selected by the Authority for research purposes as permitted by the Federal Education Rights and Privacy Act, 20 U.S.C. § 1232g.

(c1) A nonpublic school shall not discriminate with respect to the categories listed in 42 U.S.C. § 2000d, as that statute read on January 1, 2014.

(d) If the Authority determines that a nonpublic school is not in compliance with the requirements of this section, the nonpublic school shall be ineligible to receive future scholarship funds. The nonpublic school shall notify the parent or guardian of any enrolled student receiving a scholarship grant that the nonpublic school is no longer eligible to receive future scholarship grants. The Authority shall establish by rule a process for a nonpublic school to appeal for reconsideration of eligibility after one year. To ensure compliance, the Board of Directors of the Authority shall review the criminal history provided under subdivision (2) of subsection (a) of this section to ensure that the person has not been convicted of any crime listed in G.S. 115C-332. The Board shall determine through this review whether the nonpublic school is noncompliant with this section. The Board shall make written findings with regard to how the criminal history information was used when making the compliance determination. The Board of Directors may delegate any of the duties in this subsection to the Executive Director of the Authority. As part of its review, the Board shall determine whether the results indicate that the staff member has any of the following disqualifying characteristics:

- (1) Poses a threat to the physical safety of students or personnel.
- (2) Demonstrates that he or she does not have the integrity or honesty to fulfill his or her duties in overseeing State funds and the requirements of the scholarship grant program.
- (3) Has not fully satisfied the criminal sentencing obligations imposed following his or her conviction by a court of competent jurisdiction. (2013-360, s.

8.29(a); 2014-100, s. 8.25(d), (d1); 2021-111, s. 1(c); 2022-74, s. 8A.5(a)-(c).)

**§ 115C-562.6. Scholarship endorsement.**

The Authority shall remit, at least two times each school year, scholarship grant funds awarded to eligible students to the nonpublic school for endorsement by at least one of the student's parents or guardians. The parent or guardian shall restrictively endorse the scholarship grant funds awarded to the eligible student for deposit into the account of the nonpublic school to the credit of the eligible student. The parent or guardian shall not designate any entity or individual associated with the nonpublic school as the parent's attorney-in-fact to endorse the scholarship grant funds. A parent's or guardian's failure to comply with this section shall result in forfeit of the scholarship grant. A scholarship grant forfeited for failure to comply with this section shall be returned to the Authority to be awarded to another student. (2013-360, s. 8.29(a); 2017-57, s. 10A.2(b).)

**§ 115C-562.7. Authority reporting requirements.**

- (a) Repealed by Session Laws 2014-100, s. 8.25(e), effective August 7, 2014.
- (b) The Authority shall report annually, no later than October 15, to the Joint Legislative Education Oversight Committee on the following information from the prior school year:
  - (1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship grants.
  - (2) Total amount of scholarship grant funding awarded.
  - (3) Number of students previously enrolled in local school administrative units or charter schools in the prior semester by the previously attended local school administrative unit or charter school.
  - (4) Nonpublic schools in which scholarship grant recipients are enrolled, including numbers of scholarship grant students at each nonpublic school.
  - (5) Nonpublic schools deemed ineligible to receive scholarships.
- (c) The Authority shall report annually, no later than December 1, to the Department of Public Instruction and the Joint Legislative Education Oversight Committee on the following:
  - (1) Learning gains or losses of students receiving scholarship grants. The report shall include learning gains of participating students on a statewide basis and shall compare, to the extent possible, the learning gains or losses of eligible students by nonpublic school to the statewide learning gains or losses of public school students with similar socioeconomic backgrounds, using aggregate standardized test performance data provided to the Authority by nonpublic schools and by the Department of Public Instruction.
  - (2) Competitive effects on public school performance on standardized tests as a result of the scholarship grant program. The report shall analyze the impact of the availability of scholarship grants on public school performance on standardized tests by local school administrative units to the extent possible, and shall provide comparisons of the impact by geographic region and between rural and urban local school administrative units.

This report shall be conducted by an independent research organization to be selected by the Authority, which may be a public or private entity or university. The independent research organization shall report to the Authority on the results of its research. The Joint Legislative Education Oversight Committee shall review reports from the Authority and shall make ongoing

recommendations to the General Assembly as needed regarding improving administration and accountability for nonpublic schools accepting students receiving scholarship grants. (2013-360, s. 8.29(a); 2014-100, s. 8.25(e), (f); 2018-5, s. 10A.1(e).)

**§ 115C-562.8. The Opportunity Scholarship Grant Fund Reserve.**

(a) The Opportunity Scholarship Grant Fund Reserve is established as a reserve to be administered by the Board of Governors of The University of North Carolina for the purpose of allocating funds to the Authority for the award of scholarship grants in accordance with this Part. The Reserve shall consist of monies appropriated from the General Fund to the Reserve by the General Assembly and any interest accrued to it thereon. These funds shall be used to award scholarship grants to eligible students for the school year that begins in the fiscal year following the fiscal year in which the appropriation is made to the Reserve. The Board of Governors shall only use monies in the Reserve in accordance with the purposes set forth in this section. Funds appropriated in a particular fiscal year to be used for the award of scholarships in the following fiscal year that are unexpended at the end of the fiscal year after the fiscal year in which the funds were appropriated shall be first used for the purpose set forth in subdivision (1) of subsection (d) of this section, if applicable. After funds are used for this purpose, any unexpended funds from the funds appropriated in a particular fiscal year to be used for the award of scholarships in the following fiscal year shall be carried forward for one fiscal year and may be used for the purposes set forth in this section. Funds carried forward pursuant to this section that have not been spent within one fiscal year shall revert to the General Fund.

(b) The General Assembly finds that, due to the critical need in this State to provide opportunity for school choice for North Carolina students, it is imperative that the State provide an increase of funds for 15 years to the Opportunity Scholarship Grant Fund Reserve. Therefore, there is appropriated from the General Fund to the Reserve the following amounts for each fiscal year to be used for the purposes set forth in this section:

<b>Fiscal Year</b>	<b>Appropriation</b>
2017-2018	\$44,840,000
2018-2019	\$54,840,000
2019-2020	\$64,840,000
2020-2021	\$74,840,000
2021-2022	\$84,840,000
2022-2023	\$94,840,000
2023-2024	\$176,540,000
2024-2025	\$191,540,000
2025-2026	\$206,540,000
2026-2027	\$221,540,000
2027-2028	\$236,540,000
2028-2029	\$251,540,000
2029-2030	\$266,540,000
2030-2031	\$281,540,000
2031-2032	\$296,540,000

For the 2032-2033 fiscal year and each fiscal year thereafter, there is appropriated from the General Fund to the Reserve the sum of three hundred eleven million five hundred forty thousand dollars (\$311,540,000) to be used for the purposes set forth in this section. When developing the base budget, as defined by G.S. 143C-1-1, for each fiscal year specified in this subsection, the

Director of the Budget shall include the appropriated amount specified in this subsection for that fiscal year.

(c) Of the funds allocated to the Authority to award scholarship grants under this Part, the Authority may retain up to two and one-half percent (2.5%) of the funds appropriated each fiscal year for administrative costs associated with the scholarship grant program.

(d) Any unexpended funds at the end of a fiscal year from the funds appropriated in a particular fiscal year to be used for the award of scholarships in the following fiscal year shall be used as follows:

- (1) Up to five hundred thousand dollars (\$500,000) may be used by the Authority to contract with a nonprofit corporation representing parents and families for outreach and scholarship education and application assistance for parents and students pursuant to Part 4A of this Article.
- (2) Any remaining funds shall be carried forward for one fiscal year pursuant to subsection (a) of this section. (2016-94, s. 11A.3(f), (g); 2017-57, s. 6.6(b), (g); 2021-180, s. 8A.3(g), (i), (j); 2022-74, s. 8A.1(a).)

### Part 3. Home Schools.

#### **§ 115C-563. Definitions.**

As used in this Part or Parts 1 and 2 of this Article:

(a) "Home school" means a nonpublic school consisting of the children of not more than two families or households, where the parents or legal guardians or members of either household determine the scope and sequence of academic instruction, provide academic instruction, and determine additional sources of academic instruction.

(b) "Duly authorized representative of the State" means the Director, Division of Nonpublic Education, or his staff. (1987 (Reg. Sess., 1988), c. 891, s. 1; 2013-57, s. 1.)

#### **§ 115C-564. Qualifications and requirements.**

A home school shall make the election to operate under the qualifications of either Part 1 or Part 2 of this Article and shall meet the requirements of the Part elected, except that any requirement related to safety and sanitation inspections shall be waived if the school operates in a private residence and except that testing requirements in G.S. 115C-549 and G.S. 115C-557 shall be on an annual basis. The persons providing academic instruction in a home school shall hold at least a high school diploma or its equivalent. (1987 (Reg. Sess., 1988), c. 891, s. 1.)

#### **§ 115C-565. Requirements exclusive.**

No school which complies with this Part shall be subject to any other provision of law relating to education except requirements of law respecting immunization. The Division of Nonpublic Education, Department of Administration, shall provide to home schools information about meningococcal meningitis and influenza and their vaccines. This information may be provided electronically or on the Division's Web page. The information shall include the causes, symptoms, and how meningococcal meningitis and influenza are spread and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information may be provided electronically or on the Division's Web page. This information shall include the causes and symptoms of these

diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and the places where parents and guardians may obtain additional information and vaccinations for their children.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information on the preventable risks for preterm birth in subsequent pregnancies, including induced abortion, smoking, alcohol consumption, the use of illicit drugs, and inadequate prenatal care. This information may be provided electronically or on the Division's Web page.

The Division of Nonpublic Education, Department of Administration, shall also provide to home schools information on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with Article 5A of Chapter 7B of the General Statutes. This information may be provided electronically or on the Division's Web page. (1987 (Reg. Sess., 1988), c. 891, s. 1; 2004-118, s. 6; 2007-59, s. 5; 2007-126, s. 5; 2013-307, s. 1.4; 2023-14, s. 6.2(A).)

#### Part 4. Miscellaneous Requirements.

##### **§ 115C-566. Driving eligibility certificates; requirements.**

(a) The Secretary of Administration, upon consideration of the advice of the Division of Nonpublic Education in the Department of Administration and representatives of nonpublic schools, shall adopt rules for the procedures a person who is or was enrolled in a home school, in a nonpublic school that is not accredited by the State Board of Education, or in an educational program found by a court, prior to July 1, 1998, to comply with the compulsory attendance law, must follow and the requirements that person must meet to obtain a driving eligibility certificate. The procedures shall provide that the person who is required under G.S. 20-11(n) to sign the driving eligibility certificate must provide the certificate if he or she determines that one of the following requirements is met:

- (1) The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and is not subject to G.S. 20-11(n1).
- (2) The person seeking the certificate is eligible for the certificate under G.S. 20-11(n)(1) and G.S. 20-11(n1).

The rules shall define exemplary student behavior, define what constitutes the successful completion of a drug or alcohol treatment counseling program, and provide for an appeal to an appropriate educational entity by a person who is denied a driving eligibility certificate. The Division of Nonpublic Education also shall develop policies as to when it is appropriate to notify the Division of Motor Vehicles that a person who is or was enrolled in a home school or in a nonpublic school that is not accredited by the State Board of Education no longer meets the requirements for a driving eligibility certificate.

(b) The Secretary of Administration shall develop a form for parents, guardians, or emancipated juveniles, as appropriate, to provide their written, irrevocable consent for a school to disclose to the Division of Motor Vehicles that the student no longer meets the conditions for a driving eligibility certificate under G.S. 20-11(n)(1) or G.S. 20-11(n1), if applicable, in the event that this disclosure is necessary to comply with G.S. 20-11 or G.S. 20-13.2. Other than identifying under which statutory subsection the student is no longer eligible, no other details or information concerning the student's school record shall be released pursuant to this consent. This form shall be used for students enrolled in home schools or nonpublic schools.

(c) In accordance with rules adopted by the Secretary under this section, persons who are required to sign driving eligibility certificates that meet the conditions established in G.S. 20-11

shall obtain the necessary written, irrevocable consent from parents, guardians, or emancipated juveniles, as appropriate, in order to disclose information to the Division of Motor Vehicles and shall notify the Division of Motor Vehicles when a student who holds a driving eligibility certificate no longer meets the conditions under G.S. 20-11(n)(1) or G.S. 20-11(n1). (1997-507, s. 5; 1998-212, s. 9.21(d); 1999-243, s. 6; 2006-264, s. 59(a).)

**§ 115C-566.1. Disclosure of student data and records by nonpublic schools.**

A nonpublic school that discloses personally identifiable information in student data or records according to the terms of a written agreement with a State agency, local school administrative unit, community college, or constituent institution of The University of North Carolina, in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, shall not be liable for a breach of confidentiality, disclosure, use, retention, or destruction of the student data or records if the breach, disclosure, use, retention, or destruction results from actions or omissions of either (i) the State agency, local school administrative unit, community college, or constituent institution of The University of North Carolina to which the data was provided or (ii) persons provided access to the data or records by those entities. (2012-133, s. 2.)

**§ 115C-567:** Reserved for future codification purposes.

Part 4A. Information for Parents and Students on Nonpublic School Scholarship Programs.

**§ 115C-567.1. Outreach and assistance for parents and students.**

(a) The State Education Assistance Authority, in its administration of scholarship programs for eligible students pursuant to Part 2A of this Article and Article 41 of this Chapter may contract with a nonprofit corporation representing parents and families, for outreach and scholarship education, program promotion, and application assistance for parents and students. The Authority shall issue a request for proposals in order to enter into a contract with a nonprofit corporation that meets the following requirements during the term of the contract:

- (1) Be a nonprofit corporation organized pursuant to Chapter 55A of the General Statutes and comply at all times with the provisions of section 501(c)(3) of the Internal Revenue Code.
- (2) Employ sufficient staff who have demonstrated a capacity of direct parent and family outreach, program promotion, procedural knowledge to assist parents through scholarship application process and provide guidance on the scholarship grant program, including by doing the following:
  - a. One-on-one parent and family engagement.
  - b. Scholarship education and public awareness.
- (3) Comply with the limitations on lobbying set forth in section 501(c)(3) of the Internal Revenue Code.
- (4) Have no State officer or employee serving on the board of the nonprofit.
- (5) Conduct at least quarterly meetings of the board of directors of the nonprofit at the call of its chair.

(b) The terms of the contract between the Authority and a nonprofit corporation shall require that the nonprofit (i) maintain the confidentiality of any information provided by the Authority for parents and students as directed by the Authority and (ii) not disseminate information to third parties without written parental consent. During the term of the contract provided for in this



section, the Authority shall include on scholarship applications a statement for parents to indicate nonconsent for sharing information with a nonprofit corporation.

(c) Notwithstanding any other provision of law, during the term of the contract provided for in this section, the Authority may share the name, address, email, and telephone number of the parent of any student applicant, unless the parent indicates that the information should not be shared. (2021-180, s. 8A.3(h), (q).)

§ 115C-567.2: Reserved for future codification purposes.

§ 115C-567.3: Reserved for future codification purposes.

§ 115C-567.4: Reserved for future codification purposes.

§ 115C-567.5: Reserved for future codification purposes.

§ 115C-567.6: Reserved for future codification purposes.

§ 115C-567.7: Reserved for future codification purposes.

§ 115C-567.8: Reserved for future codification purposes.

§ 115C-567.9: Reserved for future codification purposes.

#### Part 5. COVID-19 Immunity.

#### § 115C-567.10. Definitions.

The following definitions apply in this Part:

- (1) Claim. – A claim or cause of action seeking any legal or equitable remedy or relief.
- (2) COVID-19. – The coronavirus disease 2019.
- (3) COVID-19 emergency declaration. – Executive Order No. 116 issued March 10, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.
- (4) COVID-19 essential business executive order. – Executive Order No. 121 issued March 27, 2020, by Governor Roy A. Cooper, including any amendments issued by executive order, subject to extensions under Chapter 166A of the General Statutes.
- (5) Individual. – A person paying, or on whose behalf a third party is paying, tuition, fees, or room and board to a nonpublic school for the 2019-2020 academic year.
- (6) Nonpublic school. – Any of the following schools, including the owners, directors, trustees, officers, employees, contractors, and agents of those schools:
  - a. A private church school or school of religious charter in compliance with Part 1 of this Article.

- b. A qualified nonpublic school in compliance with Part 2 of this Article. (2020-49, s. 10(a).)

**§ 115C-567.11. Tuition liability limitation.**

(a) Notwithstanding any other provision of law and subject to G.S. 115C-567.12, a nonpublic school shall have immunity from claims by an individual, if all of the following apply:

- (1) The claim arises out of or is in connection with tuition or fees paid to the nonpublic school for the 2019-2020 academic year.
- (2) The claim alleges losses or damages arising from an act or omission by the nonpublic school during or in response to COVID-19, the COVID-19 emergency declaration, or the COVID-19 essential business executive order.
- (3) The alleged act or omission by the nonpublic school was reasonably related to protecting the public health, safety, or welfare in response to the COVID-19 emergency declaration, COVID-19 essential business executive order, or applicable guidance from the Centers for Disease Control and Prevention.
- (4) The nonpublic school offered remote learning options for enrolled students during the 2019-2020 academic year that allowed students to complete the academic year.

(b) Subsection (a) of this section shall not apply to losses or damages that resulted solely from a breach of an express contractual provision allocating liability in the event of a pandemic event.

(c) Subsection (a) of this section shall not apply to losses or damages caused by an act or omission of the nonpublic school that was in bad faith or malicious. (2020-49, s. 10(a).)

**§ 115C-567.12. Applicability.**

This Part applies to alleged acts or omissions occurring on or after the issuance of the COVID-19 emergency declaration until July 1, 2020. The provisions of this Part shall be in addition to all other immunities provided by applicable State law. (2020-49, s. 10(a).)

**§ 115C-567.13. Severability.**

It is a matter of vital State concern affecting the public health, safety, and welfare that nonpublic schools continue to be able to fulfill their educational missions during the COVID-19 pandemic without civil liability for any acts or omissions for which immunity is provided in this Part. This Part shall be liberally construed to effectuate those public purposes. The provisions of this Part are severable. If any part of this Part is declared to be invalid by a court, the invalidity does not affect other parts of this Part that can be given effect without the invalid provision. (2020-49, s. 10(a).)